

**U.S. Legislative System:
Is there a real problem? If so,
what are potential solutions?**

Topics @ Ten

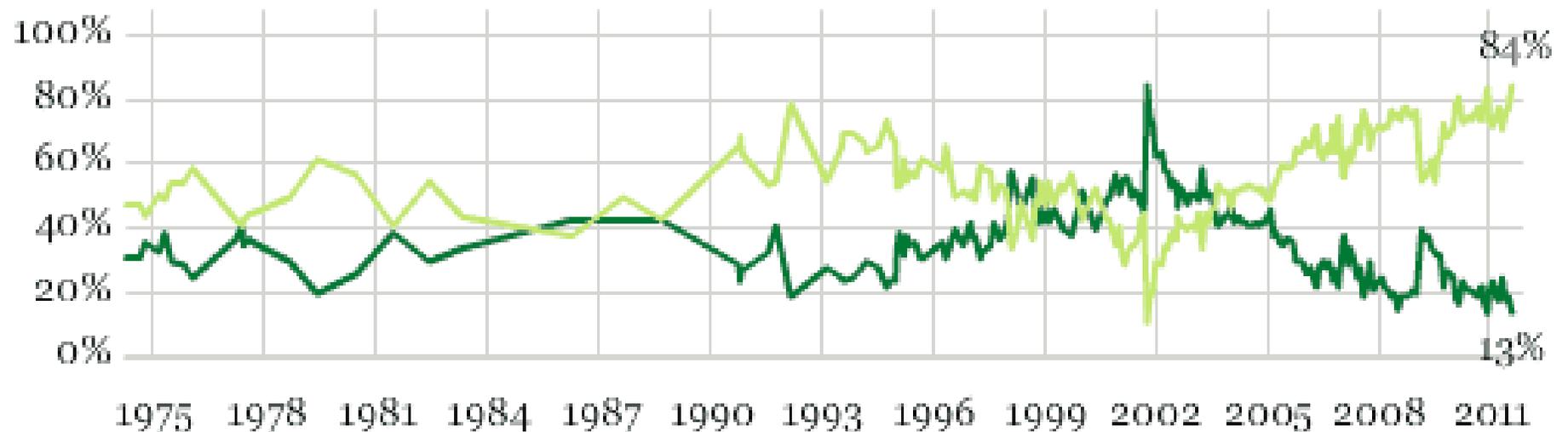
November 4, 2012

Congressional approval ratings have never been so low.

Do you approve or disapprove of the way Congress is handling its job?

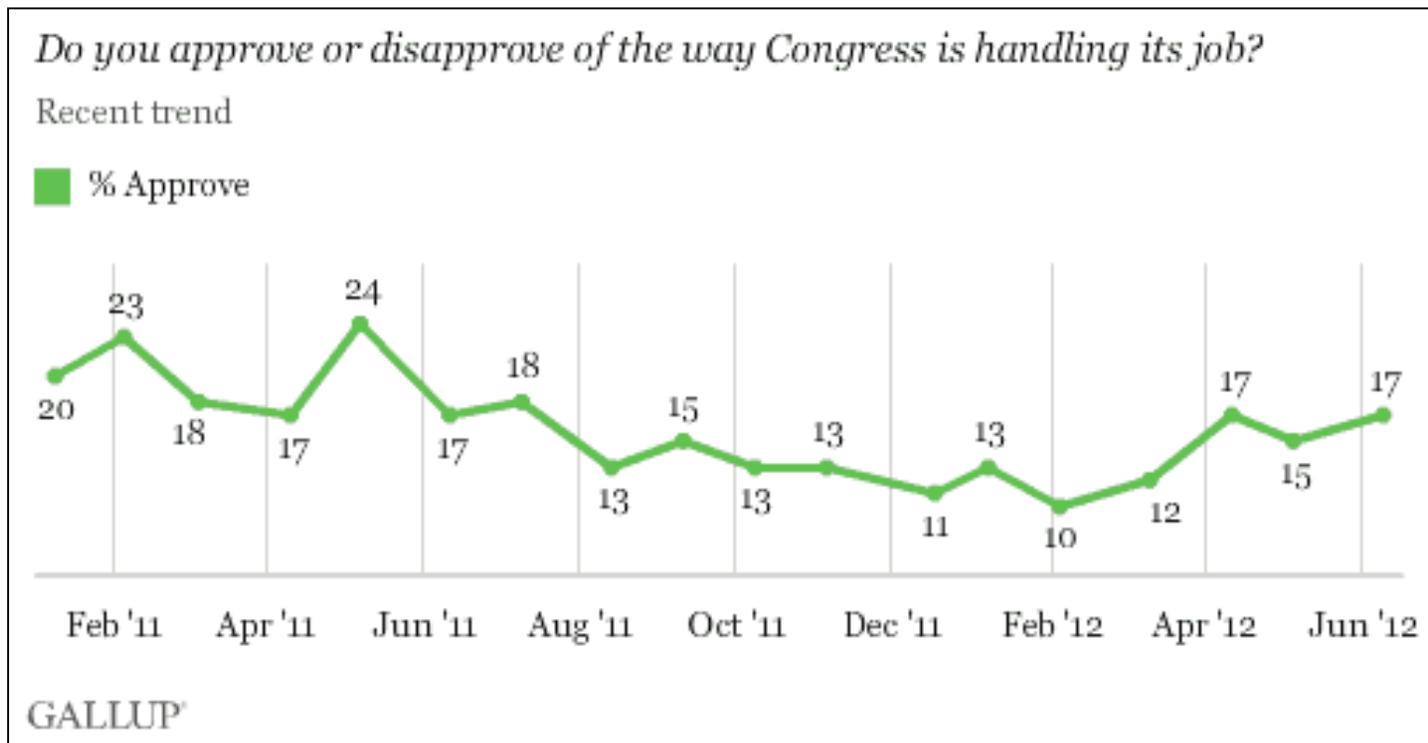
Full trend

■ Approve ■ Disapprove



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Congressional approval ratings are near single digits depending on the poll.



How would you rate the way Congress is doing its job?

Excellent 0%

Good 8%

Fair 25%

Poor 64%

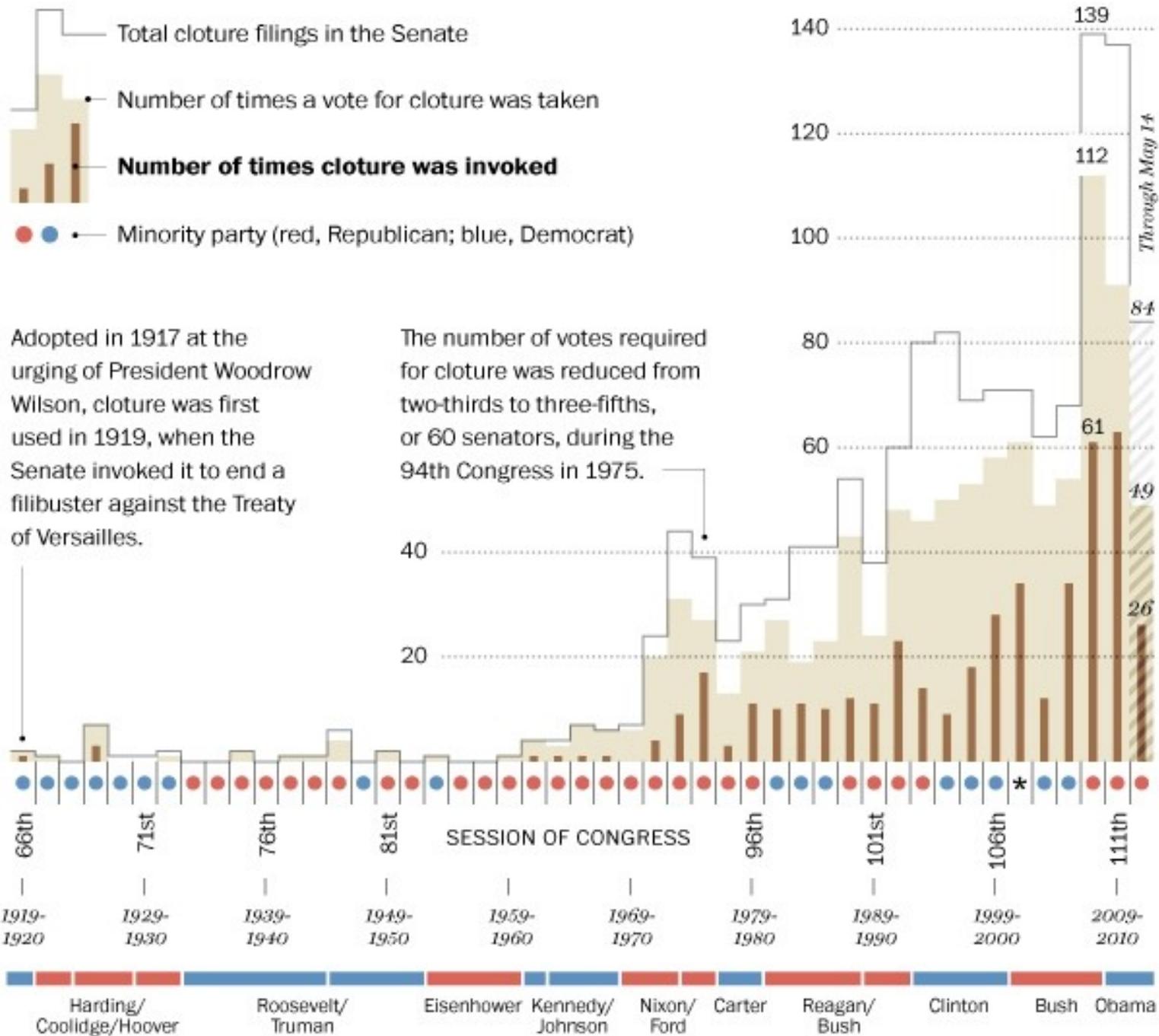
Source: Rasmussen, August 2012

U.S. credit rating has been downgraded because our political process cannot produce the necessary compromises.

- Standard & Poor's Issued Credit Downgrade in August 2011 after failure of Congress and the White House to reach Debt Reduction deal
- S&P: "United States of America Long-Term Rating Lowered To 'AA+' Due To Political Risks, Rising Debt Burden; Outlook Negative":
"We lowered our long-term rating on the U.S. because we believe that the prolonged controversy over raising the statutory debt ceiling and the related fiscal policy debate indicate that further near-term progress containing the growth in public spending, especially on entitlements, or on **reaching an agreement on raising revenues is less likely than we previously assumed and will remain a contentious and fitful process.**"
- On Sept. 11, 2012, Moody's Investors Service said Tuesday that it would most likely cut its Aaa rating on United States government debt, probably by one notch, if Washington's budget negotiations failed.
- In other words, the two parties are not willing to compromise over matters as important as the nation's fiscal health.

But just as they did in Philadelphia when they were writing the constitution, sooner or later, you've got to compromise. You've got to start making the compromises that arrive at a consensus and move the country forward.

- Colin Powell



*The minority party of the 107th Congress changed multiple times.

The problem begins with how Congress is elected in the first place.

Rep. Mickey Edwards (R) “Can we fix a hyper-partisan Congress?”

“It surprises me still to hear people express amazement at the hyper-partisan nature of Congress and its resulting inability to deal collectively with the nation's problems.

In a constitutional system that places most of the federal government's real power with the peoples' representatives, that is a serious problem.

But it's not an accident. It's a direct result of the systems we've created to choose those representatives and the way Congress itself has been allowed to develop not as a single body of Americans but as a pit for rival power-seeking clubs to do battle.

The leaders of the House and Senate are partisans; but they needn't be, and in other governments they aren't. The committee staffs are partisans; there's no need for that, either. Partisan leaders decide who sits on which committees, transferring enormous power over federal law to partisans who win their positions by pledging to support the party line and plowing hundreds of thousands of dollars into party treasuries (some of it raised from interest groups that are pleased to help out).

The problem doesn't begin in Congress. It begins with how men and women are elected to Congress in the first place.

To even appear on the November ballot, candidates must navigate through primaries either entirely the province of partisan activists (closed primaries) or dominated by them (so-called cross-over primaries).”

*Mickey Edwards, a former member of Congress for 16 years, is the author of the new book, **The Parties Versus the People: How to Turn Republicans and Democrats into Americans.***

<http://www.cnn.com/2012/08/16/opinion/edwards-congress-partisans/index.html>

Gerrymandering

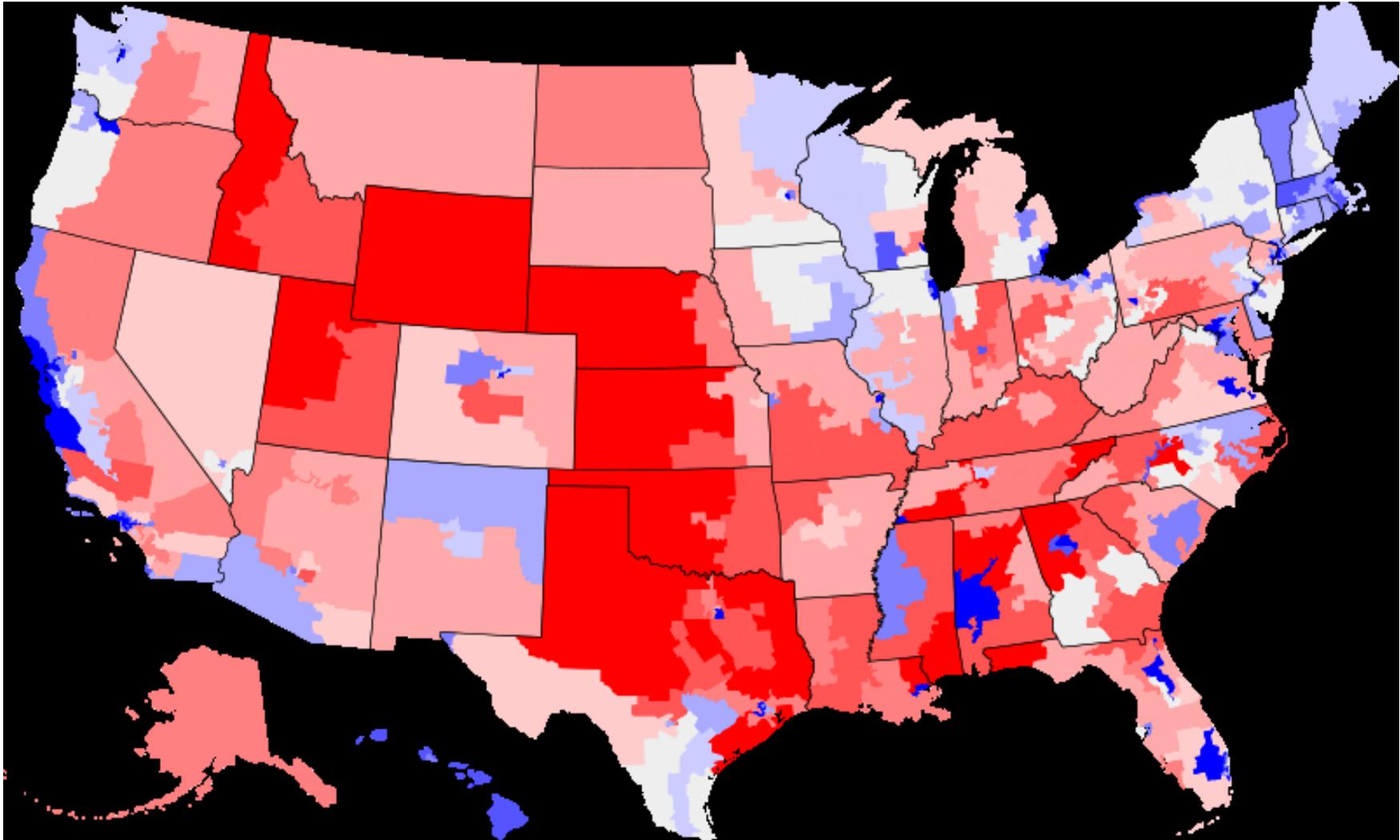
- Gerrymandering is used most often in favor of ruling incumbents or a specific political party—the one drawing the map.
- The practice sharply reduces the number of competitive elections to the US House of Representatives. For example, in 2002, only four challengers were able to defeat incumbent members of Congress, the lowest number in modern American history.
- The two aims of gerrymandering are to maximize the effect of supporters' votes, and to minimize the effect of opponents' votes.
- To minimize the risk of demographic or political shifts swinging a district to the opposition, politicians can instead create more packed districts, leading to more comfortable margins in unpacked ones.

Non-competitive districts lead to entrenched, polarized legislatures. Incumbents fear primary challenges from even-more-extreme partisans, not the other party, as a result of their "safe" districts.

Iowa has been a leader in nonpartisan processes to determine legislative districts (an example CA has now followed.)

- In Iowa, the nonpartisan Legislative Services Bureau determines boundaries of electoral districts.
- Aside from satisfying federally mandated contiguity and population equality criteria, the LSB mandates unity of counties and cities. Consideration of political factors such as location of incumbents, previous boundary locations, and political party proportions is specifically forbidden.
- The non-partisan redistricting process has helped move politics in Iowa back toward the center. Most Iowa politicians know they must appeal not only to their party, but also to independent voters and voters affiliated with the other party. **This inevitably leads to an emphasis on bipartisan cooperation and the public's best interest.**

Partisan Voting Index (PVI), is a measurement of how strongly an American congressional district or state leans toward one political party compared to the nation as a whole.



http://en.wikipedia.org/wiki/Cook_Partisan_Voting_Index

Citizens United v. FEC , the landmark 2010 Supreme Court case, prohibited the government from restricting independent political expenditures by corporations and unions.

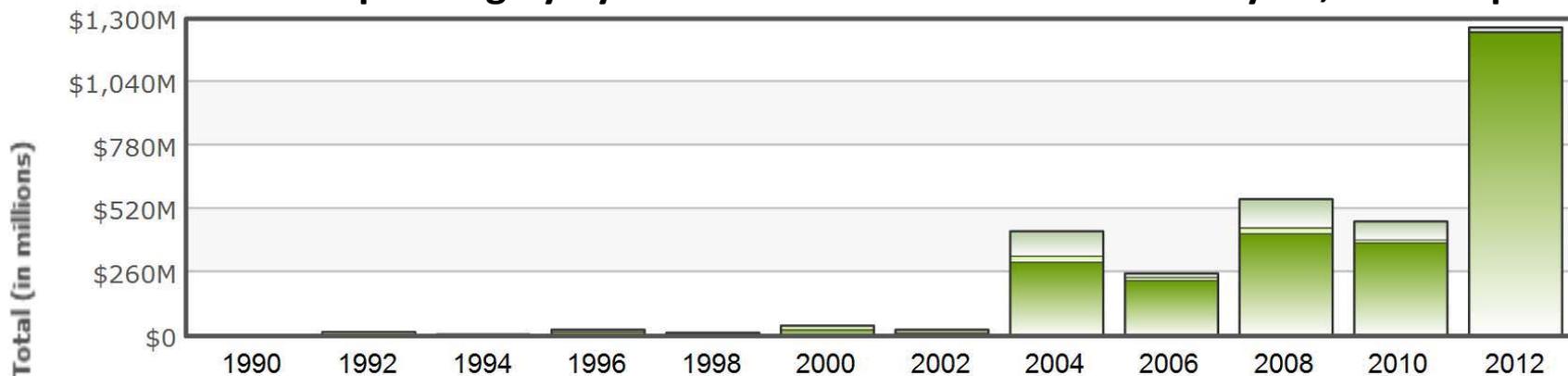
- 5-4 majority argued that the First Amendment purposefully keeps the government from interfering in the "marketplace of ideas" and "rationing" speech, it is not up to the legislatures or courts to create a sense of "fairness" by restricting speech.
- Furthermore, the government had no place in determining whether large expenditures distorted an audience's perceptions, and that the type of "corruption" that might justify government controls on spending for speech had to relate to some form of "quid pro quo" transaction: "There is no such thing as too much speech." The public has a right to have access to all information and to determine the reliability and importance of the information.
- Additionally, the **majority did not believe that reliable evidence substantiated the risk of corruption or the appearance of corruption, and so this rationale did not satisfy strict scrutiny.**
- The dissent argued that the Court's ruling "threatens to undermine the integrity of elected institutions across the Nation. The path it has taken to reach its outcome will, I fear, do damage to this institution." **Justice Stevens wrote: "A democracy cannot function effectively when its constituent members believe laws are being bought and sold."**

* The case did not involve the federal ban on direct contributions from corporations or unions to candidate campaigns or political parties, which remain illegal in races for federal office

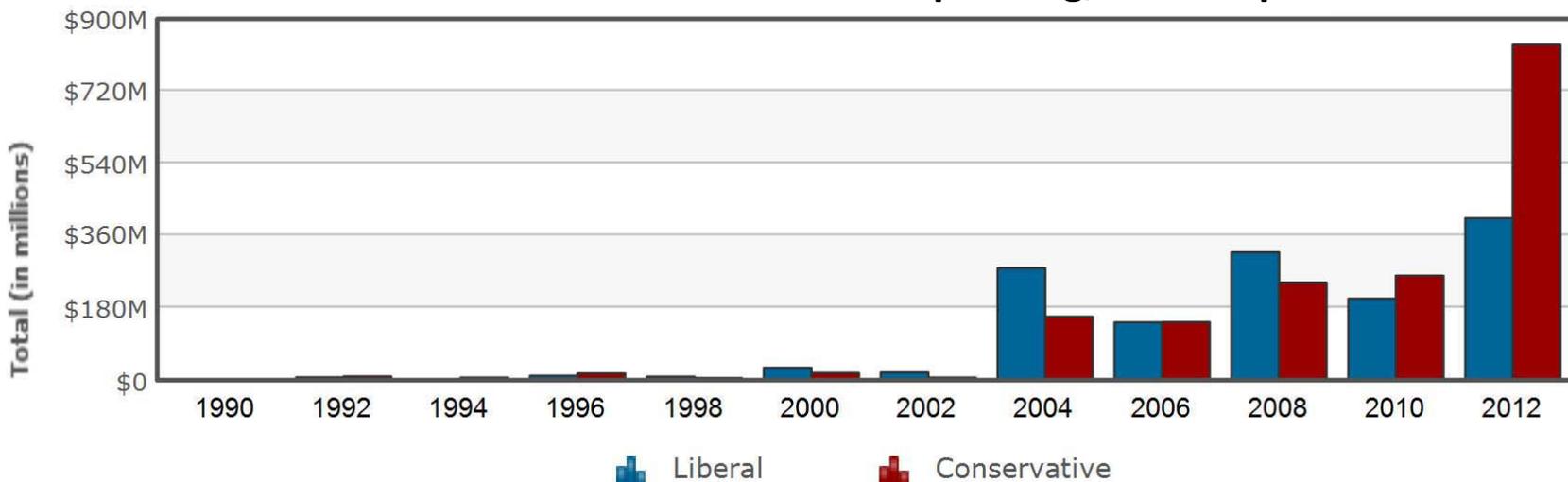
http://en.wikipedia.org/wiki/Citizens_United_v._Federal_Election_Commission

The 2012 election cycle has seen a tremendous increase in outside spending.

Outside Spending by Cycle thru November 4th of election year, All Groups



Total Liberal vs. Conservative Outside Spending, All Groups



So what are solutions to Legislative dysfunction?

- Watch 60 Minutes tonight at 7pm; segment entitled “Coburn on Senate reelection: All of us should lose”
 - **The problem with compromise, once considered admirable, is it can get a politician in trouble nowadays**, says the former Senator Evan Bayh. "Well, you buck the party line, there's a price to be paid," says the former Indiana Democrat who retired last year out of frustration with the new order. "What used to be seen as an act of statesmanship, trying to forge consensus across their aisle to move the country forward, is now viewed by many as a betrayal of your party," Bayh says. He tells Kroft that even politicians who vote with their party over 95 percent of the time get into trouble with party leaders.
 - "It's pure leadership," Sen. Coburn says, "**When the goal is always to win the next election, rather than to put the country on the right course, whether it's a Republican leading it or... a Democrat leading it, the Senate is not going to work.**"
- No Labels – Making Congress Work
 - <http://www.nolabels.org/blog/making-congress-work>
- Republic, Lost by Lawrence Lessig
 - http://www.youtube.com/watch?v=LjiV2Aa_JAs&list=UUIms1N4ELbYCydtycP1O3Nw&index=1&feature=plcp

‘Making Congress Work’ excerpts sponsored by No Labels.

4. Fiscal State of the Union

Dave Walker says it’s time for people to speak clearly about the economy. In that spirit, he suggests that the U.S. comptroller general give an annual address to Congress to present America’s current financial condition, long-term fiscal outlook, and clear, understandable data on the economy.

7. No Pledges Except the Oath of Office

No Labels’ Co-Founder Robert S. Kaplan argues Congress should do away with single-issue partisan pledges. He suggests that elected officials should stop taking pledges except their oath of office, a way to prevent leaders from “hid[ing] behind timeless and inflexible promises to single-issue groups.”

9. Leadership Needs to Meet

Jonathan Miller says that it's time for America's leaders to stop playing the blame game. Our country needs to create a bipartisan congressional leadership committee to ensure the leaders of both parties have a platform to communicate with one another routinely.

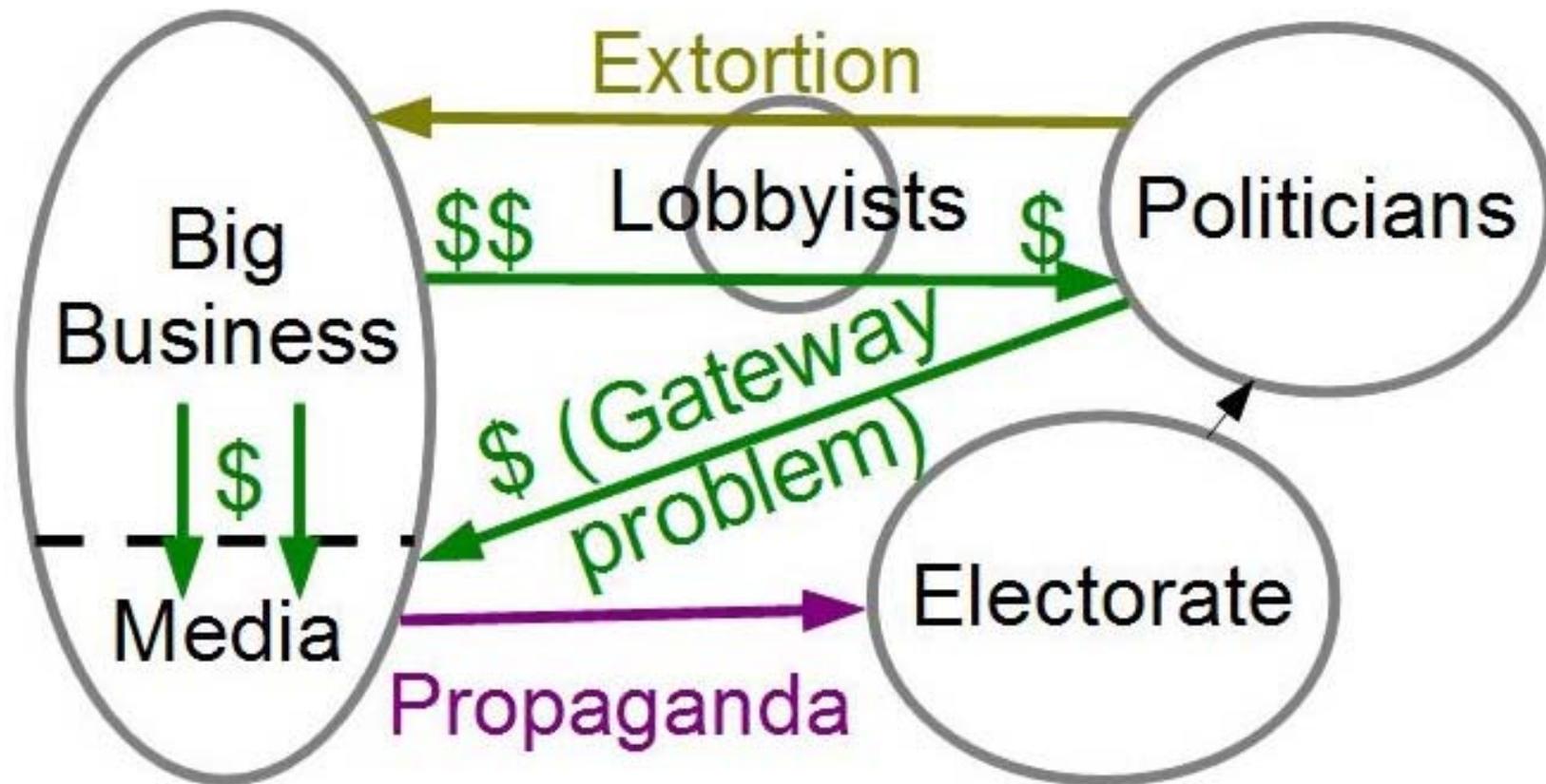
10. Reform the Filibuster

Dave Walker explains why it's time to reform the filibuster. Secret holds and silent filibusters remove the practice from what it once was and prevent America's citizens from holding their elected officials accountable. A simple rule reform could make the process more efficient. No Labels Blog commenter Kristine Woodworth agrees, calling the secret hold process “an abuse of the system and an abdication of responsibility.”

Lessig sees a systemic problem requiring comprehensive, and thus extremely difficult, reforms.

- Lessig's argument is that members of the US Congress are dependent upon funding from large donors.
- the system as "legal but corrupt", and that the pivotal point of the corruption is campaign finance.
- congresspersons spend three of every five weekdays raising money for reelection.
- congresspersons being dependent on large donors affects the ability of Congress to govern, whether or not donations actually change the way members of Congress vote on measures.
- 71% of Republicans and 81% of Democrats believed that "money buys results in Congress". Lessig also points out Congress's low approval rating—11% as of the writing of the book (9% as of October 2011).

Elected officials are accountable to funders, not the people.



Lessig's core solution is a constitutional amendment, originating from ¾ of states to require campaign finance reform.

Lessig proposes four different possible methods of dismantling special interest influence.

1. Congress could pass a law reforming campaign funding;
 2. A popular, non-politician "supercandidate" could run for the House of Representatives in multiple jurisdictions in the same state, promising to stay in the race until other candidates promise to reform their campaign funding procedures;
 3. An elected president could prevent the government from functioning until Congress enacts campaign finance reform;
 4. A Constitutional Convention could propose a Constitutional Amendment requiring campaign finance reform.
- Fourth strategy is the most probable to succeed. Lessig argued that a constitutional convention would get around debilitating Supreme Court decisions which allow virtually unrestricted campaign contributions under the banner of free speech.
 - Lessig proposed a plan in which every voting citizen would get a voucher of \$50 from the federal government to be contributed to qualified candidates for election purposes.
 - To get this money, candidates would have to agree to finance their campaigns only with vouchers or with private contributions limited to \$100 or less.[1] Lessig calls this The Grant and Franklin Project, because Grant is on a \$50 bill, and Franklin is on a \$100 bill.

Thanks for completing a short survey

Election Issues					
Survey Questions	5 Strongly Positive	4 Somewhat Positive	3 Lukewarm	2 Somewhat Negative	1 Strongly Negative
Rate the appeal of the topics covered in this Topics@Ten class					
Rate the format, organization, and facilities for the class					
Rate the time of the class and its convenience for your Sunday schedule					
Please overall suggestions for improving Topics@Ten.					
Please provide suggestions of other topics you'd like to see covered in Topics@Ten					