

**Reforming Congress Project
Sunwater Institute
Interview with Gregory Wawro**

CHERVENAK: Professor Wawro, thank you so much for joining us.

WAWRO: Thanks, it's nice to talk to you today.

CHERVENAK: Why don't we start with your background? Where'd you start off, how did you get interested in this area, the arc of your career so far, and where you are now?

WAWRO: Well, I grew up in Pittsburgh, Pennsylvania. I went to Penn State for my undergraduate education, and from there I went to graduate school at Cornell. I was on the law school tracked as an undergrad, and I had very engaged and insightful advisors who said that I should think about academia as a career, and it was, you know, best advice I ever got. I ended up at Cornell to do [a] PhD there, had also a set of awesome advisors, and they put me on a path. It's kind of unusual for a Cornell student, given the reputation of the department at the time, but it all worked out very well for me, and I got a job at Columbia University out of graduate school. It was my first job. It's in all likelihood going to be my last job.

And so, you know, I've been shaped by many, many important mentors over the years, and a lot of the projects I've worked on, you know, this, I'm still working on, the seeds were planted in graduate school, so you know you have good advisors when they can help foster your interests and put you on a path that will sustain you for many, many years.

CHERVENAK: So, you know, in terms of the graduate work and then after that, you know, what are the sort of broad themes of, that capture your interest, you know, rather than the specific areas? What motivated you to move into the political science area, and what is the general theme of your work?

WAWRO: I said, you know, I was on the law track and actually was, I was thinking about doing a pre-law major as an undergraduate, and I was steered away from that, another excellent piece of advice that I received, and told that I could do a political science major and basically take the same exact classes that I would as a pre-law major, and thankfully I took that advice because I decided I did not want to go to law school and pursue a legal career. So that led me to do political science, and I was in college in the '80s, which is a very interesting historical moment. This was, you know, the fall of communism in eastern Europe and Soviet Union, and so I got interested in questions about institutions, questions about history, how we got to where we were at that point, questions about democratization, democratic institutions, why, how do you design them, what, how do you design them to be effective, what makes certain countries democracies and other countries not democracies?

So I always had this interesting history even though mainly from a political angle, and then when I got to graduate school I got really interested in Congress because it seemed to me like Congress was really the key to understanding democracy in the United States, and legislatures generally as important to understanding democracy anywhere in the world. I, one of my advisors was an economic historian, and he turned me on to some incredibly interesting work done by economists who were using data in ways that I never thought possible. So the ability, you know, basically going back, going into archives and compiling extremely complicated detailed data sets from periods long ago. I got interested in quantitative methods because the kinds of questions that I was interested in answering seem to be most amenable to quantitative analysis, but always with a with a strong element of paying attention to history.

And so I, at some point I decided I was interested in legislative entrepreneurship, probably the, you know, the economics influence showed up there as well, the idea of what entrepreneurship is in an economy and how economists thought about the concept of entrepreneurship, what it meant for concepts of like equilibria and things like that. Do entrepreneurs upset equilibria, or do they find areas where things are not in equilibrium? And so there's, there are opportunities for them to exploit. And so I found that some of the some of the conceptualizations for entrepreneurship and economics actually could be ported to the political world, and so the idea that members of Congress are entrepreneurs in certain ways.

What I got interested in was, why they would seek to become legislative entrepreneurs. So I think at the time there was a book by John Kingdon that had come out not too far not too many years before this on policy entrepreneurship, but it wasn't really that focused on Congress, and there wasn't really wasn't much formal theoretical development there and certainly not much in the way of systematic quantitative analysis, and so that's what I sought to bring to my first major project as a graduate student. It evolved into a dissertation. I developed the theory of legislative entrepreneurship, and at the heart of the project was a puzzle where, if you study Congress, one of the things that you learn is that most people know very little about Congress. Your average constituent, your average voter, you're lucky if they can name who their representative is, let alone what the representative does. Maybe they know how they cast a roll call vote here or there, but we know that members of Congress take very seriously their jobs, and some of them work very hard at their jobs to, especially toiling behind the scenes in order to make legislation happen.

There is, you know, there are workhorses, there are show horses in Congress, right, the old classic Congress literature talks about workhorses and show horses. What I really understand is why the workhorses did what they did when the electoral incentives to do so seemed to be minimal. And so the way the project evolved was thinking about ways that members could be incentivized to use, through the institution, in order to tap into their desire to be workhorses. I'm sure there are members of Congress, you know, members of Congress are extremely ambitious. To get to Congress you have to be extremely hard-working, very ambitious, and you know, how, but not everybody put in the kinds of work that some members of Congress did to pass major legislation or even minor legislation. They would introduce legislation, but a lot, you

know, that's trivial. How do they take it to the next level in terms of actually shepherding it through the complicated convoluted process to have a finished product that is a law?

And so I adopted an institutionalist perspective, mainly figuring out that what seemed to be explaining variation in legislative entrepreneurship in terms of incentives had to do with institutional ambition, and so the institution, you know, Congress is an incredibly hierarchical institution, right, There are, you have your rank and file members, but then there are all these institutional features that enable members of Congress to realize their ambitions, right, so at the very top you have party leaders, Speaker of the House, majority leader, et cetera, and then you have the committee structure, so you have committees, subcommittees, you have committee chairs.

And so the, it seemed to me that there were, there was an idea of progressive ambition that could help us understand why members of Congress engage in this behavior, where there didn't seem to be much electoral return for it. So I did look at whether or not there was electoral return and used some quantitative methods to see what, if a member engaged in legislative entrepreneurship, were they more likely to win re-election. So that requires coming up with a measure of legislative entrepreneurship, which one of my advisors, Walter Mebane, at the time, helped me basically scrape the entire Library of Congress database for legislation, for legislative action. This was something that was used by members of Congress and their staff to figure out what's been introduced, what's, where is it in the legislative process.

And so we wrote code that that essentially downloaded all that information, which at the time was, it was a it was a massive data set, and it actually was too big to put on most hard disks that were available at that time, and sadly that data has been lost because I, you know I couldn't, it was so big I could not create sufficient backups for it, so the system no longer exists. It's been replaced by others. But there is a lot of data there that unfortunately we don't have access to anymore.

So we used that information that was in that database to come up with a measure of legislative entrepreneurship, which tapped into things like how many co-sponsors were attracted to legislation, how complicated was the legislation? So we came up with a number that described in a given Congress the entrepreneurship score for a member, and so we looked, we, to see did that score correlate with election outcomes? It didn't. Did that score correlate with campaign finance? You might think that maybe they're doing this because they want to get campaign donations from those who are interested in the legislation, would benefit from the legislation. Didn't seem to be much of a correlation there, either, but where there was correlation was between that's, the scores and the probability that they would rise through the institution.

So, would they transfer, would they be able to transfer to a more exclusive committee? Yes, they did. Would they rise to party leadership positions? Yes, they would. So there were these kinds of correlations there that I thought confirmed this hypothesis about the institutional structure of Congress providing the incentives for this, and it, you know, it's basically win-win. So Congress would not be an important democratic institution if it couldn't carry out its

fundamental duties of legislating, and it can't do that unless its members actually step up, put in the hard work, to make things happen. But, and if they are rewarded with advancement through the institution, they get put into positions where they acquire more resources that, guess what they get to do with those resources. They can further enhance the legislative productivity of Congress. And so that was, you know, that's the broad outlines of the project. The one area that I didn't get to explore in the project that I wish I had was more of a historical perspective. So the data at that time basically covered, it was 1970, I think 1973 up to 1993. So a nice chunk of history, right, thirty years, but, or twenty years, but it didn't really cover a lot of congressional history in terms of the evolution of the institution.

So the 70s were an important area of reform. Many of the institutional positions and institutional structures that could provide these incentives were created or modified significantly in the 1970s, but you could look back further, in like the, you know, the creation of the committee system and how did that create new incentives, the, you know, the development of the importance of party leadership positions, the expansion of party leadership positions. So there really wasn't that much of a historical dimension to the project, and that's the one thing that I wish I had done with the project. But after finishing the dissertation, getting a job, and publishing it as a book, I decided to move on to other things.

The other major project that the seeds were planted in graduate school was, eventually became my second book project, which is about the filibuster. This this book is primarily historical. It's an historical analysis of the filibuster, the evolution of the filibuster, [how] it's used over time, trying to understand through the, how we need to have a different perspective on the use of the filibuster, a perspective that differs from how the Senate currently works because it's often pointed out that the Senate had no provision for ending debate between 1806 and 1917, so how did the Senate get anything done, right, if basically you have what some claim was a unanimity rule for ending debate and moving on legislative business? How could the Senate function?

And so that, but that question is largely posed through the lens of the current Senate, which is a super majoritarian institution. We have a closure rule that requires sixty senators to end a filibuster, to end debate, and progress to final passage votes. And given how senators have exploited the super majoritarian provisions of the Senate in today's world, how could the Senate possibly have functioned as an institution? Now there were many who believed, especially at the end of the nineteenth century, that the Senate was not a functioning institution because there was a filibuster in a given Senate, right, whereas today, you know, everything pretty much gets filibustered. So that project, the seeds were planted in graduate school because I was interested in the role that balance between free and slave states played in the stability of the union. So there was some research that was being conducted at the time, which I found fascinating, that argued that the Union was sustainable as long as there was balance between free and slave states in terms of, you know, the composition of the Union. That's because every state because of equal representation, the Constitution has two senators so as long as you have equal representation. Senators from either side could block what senators from, you know, whether they be free state senators or slave state senators, they

could block attempts to abolish slavery, or free state senators could block attempts to expand slavery.

And so I found that, you know, that it was a really interesting argument, but a key question is, well, what about the filibuster, right? Did you really need balance if senators could filibuster legislation? And so this was another puzzle that I thought was worth spending a lot of time on, and I did spend a lot of time on it, and the basic answer to this question is that the filibuster really wasn't a thing prior to the Civil War, especially compared to today. You know, you had flare-ups and use of legislative obstructionism, but the word filibuster really wasn't even introduced in the antebellum period, so the key result of that research, or one of the key results, was that the Senate operated largely as a majoritarian institution throughout most of its history, really until, you know, pretty recent history the Senate departed from actually needing super majorities to end debate and move the legislation forward on almost all legislative items, Civil Rights being an important exception.

You can pass things with relatively narrow majorities, especially in the nineteenth century, and we're talking about extremely controversial legislation, where sides are evenly divided and intense preferences exist on, in both the majority and the minority. So, you know, that was a that was a key result, basically the Senate looks like a majoritarian institution, but that leads to another puzzle, which is, like, well, why? If the if the Senate does not have some of these basic features or, you know, basic rule that you think every legislature should have, how could they possibly have operated as a majoritarian institution? And so this led to the development of a theory of institutions that basically, you know, the basic argument is that it's true that the Senate did not have a cloture rule or a rule for the previous question throughout a good chunk of its history, but those who engaged in obstruction used to exploit the fact that the Senate did not have that rule were aware that it could be imposed on them, and so individual senators value the freedom and the power that the lack of these, of a previous question motion granted them, and so while they would exploit it occasionally, they knew that there were limits to how much they could exploit it.

And so the basic argument how the Senate operated as a majoritarian institution was that a majority could always have the option to change the rules if the majority of the moment felt intensely enough about it. And so even though senators could push the limits, you see this throughout the nineteenth century, they cracked down, right. And so the, you know, the eventual introduction of a cloture, a provision for cloture in 1917, resulted from senators basically pushing things beyond what was tolerable, and you know this is, this project, even though it was historical in nature, when we were working on it, we were really in the thick of it, was the early 2000s during the administration of George W. Bush, when filibusters of judicial nominations became, you know, were capturing headlines.

This is not innovation, this is, you know, the history of the filibuster is one of those who want to obstruct trying new things and seeing what the response is. And so there really hadn't been much in the way of judicial filibusters prior to the administration of George W. Bush. There had been, maybe there were filibusters, there, maybe there might have been some filibusters

around some Supreme Court nominations, but it doesn't look like the filibuster had actually killed or seriously threatened any nominations. But the democrats' use of the filibuster to block a handful of Bush nominees was really an innovation, and so you know this really happened around 2003. So we're writing this book talking about how the way that the Senate kept obstructionists in check was through this threat of changing the rules, and so it's about this time that the term nuclear option is coined, but what we had figured out probably about the same time was that there had been nuclear options deployed throughout the Senate's history in order to crack down on this kind of obstruction, and so they had fallen well short of what happened eventually in 2013, where the threshold for cloture for judicial nominations below the Supreme Court, at that time, and executive branch nominees, was reduced to a simple majority.

In 1975, actually, the Senate did go nuclear. They actually changed their precedence to lower the closure threshold for everything, including legislation, to a simple majority. It's got to be one of the more awkward moments in Senate procedural history, for those of you who are into Senate procedural history, is that the Senate basically had a do-over, right, they actually pulled the trigger. They pulled the nuclear trigger, and then a few days later they explicitly undid the establishment of the precedent. It's, you can go back and you can read the record, and this is this is what they did. We didn't really mean to do that. It wasn't like they just ignored that they did that. They actually went back and said, you know, we're retracting this, right.

And so, you know, this project has been the gift that keeps on giving because the filibuster, by the time we started the project, filibuster wasn't much in the headlines, right, but since the, you know, we basically, that project became more fully formed and was published and, you know, the filibuster has been constantly in the headlines. And so it's always nice when you get that kind of validation that you are interested in something that is not only interesting and important to you, it's something that really does have, in my view, major consequences for how American democracy and the US Congress works.

CHERVENAK: So let's come back to the filibuster a little bit later and go back to your concept of legislative entrepreneurship. So I'm curious about your work there. What really is the work that a legislative entrepreneur has to do to get their legislation passed, right, according to your work? Is it, you know, do they have to convince the leadership? Do they have to convince the committees? Do they have to go do a handshake campaign with a bunch of their colleagues? You know, what are the means by which, because, you know, I would think on the one side getting your, writing the bills is one kind of skill, and the other, it's a totally different skill to shepherd that thing, you know, through the end goal. So can you talk a little bit more about that and what did you find?

WAWRO: Sure. That's absolutely the case, like it's a multi-dimensional effort, right, so you, if your legislation is not solid, in terms of the actual drafting of legislation, right, there are terms that you have to use, right. You have to avoid technical mistakes in the legislation, and you have staff, and there are lawyers, you know, professionals in Congress who can help with that, but you need to make sure that those issues are addressed. You need to be a marketer, right, you

need to be able to say this is an important issue that we should spend some of our scarce time on. You know, members of Congress are incredibly busy. They have a packed agenda. Why should they care about a piece of legislation that's being introduced by a rank and file member of Congress? The leadership, you know, I would say the way that Congress operates today is different from how it has operated throughout much of its history in the sense that now the most important legislation is, you know, it's basically a, you know, a leadership effort where the legislation is drafted behind closed doors. They decide what legislation the party's going to focus on, what, you know, how, they draft behind closed doors.

It doesn't follow the standard, you know, how a bill becomes a law story that I learned when I was growing up, right, the Saturday morning cartoon. And so, but, you know, what I was inspired by were individuals, you know, I lead off the book with a story about Dick Arme, who was, you know, former majority leader, representative from Texas, and when Arme was in the minority, right, so he was, he's in the minority at a time when definitely the Republicans are ever going to be in the majority, right. The Democrats have this this stranglehold on the majority in the House of Representatives, and here's Dick Arme, a newly, you know, new member of the House, has no resources, right, has no notoriety, has no power at all, you know.

He has an issue, which is he wants to address military bases, right. Now military bases, closing military bases, which is, you know, it's sort of like one of those third rails of politics, right, that it's fraught with all kinds of problems, right, like if you say you want to close a military base, there are economic consequences, there are, you can imagine opening yourself up to attacks about being soft on defense, but, so here's Dick Arme, who puts together legislation that comes up with a procedure for closing military bases.

And this is at a time, he does this at a time when, you know, deficits are a major issue, right, people are really worried about spending, you know, defense spending is often sacrosanct, but here he comes, he's going to put together this legislation and doesn't have a snowball's chance of actually being enacted. Well, you know, he is remarkably successful. He gets legislation through the process, right, it gains traction, and eventually it passes. And so using that as a motivating example really demonstrates, like here's somebody who comes from nothing, doesn't have resources, but yet this is an issue he cares a lot about. He sees a way to make progress on an issue that a lot of people believe there should be change. But it's hard to see how you get from point A to point B.

He figures that out, and so he does all the hard work, from identifying the issue, drafting legislation, convincing others that this should be put on the agenda, and managed to shepherd it through the committee stages. This really was sort of like standard how a bill becomes a law process, where shepherded through the subcommittee stage, the full committee stage, gets it to the floor, you know amendments to sink it are thwarted, and it becomes law. And so, you know, as you know Dick Arme eventually, he rose from this lowly position as a minority back venture to being one of the most powerful members of Congress. And so it seemed to me like, you know, were there more stories like this?

And it turns out there were. You know, Henry Waxman, a representative from California, you know, complete opposite of Dick Arme in terms of their politics, their ideological positions, but he very much had a similar story. He was a dynamo when it came to passing legislation, but he started out as, you know, also from very humble beginnings and built a reputation for being able to handle that, you know, all the different dimensions of, that are required in order to get legislation through the process. Eventually he rises to become a very powerful member of Congress, and so the, you know, the project was, you know, you could you find these case stories, which are very interesting and help to put, there's a human interest aspect here that gets people excited about this. But then the project really wanted to answer, is this more systematic, right?

So if we, I can tell you stories all day about members of Congress who, they engaged in this kind of legislative innovation, and, you know, without the kind of resources you would think they would need in order to get things on the agenda, get them through the process, but they managed to do it. And why were they doing it? And were they rewarded for it? And so when you look systematically, you know, collect the data on every member of Congress, every piece of legislation that was introduced from the 93rd to 103rd Congress, I think was with the data spanned, and lo and behold, yeah there's a story here to tell that there is something systematic about how individuals who engage in this kind of behavior are rewarded.

And I think, you know, Congress as an institution benefits from this kind of system because you get talented people, right, you get smart, talented, hard-working people into positions where they actually acquire the resources that enable Congress to be more productive and a better-functioning legislative institution.

CHERVENAK: Do you think the lessons you learned from that period are still applicable today, you know when you have a weaker committee system, and you don't have as much power to get legislation through without leadership's, you know, either or originating legislation or its blessing?

WAWRO: Yeah, that's a really interesting question and maybe worthy of another book project. Given, yeah, I think that that, you know, if this theory is correct, and this was the way that Congress works, it doesn't, it probably doesn't work the same way that it did in the period that I examined. given the centralization that has occurred, and I do think that centralization really has escalated, especially in recent congresses, there are, so it limits the attractiveness of the kinds of progressive ambition or the rewards for progressive ambition that exist in Congress. So I think, you know, committees are still important. I think members of Congress still want to be chairs of committees, but I do think that the concentration of legislative initiative and the legislative process generally within the leadership does limit the rewards that are out there, the incentives that are out there for members of Congress to engage in this kind of behavior.

Now it seems to me like if you rise to the party leadership, then, you know, the party leadership position has become much more of incentive, right, because if you make it to those upper echelons, you are much more powerful and have, you know, the ability to influence the course

of legislation. It's exponentially greater. But there are few of those positions, and it may create, you know, that concentration or, you know, if the theory is correct, I would I would hypothesize it has reduced the incentives to engage in this kind of behavior, which would hurt Congress as an institution.

CHERVENAK: Most people that I've talked to seem to indicate that it's mainly fundraising abilities that get you higher positions, whether it's in leadership or even committee posts, so that would imply more, I don't know if that's called a showboat, but it certainly doesn't imply a legislative expert.

WAWRO: Yeah, that's also a recent innovation. You know, one of the things that I thought, I didn't look at this in the project because it was it didn't seem like it was that relevant at the time, but now I think it's highly relevant, the idea of leadership PACs, where you know, leadership PACs at the time I was doing that research were, as the name implies, really just for individuals in the top leadership. The idea that you would raise money and then donate it to other members of Congress. And so the, but now, you know that this behavior is much more widespread. In fact, you know, Republicans have made it part of the of the way they run the institution, that you're you have a quota of money that you need to raise and donate to fellow Republicans. I don't know, Democrats may have followed suit, but so maybe that aspect of it has changed, which would further create a disincentive for members of Congress to engage in this behavior.

CHERVENAK: So beyond the this concept of sort of getting promoted, if you will, to a committee or to a leader position, what else might motivate, or did you find any other motivations for legislative entrepreneurship? You know, one thing I always thought is, you get your name on the sort of the legislation, at least the shorthand version, right? The Hatch-Waxman Act, or the, you know, the finance, Dodd, et cetera, you know, is that a motivation to get your name out there, or are there other, why else would they go ahead with this? Or did you find that it was neutral, all the other motivations?

WAWRO: Yeah, no, I think that's, you know, I think that is probably important. I mean, it's hard to measure that sort of thing, like the, you know, psychological benefits that members of Congress receive from, I think members of Congress probably have bigger egos than your average person. I think it's hard to get to Congress, do all the hard work that you need to get to Congress without having that kind of ego and self-confidence, but you know, one question that I didn't pursue is the progressive ambition outside of the institution, right, so the old saws that members of the House would become senators, senators want to be president, right, and so obviously putting your name on a major piece of legislation is, you know, is, helps with that kind of ambition.

But there are plenty of members of the House who are completely content to stay there. You know, like Dick Armey was never going to, I don't think he had any ambitions to run for senate or run for president, maybe he wanted to be president. Newt Gingrich certainly wanted to be president, but Newt Gingrich was not, you know, I like Newt Gingrich, as successful as he was

without individuals like Dick Armey, who knew how to, you know, who knew how to do things behind the scenes and get legislation through the process. So you know what, that obviously, I think that sort of external progressive ambition is important. And there, you know, I think members of Congress for the most part, you know, you want to get things done, right, and the question is, you know, I think my project was more focused on what helps to explain variation in that because you say, like all members of Congress have, are ambitious, right, and yeah there's variation in their levels of ambition, but how do you measure that? That's a hard thing to do, so, undoubtedly there are other things that explain why members of Congress would engage in legislative entrepreneurship.

But, you know, I think the key takeaway from the book is that this was a feature of Congress that had not really been observed before, or figured, nobody had figured it out before, even though, you could sort of see it. You know, there were some quotes that I would that I ran across from influential members of Congress, like Sam Rayburn had a, there's, it was a great quote from him about progressive ambition and, but you know, I'm sure there are lots of other things that contribute. I didn't want to claim that I explained all the variation that we see in legislative entrepreneurship, but I thought this was an important an important feature.

And, but also I think, you know, the larger story about how we understand Congress and, you know, I believe that for all its flaws that, you know, the Congress has developed in ways that make it a stronger institution? It really is the only legislature in the world, the only national legislature in the world that really is, you know, maintains a status as an equal with the executive, and so why is that? I mean, is it just because the framers designed the system that was going to keep Congress at the center of things? I don't believe that. I think that Congress has evolved in important ways to maintain its status and separation power system, and in my view, though this sort of, the way that members were rewarded for this kind of activity was one thing that helps us understand why Congress has maintained its status.

CHERVENAK: I sometimes wonder about the incentives to get legislation through and whether you could create additional ones that might make Congress work better, or at least different. You know, so I think about the business world, and I think, well, you know, you get a piece of legislation through the process, becomes law, you get a hundred thousand dollar bonus, right, or you get a star, you know, on the top of on the capitol building, you know, you get like a kind of, a what they call it, tombstones in the investment banking world. You get to put that up on the wall, and maybe there's some prominent place for it. You know, I wonder if there are other incentives that could be created that would nudge some of those other members to more align their ambition with something other than the showboat.

WAWRO: Yeah, I think, so obviously, you know, financial compensation, you know, the bonus, the salary bonus is not something that you can do for members of Congress. But, you know, to come back to the issue of campaign contributions, that could be one way that you that you provide an incentive for this behavior, right. Leadership controls or has access to campaign resources. I think one of the hardest things about the job of being a member of Congress is having to raise the immense amounts of funds that you need to in very small increments, right,

so members of Congress know that it's a daily grind in terms of raising money and so leadership could provide incentives through, you know, basically, you get a break from going through your rolodex, and I don't know if members of Congress still use rolodexes anymore, but that was the image there of members of Congress, you know, when rolodexes were still a thing.

They're just sort of going through that, you know, okay you've got to make this call, okay got to make that call, right? They're calling donors. So, if leaders could reward members by saying, you know what, you can have a few days off from calling donors because there's going to be money. Campaign contributions are going to flow your way. I mean, they're limited to the amount that they can get, you know, that a leader themselves could donate to a member of Congress, but they certainly can bundle contributions, you know, they can certainly direct donors in the direction of a member of Congress whose behavior they want to reward.

So I think you know campaign finance reform is, you know, that's one area where there has been some entrepreneurship, right, with John McCain, Russ Feingold, being the names that are most closely associated with campaign finance reform, but you know, we've seen how that legislation has been problematic and gutted by the courts, but given the kind of campaign finance system we have, which, you know, one of the results of the judicial decisions that have limited the intent of McCain-Feingold is, you know, that frees up, maybe that frees up leaders to direct cash flows toward members of Congress in terms of something that they really value, which is campaign contributions, and gives them, you know, gives them a break from the daily grind of having to raise all this money in order to announce successful re-election campaigns.

CHERVENAK: So maybe we go back to the filibuster now and your work there in this concept of the super majority requirement currently in the Senate. So looking out from a historical point of view, you say it was it used to be more majoritarian. Now it's super majority based on, you know, the ubiquitous or the ever use of the filibuster, right. In your view, you know, this concept of thresholds, you know, whether it's sixty whether it's fifty, or whether it's seventy-five, or whether it's, you know, in your mind, how does that change the institution, and what do you think would be the right way for the Senate to actually operate?

WAWRO: Very, very hard question to answer. So you know, I think the, you know, often the framers are invoked when we talk about the use of the filibuster and super majoritarian provisions in the Senate, so you know, it's clear that the framers did not believe that the Senate should operate as a super-majoritarian institution. But they did have a concept of the Senate that is consistent with how the Senate has evolved into a super-majoritarian institution, right. The Senate was supposed to be different from the House. It was a different system of representation. In the original Constitution, senators were indirectly elected, right, they're supposed to be a buffer, you know, the idea of the Senate is basically, it's insulated to a degree from the popular, unpredictable whims of the electorate, right. That was something that the framers were incredibly concerned about, right. They didn't want the mob rule, right. They thought it was important to balance democratic representation with some insulation to give elected officials flexibility, breathing room, right, so they didn't feel like they had to follow

every whim, and they knew the electorate would kind of go back and forth and want things that were probably not in their best interests in a given moment.

And how do you prevent that from becoming policy? I don't know that having a super-majoritarian Senate is the best thing for the republic, given other conditions that currently exists in the country, but in my view it's not completely out of line, you know, if we're going to invoke the framers and invoke the, you know, the genius of their design of American democratic institutions, having super-majority provisions in the Senate is consistent I think with how they conceived of the Senate as a bulwark against, you know, the whims of the electorate, and so the tough thing, the framers wanted to make it very hard to pass legislation. They wanted there to be broad consensus in order for policy to change. Now the question is, how broad does consensus have to be? You know, it's open to question whether the framers envisioned political parties being like they are today, that we would have only two political parties, that they would be highly polarized, that it would be difficult to find an agreement on a number of important issues. This is one of the one of the key tensions in democracy is this kind of balance between wanting to allow for broad representation but also wanting to put up some barriers to rapid, ill-conceived policy change.

And so, you know, and that comes with a cost. The fact that Civil Rights reform was delayed to the extent that it was, that, you know, I think that the, yeah, I don't think the filibuster is entirely to blame for the survival of Jim Crow, you know, basically survive, you know, the filibuster clearly prevented Civil Rights reform from happening until arguably later than it should have happened, but if you go back and look at some of the early attempts to introduce Civil Rights reform, to curtail Jim Crow in the South, there wasn't broad consensus in the country about doing that, and then, you know, I think that's more of a reflection on the electorate than it is on the Senate institutions.

You know the filibuster, by the time the filibuster really, it was clear that the filibuster was going to be a powerful weapon against Civil Rights reform, it didn't really last all that long before, you know, before there were broad majorities in the Senate and the Congress generally that decided, you know, we need to, we need meaningful Civil Rights reform, we need to end Jim Crow, and they did it. But that's the cost, right, and it's a severe cost, obviously, and so the, you know, I just think the, but it's just a fundamental tension in the way that the American democratic system, and any democratic system, is designed, right, this, you know, you may hate the filibuster one day because it prevents something that you think should become a policy from being enacted into law, but you might like it the next day because something you didn't think should become law was blocked.

And that's really, you know, that's another part of the story of the history of the filibuster is, you know, every member of Congress has been on both sides of the issue, right, and I imagine, you know, many people who pay attention to the filibuster have been on both sides of the issue at different points.

CHERVENAK: What about the notion that the filibuster, you know, it was taken out at some point of its kind of serial nature, like on the floor, and moved so that it you, could be entertaining multiple filibusters at the same time in this parallel track system, and you're not tying up the, you know, the floor time. What do you think about that change? Do you think that was a good or bad thing? And then the secondly is what about the [] cost of the filibuster? Right now there's no cost, whereas in at least in the mythos, right, there's the person standing and talking forever, and that's a cost to keep that going, and we've lost that kind of cost associated with the filibuster. Do you think those two things, you know, what's your perspective on those?

WAWRO: So yeah, the idea of the silent, costless filibuster, you know, it, we have that because you know that's one thing that there is broad consensus on in the Senate, is basically that, you know, senators don't want to either be forced to do that, or be forced to be present in the institution to stop individuals from doing that, right. So, it, you know, my view is that given the extreme polarization that exists in the Senate right now, if you went back to the talking filibuster that forced senators to take and hold the floor for extended periods and basically, I don't think outcomes would be that different. I think, you know, a unified minority could tie the Senate up in knots, and it's more of a headache for the majority than it is for the minority, right. So this idea that somehow you're going to put the minority on the spot, you know, by bringing in the cots, as the, you know, members of the Senate are going to sleep in the in the cloak room and their offices and be ready to come at the floor at any given moment, right, it's just, it, that just seems to me to be untenable, and so if the majority wanted to end filibusters, wanted to end the silent filibuster, whatever form of filibuster, they do it, tomorrow, right.

I firmly believe that the nuclear option for legislation is something that is, they could execute. And one of the interesting things about what we observed with the use of it for judicial nominations was that it actually didn't live up to its name, right. When we talk about the nuclear option because, you know, part of the meaning behind that term is that they would blow up the Senate, but it would lay waste to much of the Senate and the agenda of the Senate because the minority would completely object. They would, the minority still has, even if you eliminate super-majority provisions, the minority still has an awful lot of ways that they can tie the Senate up. And so, you know, if a minority party was ready to lay waste to the Senate's agenda, I think they could do that very easily. I think they could completely hamstring the institution. So unless you're willing to crack down on all those things which give power to the minority, which I think there's also broad consensus on that, that senators want to preserve that whether they're in the majority or the minority of the day, because they know they're going to be in the minority at some point, right, and so you know senators have long-term ambitions. They want to stay in the Senate. They're not going to move to the White House, and they want to preserve those prerogatives for themselves when they want to block something that they don't agree with.

So this idea that, when judicial nominations were, when they deployed the nuclear options for judicial nominations and reduced the cloture threshold to a simple majority, you know, not much happened, you know, apart from the Democrats being able to get through a lot of judicial

nominations, right, and even when Republicans tried to use some dilatory tactics on that, it kind of backfired on them, and the Senate was held in session for longer. And guess what they did with that extra time they had in session? They got through more of Obama's nominees. So, you know, I think the majority does hold the cards here, and the, forcing the talking filibusters, I think is a non-starter. I mean, I just don't think, if the parties weren't so polarized, if we were talking about, you know, a single senator Jimmy Stewart-style getting up and blocking the institution, then sure, let him have at it. And we have done that, right, I mean, you know, Al D'Amato did it in the 90s and Ted Cruz did it more recently. Rand Paul did it recently, but, you know, for the most part it's, they're just, you know, to use the term, they're showboating, right. Grandstanding. And so, you know, when you have a Senate that is essentially evenly divided between Democrats and Republicans, which is what we've had for, you know, pretty much the past twenty years or so, thirty years, really, you know, the unified minority could just, yeah, let them, you know, they're happy to talk, right, you know, because it hurts everybody.

And so either the majority would just cave on it, right, which is not necessarily what you want to happen, right, because they want to go off and do other things and raise money and meet with constituents and, you know, but they, I just don't think they, you know, I think the tolerance, you know, a lot of it, the argument that Eric and I put forward in the filibuster book is, a lot of it boils down to intensity of preferences, and so unified minority with intense preferences, they would love a talking filibuster, right, because it's going to do more harm to the majority than benefits the minority.

CHERVENAK: Let's talk about, just before we move on to our common questions, the concept of methodology. I know you've done some work on methodology as it relates to social sciences and political science. Can you talk just to briefly about what that work is, what the problem you saw, and what did you try to solve it?

WAWRO: Yeah, I was trained as a political methodologist, somebody who makes a quantitative analysis and quantitative methods a central part of their of their research agenda. I'm not, I've been way surpassed by others in the field, you know, younger, smarter individuals who know a lot more about quantitative methods in the social sciences than I do now, but I do believe it, you know, it has a primary place in the social sciences, and using quantitative methods to answer questions seems to me like, I believe that other methods are important, too, but it seems to me that it's core to social sciences. I am, in about a month, a book will come out from Princeton University Press that I've co-authored with Ira Katznelson that that essentially advocates for innovation in the use of quantitative methods to study history.

So the idea is that you have your qualitative historian types, right, people who believe you should be in the archives. Narrative is their primary mode of research and writing, and you know, we moved away from that. So quantitative methods have been prioritized more and more, especially in the discipline of political science. And in many ways, qualitative methods have been relegated to secondary status, or these lower status than they used to be in the discipline. And our argument is that, well, you know, there's a reason qualitative research has value, and while there have been important books and important figures in the discipline who

have argued that qualitative scholars should use more of a quantitative mindset when designing and executing their research, our argument is that, our argument in the book is basically that quantitative researchers should actually pay more attention to what qualitative people are doing and try to incorporate what is of value in qualitative research into their quantitative methods.

So there's a mixed method approach has become popular in political science, we're basically like, well, you're going to do some case studies, so you're going to have your chapters in your book that are, or your dissertation, that are on that use quantitative methods. Then you're also going to have your case study chapters where you use qualitative methods and process tracing and other things. Argument is basically like, you know, these shouldn't be separate, right. There are ways because of computing technology and advances and quantitative modeling that enable us to incorporate issues that are important to historians, like periodicity, complexity, context, incorporate those into your methods. So rather than just run like standard regression models, innovate, right, and there are opportunities to do things differently that I think are much more illuminating, especially when you're trying to do history, which is much, there are all sorts of new complexities that are introduced when you're taking an historical perspective to study social science questions.

CHERVENAK: So I know you applied some of this kind of methodology to Congress, right? You looked at campaign contributions and how that may have impacted votes in the long run. Can you talk about that and how this methodology approach can imply or highlight potential causation? That I think, that's quite important to understand when it comes to these kinds of methods.

WAWRO: Yeah, so you know, causal, causation, causal theories are core to the social sciences, core to the discipline of political science, but one of the things that has emerged in social sciences is much more sensitivity to causal inference. How do we know that a relationship is actually causal? And so there's been what's called the identification revolution or the credibility revolution, where formal frameworks for causal inference have been deployed more and developed more in the social sciences.

And so the one of the things that has, that in my view has come out of this, is how hard it is to actually assess causal relationships, right? So there are many who believe that experiments are the gold standard for determining causal inferences, so randomized controlled trials. But my work is primarily with observational data, especially when you're doing historical work, you can't do experiments on how people behaved one hundred or two hundred years ago, right, so you have observational data where you can't do the kinds of manipulation that researchers can do when they have, when they do lab experiments or field experiments.

And so, what ways can we deploy quantitative methods with observational data to have confidence that we actually have determinate causal relationships? So one of the things that that, there's a whole range of methods. One area that people have focused on is using repeated observations over time. So the idea is that there are certain things that stay fixed over time,

and there are certain things that vary over time. And so if you can account for the things that stay fixed, you have better purchase on potential causal relationships between things that vary over time, and so the work that you referenced on campaign finance was an attempt to use that kind of methodological approach to better assess the relationship between campaign finance, campaign contributions, and roll call votes. So, this is a long-standing question, right, do campaign contributions affect roll call votes of members of Congress? And so, you know, it's a very relevant question for the health of a democracy, like there's some corruption implied, that members of Congress are receiving donations. Are those donations, are their votes more influenced by those donations than they are by the preferences of their constituents who are not giving them donations?

And so one of the things that you observe about donors, especially political action committees, is that they donate to people who are likely to vote their interests, anyway, right, so the NRA donates to Republicans, who are likely to support their positions. Liberal interest groups, liberal PACs, give money to liberal members of Congress, who, you know, in the absence of those donations probably would have voted the way that the interests wanted them to. So this is a tough causal question, right. So if you just run, if you just look at correlation between campaign contributions and roll call votes, you're going to see there's huge correlation, right, there, but that doesn't mean that it's causal, right. Correlation is not causation.

And so how do you actually get at this question, you know, the causal relationship? And so what one of the things that I argued in the research on campaign contributions is that you really need to account for predispositions to members of Congress who vote one way or another, right. If you're predisposed to vote for gun control legislation, then you're going to get donations from PACs that want gun control legislation. If you're opposed, predisposed to vote against it, you're going to get donations from the NRA and other kinds of groups like the NRA. But predispositions, you know, we can assume that they're relatively fixed, and so if they're fixed, at least in the short term, you can, if you observe members of Congress over multiple votes, you can basically say, well there's this thing that I'm going to call predispositions that is fixed over time, and without actually observing it, because I observe outcomes and variation in other things over time, I can actually isolate that part and take it, basically take it out of the equation, right.

And so that gives you potentially cleaner estimates of a causal relationship. There are lots of other assumptions that would need to hold in order for that to be true. And this work was done long before the causal revolution or identification revolution took place in political science, but you know, it was an attempt to try to get at this question of a cleaner, more reliable estimate of a causal relationship.

CHERVENAK: And what did you find?

WAWRO: Basically, there is no, you know, if you don't account for predispositions, you see that, you see big correlations. It looks like campaign donations are just driving all these, you know,

driving these roll call votes. Once you account for predispositions, the correlation basically goes away.

CHERVENAK: Very interesting. Great, well I think it's time for us to move on to our common questions we ask all the guests so we can later compare the answers. You ready to move on?

WAWRO: I'm ready.

CHERVENAK: All right. First one here is, what do you think congressional representation should mean?

WAWRO: I think it should mean a balance between a member of Congress's belief about what the country should be doing, what Congress should be doing, as well as balance between that and constituent preferences. I think constituent preferences are largely hardwired into members of Congress, and I think one of the bum raps that members of Congress get is that they don't care about their constituents, that they basically, they go off to Washington and they do whatever they want. I think that that is, I think that's not the case. I think members of Congress, that the electoral connection that the framers built into our system of democracy is, still holds. Obviously members of Congress are buffeted by all kinds of influences, but I do think that the core constituency connection is still there and that the, and that our system of representation actually works pretty well.

CHERVENAK: And when you say constituents, do you mean primary voters? Do you mean the majority of the voters? Do you mean everyone in the district? Do you mean future generations? How do you define that constituency that they're representing?

WAWRO: It includes all those people. I think many members of Congress do view their constituencies differently. You know, they separate primary voters from other kinds of voters, but I, you know, I'm not convinced that, as many claim, that the kind of polarization that we're seeing now is due primarily members of Congress paying too much attention to primary voters. I'm just not sure the evidence is there.

CHERVENAK: Got it. Next one is, how would your ideal Congress allocate its time? You know, would you have them two weeks in town and then one week out? You know, all year round, twenty-four hours a day? You know, in between legislation oversight? How would you mix that up?

WAWRO: Yeah, over, you know, so over time I have become more sympathetic to arguments that members of Congress spend too much time away from Washington. I think there are deeper roots to polarization, which I view as the primary problem that this country faces right now. You know, I do believe that they that, I've come to believe that basically members of Congress, everybody's in the Tuesday to Thursday club. They don't spend much time with each other. They're all, they're more constituency-focused than they've pretty much ever been, and I think, you know, maybe heretical to say this, but I think members of Congress might be

spending too much time with their constituents, that there's not, there's not a balance, sufficient balance between interacting with each other in ways that that might help with the vitriol that we currently see in Congress. I hope to tamp that down. So I think it's important that members of Congress do spend time among their constituents. I think members of Congress should probably have more relief when it comes to the amount of time that they need to spend with donors. I think we should reform campaign finance. Again, this might be, it will undoubtedly be perceived as heretical or crazy by some, that already donors have way too much influence on politics, but I do think the campaign finance law has not adapted with new realities and that members of Congress spend too much of their time raising money, and that's something that they shouldn't, they should get a break from.

CHERVENAK: Well the next question is, how should debate deliberation or dialogue occur or be structured in Congress? You know, should it be on the floor, should it be in committee, should it be behind closed doors or out in the open with transcripts? You know, what's your thought on that?

WAWRO: I think all those things are necessary. You know, I think, there are unintended consequences to any kind of reform, right, so the introduction of cameras into the chambers, right, you know, there are many who believe that that has led to, has had its downsides. I think it's important, I think, you know, transparency as much as possible for a well-functioning democracy, but I also recognize that the things, some things do need to happen behind closed doors. I think there should be transparency once whatever negotiations happen behind closed doors in order to maybe get legislation through a difficult choke point in Congress. I think there needs to be transparency about what happened behind closed doors, but, you know, the, our democracy was founded on deliberations behind closed doors, right.

The framers at the Constitutional Convention, you know, they knew that if there was broad transparency and everybody knew what they were doing in that room, that they probably could not have accomplished what they accomplished. And so I do believe that has its place, that there needs to be some confidentiality, some insulation, but at the same time I think that there does need to be transparency after the fact about how things, you know, what transpired there, why certain decisions were made, and I'm not sure that we have that to the degree that that I would like.

CHERVENAK: And you think that should that happen in committee, primarily? Is that your, where you think it should take place? Or, like today, you know, a lot of people think that it happens in the leadership office as opposed to in a committee structure, which would be, you know, a shift in the power.

WAWRO: Yeah, I think that they're, in my view, you know, and again it's hard to say like, you know, we have like a hard and fast measure of like how much is happening in leadership offices versus how much should happen in leadership offices. You know, my gut is that that there probably is too much centralization, and, but the thing that I've come to appreciate over my many years as a political scientist is that things are the way they are for a reason, and so the

centralization that has happened with party leadership has happened for a reason, and I think if we want to change that we need to look at the underlying causes, and you know I think it probably has something to do with polarization. I think it has something to do with a hypersensitivity of certain constituencies.

And so if you want to go back to a more traditional committee-centered Congress, which I think it is important, and I do I think there are a lot of strengths to the way that that the committee system worked, you know, you can't just say, all right leaders, you can no longer do what you've been doing. We're going to go back to this committee-centered process without taking into consideration what conditions exist that led the parties, led members of Congress to want to conduct business that way. And so, if you sort of rip things out of the hands of the central leadership and put them back into a decentralized committee system or even subcommittee system, what adverse consequences would you see from that?

CHERVENAK: Next question is, what fundamental institutional improvement should Congress make within a fifty-year time frame?

WAWRO: Oh boy. So, I think an important institutional improvement would be making it possible for Congress to be more effective as a legislative body and rest more power back from the executive branch and the bureaucracy. My, although you know, as I mentioned before, Congress is, there's no legislature like Congress in the world, but I do think that the balance of power has shifted in ways that have made the executive branch less accountable. I think one of the things that we learned during the Trump administration is the limits to institutional constraints, and you know, how much we rely on norms and the difficulties that there are for punishing transgressions.

So I'd like to see ways that Congress could reassert itself against the executive branch. I can't tell you how Congress should do that. You know, the 70s, 1970s were a period where Congress did reassert itself against the executive branch, you know, concentration of executive power starting, you know, with FDR all the way up through Nixon. Some of those reforms worked, but not all, and they failed, you know, several important reforms failed in important ways, like the War Powers Act, for example. So I think what Congress should do, I don't know how they do this, as an institutional improvement, is figure out a way to claw back some of the power that they themselves have ceded to the executive branch. Again, you know, there are reasons they have done that, and so you know, I always have to worry about unintended consequences.

CHERVENAK: Next question is what book or article most shaped your thinking with respect to congressional reform?

WAWRO: I would have to say Kingdon's book on which, where he coined the term policy entrepreneurship. I think that book, it's a short book, but it's incredibly insightful about how Congress works as an institution and the idea, you know, this sort of individual level focus of members of Congress and the role that they play in both how they modify their institution as well as work within their institution to make sure that it remains an effective legislative branch.

CHERVENAK: Great, well, the last question is really about your own plans. You know, what do you have coming up in terms of books or research projects, and over the long run what are your plans?

WAWRO: So the book project that I mentioned, which is now complete, was completed in December, has consumed almost all my research time, but I dabble in judicial politics, and so I've published a few papers on that. I have a project that, which I hope will be completed soon, on the role that judges' characteristics play in case outcomes. So this is focused on the federal district courts. I would like to expand that project. So basically this project looks at the role that characteristics play in outcomes of employment discrimination cases. I'd like to expand that to sentencing. I think, you know, with the recent Supreme Court nomination, we see that, you know, issues of judges' backgrounds and characteristics are a fundamental importance to American democracy, and I think we don't have a good grasp on the way that, on the role that judges' characteristics play in in judicial outcomes, so I'd like to expand that project in a number of ways.

CHERVENAK: Professor Wawro, thank you so much for your time. It's been a pleasure and best of luck.

WAWRO: Thanks, it's been great to talk to you today.