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**70 Former Republican and Democrat U.S. Senators Call on the Senate to Create a Bipartisan Caucus to Protect and Restore Senate’s Constitutional and Legislative Powers, and Prevent Further Eroding of the Institution**

*In Open Letter, Bipartisan Group Warns Breakdown of Regular Order, Obstructionism, and Abuse of Procedure Are Diminishing Senate’s Constitutional Role*

**Washington, D.C. –** Today, a bipartisan group of 70 former United States Senators warned current members of the Senate that its constitutionally-endowed legislative powers are becoming increasingly diminished, and called for the creation of a new, bipartisan caucus of current senators “committed to making the Senate function as the Framers of the Constitution intended.” In an open letter published in the [*Washington Post*](https://www.washingtonpost.com/opinions/former-us-senators-the-senate-is-failing-to-perform-its-constitutional-duties/2020/02/25/b9bdd22a-5743-11ea-9000-f3cffee23036_story.html) (and below), the former senators argue that obstructionist tactics, abuse of legislative procedure, and the breakdown of “regular order” have created a Senate environment that’s become permanently gridlocked, undermining the system of checks and balances by ceding vast and unintended legislative powers to the executive branch.

“The partisan gridlock that is all too routine in recent decades has led the executive branch to effectively ‘legislate’ on its own terms by executive order and administrative regulation,” the letter states. “The Senate's abdication of its legislative and oversight responsibilities erodes the checks and balances of the separate powers that are designed to protect the liberties on which our democracy depends.”

The bipartisan group of former senators argue that the biggest culprit for the Senate’s erosion is the breakdown of “regular order” – the long-respected processes allowing seemingly irreconcilable conflicts to be heard in bipartisan sub-committees and committees, marked up with amendments, debated amongst colleagues, and voted on by senators.

Former **Senator Chris Dodd (D-CT),** one of the 70 signers of the open letter, pointed out that, “Experience teaches that enlightened institutions improve their governance and performance by undertaking periodic self-evaluations of existing practices and procedures. Such evaluations are imperative for institutions that exist to serve the public and to earn its respect. The bipartisan senate caucus suggested in our letter should inaugurate that evaluation and help renew the U.S. Senate’s constitutional mandate—to legislate for the public interest.”

Former **Senator Jack Danforth (R-MO),** also one of the 70 bipartisan signers of the open letter, said “This breakdown in ‘regular order’ is not a new problem. For at least a decade, under both Democratic and Republican control, the Senate has been referred to as ‘the legislative graveyard.’ But by the yardstick of ‘public trust,’ which is the ultimate measure of the Senate's stewardship, it has reached crisis levels and is not sustainable in a functioning democracy ‘of, by and for the people.’ It is time for our senators on both sides of the aisle to come together in good will to take corrective action for the country's sake.”

The bipartisan group argues in the open letter that the deterioration of the institution isn’t only impacting the Senate’s ability to perform its constitutional functions, but is also impacting decisions of members running for reelection, citing that “the diminished state of the Senate has left them doubting if there is any point in continuing to serve, and it has caused potential candidates to question whether the reality of Senate membership is worth the considerable effort and expense of running for office.”

The bipartisan group cites a series of factors contributing to the breakdown of legislative process – from committees losing responsibility for writing legislation to abuse of the filibuster – and argue that a bipartisan caucus should be formed to restore the Senate’s constitutional integrity and safeguard it from becoming rendered inconsequential and unnecessary.

“We believe a bipartisan caucus of incumbent members that promotes a fair opportunity for senators to participate in meaningful committee work as well as on the Senate floor could help restore the Senate to its essential place in our constitutional system,” the letter states. “Its members would need to stand firm in the face of what could be strong opposition from partisans who prefer politicians who take intransigent positions over those who champion a legislative process that celebrates compromise.

Signers of the open letter said that despite the hyper-partisan climate in Washington, they’re optimistic that current Senators on both sides of the aisle will embrace the goals of the bipartisan caucus and find common ground through a long-celebrated Senate tradition centered around respecting compromise.

“Our late colleague, John McCain, in his farewell speech from the Senate floor stated with characteristic candor ‘We’re getting nothing done!’ Not much has changed in 18 months,” said former **Senator Paul Kirk (D-MA)**, one of the signers of the letter. “It’s time to act! In today’s polarized environment the work of a bipartisan caucus will not be easy, but that’s exactly why it is needed. By example, the caucus can lead the senate from an era of abdication and obstruction back to its respected traditional order built on bi-partisan mutual respect for its duty to legislate in a collaborative manner befitting ‘the world’s most deliberative body.’”

“Oversight and public policy are responsibilities of the legislative branch,” said former **Senator Chuck Hagel (R-NE)**, one of the signers of the open letter. “This is the Senate’s constitutional duty. Anything less is an abdication of its responsibilities.”

The group of former senators said efforts are underway to build momentum and support for the creation of the bipartisan caucus. This letter follows an open letter sent in December 2018 by a bipartisan group of former senators urging the Senate to put partisanship aside and defend democracy.

The full letter can be found [here](https://www.washingtonpost.com/opinions/former-us-senators-the-senate-is-failing-to-perform-its-constitutional-duties/2020/02/25/b9bdd22a-5743-11ea-9000-f3cffee23036_story.html) and below.

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**An open letter to the U.S. Senate:**

Congress is not fulfilling its constitutional duties. Much of the responsibility rests on the Senate. We are writing to encourage the creation of a bipartisan caucus of incumbent senators who would be committed to making the Senate function as the Framers of the Constitution intended.

As their first priority, the Framers explicitly entrusted all legislative responsibility in Article I of the Constitution:

"All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." To the extent that Congress doesn't function as the Framers intended, policymaking is left to the less democratic executive and judicial branches.

Examples of Congress ceding its powers to the executive through the years include the power to regulate international trade, the power to authorize the use of military force in foreign conflicts and, when the president declares national emergencies, the power of the purse. In addition, the partisan gridlock that is all too routine in recent decades has led the executive branch to effectively "legislate" on its own terms through executive order and administrative regulation. The Senate's abdication of its legislative and oversight responsibilities erodes the checks and balances of the separate powers that are designed to protect the liberties on which our democracy depends.

Anecdotally, we have been told by sitting members that the diminished state of the Senate has left them doubting whether there is any point in continuing to serve, and it has caused potential candidates to question whether the reality of Senate membership is worth the considerable effort and expense of running for office.

We do not want to give the impression that we served in some golden age when the Senate operated like clockwork and its members embraced one another as one big happy family. Of course, that was never the case. Senators have always advanced strongly held positions and have vigorously engaged in legislative combat. All of us have vivid memories of tense times with difficult colleagues. But that is just the point. By design, the Senate is the place where Americans with all their competing interests and ideologies are represented and where champions of those positions attempt to advance their causes and work through their differences. Many call the legislative process "sausage making." That is a fair assessment. Legislating is often messy, but it is America's way of holding together a diverse nation.

Our concern is that the legislative process is no longer working in the Senate. Several factors may be cited: Senate committees have lost responsibility for writing legislation. Rules allowing extended debate, a feature of the Senate that is essential to protecting the rights of minorities, have been abused as the filibuster and cloture have shut down action on the Senate floor. It is now commonly said that it takes 60 votes to pass anything in the Senate. This is new and obstructionist; it takes 60 votes to invoke cloture in the once relatively exceptional event of a filibuster. Filibusters are now threatened as a matter of course and are too readily acceded to. Neither in committee nor on the floor do rank-and-file members have reasonable opportunities to advance their positions by voting on legislation.

We believe a bipartisan caucus of incumbent members that promotes a fair opportunity for senators to participate in meaningful committee work as well as on the Senate floor could help restore the Senate to its essential place in our constitutional system. Its members would need to stand firm in the face of what could be strong opposition from partisans who prefer politicians who take intransigent positions over those who champion a legislative process that celebrates compromise.

This does not have to be viewed as a judgment on today's Senate leadership; instead, it's a bipartisan act of shared responsibility and accountability for how we arrived at this point. We, who once held the office you now hold and who are confident that service in the U.S. Senate is as high a calling for you as it was for us, will stand up for you against any partisan opposition. We will do so publicly and repeatedly in whatever available forums. And we are convinced that many ordinary Americans will stand up for you as well, as they share our concern for the state of our government.

We know that accepting this challenge may put some of you at political risk. But we are also confident that each of you chose to serve in public life to advance the cause of a "more perfect union." Our hope is that all of you will accept this challenge to advance that timeless and higher purpose. The Senate - and the proper functioning of our Republic - are simply too important to be allowed to continue on their present course.

*Dean Barkley (I-MN)*

*Max Baucus (D-MT)*

*Mark Begich (D-AK)*

*Jeff Bingaman (D-NM)*

*David Boren (D-OK)*

*Bill Bradley (D-NJ)*

*Bill Brock (R-TN)*

*Hank Brown (R-CO)*

*Richard Bryan (D-NV)*

*James Buckley (R-NY)*

*Roland Burris (D-IL)*

*Ben Nighthorse Campbell (R-CO)*

*Jean Carnahan (D-MO)*

*Max Cleland (D-GA)*

*William Cohen (R-ME)*

*Kent Conrad (D-ND)*

*Jon Corzine (D-NJ)*

*Jack Danforth (R-MO)*

*Tom Daschle (D-SD)*

*Mark Dayton (D-MN)*

*Dennis DeConcini (D-AZ)*

*Chris Dodd (D-CT)*

*Joe Donnelly (D-IN)*

*Byron Dorgan (D-ND)*

*David Durenberger (R-MN)*

*Daniel Evans (R-WA)*

*Jeff Flake (R-AZ)*

*Wyche Fowler (D-GA)*

*Slade Gorton (R-WA)*

*Chuck Hagel (R-NE)*

*Tom Harkin (D-IA)*

*Gary Hart (D-CO)*

*Heidi Heitkamp (D-ND)*

*Gordon Humphrey (I-NH)*

*Tim Johnson (D-SD)*

*Bennett Johnston (D-LA)*

*Ted Kaufman (D-DE)*

*Bob Kerrey (D-NE)*

*John Kerry (D-MA)*

*Paul Kirk (D-MA)*

*Robert Krueger (D-TX)*

*Mary Landrieu (D-LA)*

*Carl Levin (D-MI)*

*Joe Lieberman (D-CT)*

*Blanche Lincoln (D-AR)*

*Claire McCaskill (D-MO)*

*Barbara Mikulski (D-MD)*

*Carol Moseley-Braun (D-IL)*

*Frank Murkowski (R-AK)*

*Ben Nelson (D-NE)*

*Bill Nelson (D-FL)*

*Sam Nunn (D-GA)*

*Bob Packwood (R-OR)*

*Larry Pressler (R-SD)*

*David Pryor (D-AR)*

*Mark Pryor (D-AR)*

*Donald Riegle (D-MI)*

*Chuck Robb (D-VA)*

*Jay Rockefeller (D-WV)*

*Ken Salazar (D-CO)*

*Jim Sasser (D-TN)*

*Alan Simpson (R-WY)*

*Gordon Smith (R-OR)*

*Olympia Snowe (R-ME)*

*Bob Torricelli (D-NJ)*

*Mark Udall (D-CO)*

*John Walsh (D-MT)*

*John Warner (R-VA)*

*Lowell Weicker (R-CT)*

*Tim Wirth (D-CO)*

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