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In defense of Congress

By Hal Shapiro, partner, Akin Gump Strauss Hauer & Feld LLP

There's little anyone seems to agree on in Washington these days except for the following: Congress is broken, hopelessly divided and captured by special interests instead of working for the public good.

The recently concluded 112th Congress has been deemed one of the least successful and most unpopular in U.S. history. Congress' approval ratings hover just above 10 percent, rivaling American support for communism today and Nixon during Watergate.

Things are apparently so bad that eminent political scientists Thomas Mann and Norm Ornstein, who have called Congress the "broken branch" of our government, wrote a book last year saying that "it's even worse than it looks" — that Congress has reached a level of dysfunction not seen since before the Civil War. Even members of Congress are not defending the institution.

But before this conventional wisdom is accepted as gospel, it's worth examining whether this dim view of Congress is warranted.

From a historical perspective, the 112th Congress and the fight over the fiscal cliff resemble Congresses and legislative battles dating back to the beginning of the republic.

Indeed, they reflect the very design and intent of the Founding Fathers. In many respects, it is remarkable how little has changed.

During the Revolutionary War, the unicameral Continental Congress struggled to act, hamstrung by the governing Articles of Confederation that allowed each of the original 13 colonies to retain its sovereignty in a kind of American Europe.

Having thrown off a foreign power after a bloody seven-year Revolutionary War, the Founders set out to forge a government of limited powers with a series of checks and balances designed to force compromises and otherwise inhibit a "tyranny of the majority."

To do so, they crafted a Constitution modeled on John Adams' proposal in "Thoughts on Government" to have power divided among three branches, with sovereignty shared among the federal government, the



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states and the people. The solution, as James Madison's essay "Federalist No. 51" so eloquently put it, would turn on "giving to those who administer each [part of the government] the necessary constitutional means and personal motives to resist encroachments of the others....Ambition must be made to counteract ambition." Adams also urged that legislative power should be divided into two chambers that would have different interests and would vie against each other and the executive and judicial branches.

Further, rather than viewing the size and diversity of the United States as an insurmountable obstacle, Madison saw those features as an advantage. The disparate regional, religious, economic and cultural interests of the United States would serve as a natural ballast against capricious action or oppression of minority viewpoints. The result was that Congress would reflect the electorate that put them in office.

Recent experience bears this out. After the 2008 election, Democrats had large majorities, and Congress enacted sweeping laws regarding economic stimulus, health care, financial regulation, bailouts, bankruptcy reform and other topics.

Since 2010, Congress and the electorate have been divided, at least in part due to concerns — fair or not — that the prior Congress may have done too much too quickly. At present, 24 states have governors and both houses of the legislature controlled by Republicans, and 13 are similarly controlled by Democrats (only 13 are divided). Not surprisingly, Congress has found it harder to pass bills and find common ground.

While the conventional wisdom of a broken Congress seems to rest on the predicate that there are obvious policy solutions to the nation's problems that members of Congress block for their own personal or parochial interests, the difference between action to promote the public interest as opposed to special interests is usually in the eye of the beholder.

Indeed, Adams warned long ago against the illusion that there was a monolithic group that constitutes "the people." Even in the second half of the 18th century, America was too complex a society for that. Adams rightly recognized that we are but a collection of interests, almost all special to someone.

Congress is, thus, not some distant entity somehow separate and apart from us. It is a snapshot of us, warts and all.

For a body that passed the Alien and Sedition Acts, the Fugitive Slave Act and bills to fund internment of Japanese-Americans and that witnessed the secession of the South and the caning of Senator Sumner, the problems of today's Congress seem awfully mild. Representative democracy can be maddeningly frustrating, but as Churchill said, it "is the worst form of government except for all those others that have been tried."

Shapiro is a partner in the law firm of Akin Gump Strauss Hauer & Feld LLP and an adjunct professor at American University's Washington College of Law where he teaches Legislative Lawyering.