

# The Limits of Electoral and Legislative Reform in Addressing Polarization

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## INTRODUCTION

Professor Richard Pildes provides a very thorough and persuasive overview of the key arguments about the causes of partisan polarization in the United States. I am especially sympathetic to his argument that deep macro-historical factors such as the partisan alignment of the South—rather than idiosyncratic events, elections, and personalities—bear the primary blame. But I remain quite skeptical that a political-reform agenda such as the one he outlines will go very far in ameliorating partisan conflicts. Given that the forces that produce polarized politics are deeply embedded in the American political system, opening primaries, eliminating gerrymandering, reforming Congress, and regulating campaign finance are unlikely to provide much relief. Each of the reforms proposed by Professor Pildes may have many salutary effects, but political science research casts much doubt about their ability to reduce polarization or ameliorate its consequences.

Before responding to the specifics of Professor Pildes’s excellent Article, let me briefly introduce some of the sources of evidence on which this Essay is based. This evidence is displayed in Figure 1, which contains a pair of time

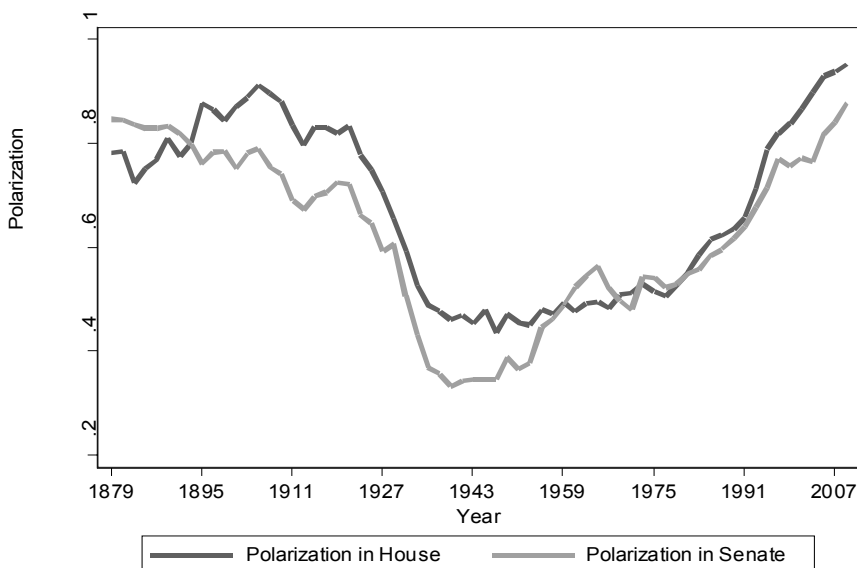
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series measures of partisan polarization in Congress.<sup>1</sup> These measures, which have become more or less standard in the literature on polarization, are drawn from my work with Keith Poole and Howard Rosenthal.<sup>2</sup> They are based on measures of the conservatism of individual legislators using patterns of recorded roll call votes on measures before Congress. These data, known as DW-NOMINATE scores, are calculated based on a statistical model that uses data about who votes with whom and how often to locate legislators on ideological scales. Conservatives are those who generally vote with other conservatives, liberals are those who vote with other liberals, and moderates are those who vote with liberals and conservatives.<sup>3</sup> The polarization measure for each chamber is simply the average distance between Democratic and Republican legislators on this scale. While several concerns can be raised about the calculation and interpretation of these measures, their virtue is that they provide a picture of conflict among partisan elites for more than a century.

**Figure 1: Polarization in the U.S. House and Senate from 1879 to 2009<sup>4</sup>**



1. *Infra* at 360.

2. See NOLAN MCCARTY ET AL., *POLARIZED AMERICA: THE DANCE OF IDEOLOGY AND UNEQUAL RICHES* (2006).

3. For a more detailed discussion of DW-NOMINATE scores, see KEITH T. POOLE & HOWARD ROSENTHAL, *IDEOLOGY AND CONGRESS* (2007).

4. Measures are based on the average difference between DW-NOMINATE scores for Democrats and Republicans. See MCCARTY ET AL., *supra* note 2, at 16–22.

Figure 1 provides several valuable lessons about polarization in American politics over time. Perhaps the most important lesson is that Figure 1 confirms the widely held belief that American politics, at least at the elite level, is extremely polarized.<sup>5</sup> By these measures, polarization is higher than any time since Reconstruction and is continuing to grow. A second important implication of these data is that polarization has varied greatly over the course of the twentieth century. From the very high levels of the Reconstruction era, polarization fell dramatically from about 1910 to 1930, although the exact timing of the decline varies by chamber. Next, polarization was very stable and low from about 1930 to 1975. During this era, many liberal and moderate Republicans served alongside conservative and moderate Democrats, causing significant ideological overlap between the two parties.

A key premise of my Essay is that any good explanation for polarization and a prescription for its cure should not only explain the contemporary rise, but also the dramatic rises and falls over the past 135 years. It is against the backdrop of these data that I consider Professor Pildes's observations about the historical, personal, and institutional explanations for polarized politics in the United States.

## I.

### HISTORICAL REASONS FOR POLARIZATION

Figure 1 supports Professor Pildes's contention that polarization is part of a very long-term historical process. His specific claims about the Voting Rights Act (VRA) and the ensuing Southern Realignment are important. The enfranchisement of African Americans moved the Democratic Party in the South to the left and many white voters into the arms of an increasingly conservative Republican Party.

But there are many reasons to doubt that the Southern Realignment is the whole story, or that post-VRA racial politics was the sole factor in those partisan shifts.<sup>6</sup> If the direct effects of Southern Realignment—the shifting positions of Southern representatives—were removed, Figure 1 would look about the same: polarization among non-southern legislators started declining in the 1930s, was stable until the 1970s, and began climbing thereafter.<sup>7</sup> Much of the recent increase in non-Southern polarization is due to the disappearance of moderate Republicans—a factor that the Southern Realignment story

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5. The debate about whether voters are as polarized as the elites is ongoing. See ALAN I. ABRAMOWITZ, *THE DISAPPEARING CENTER: ENGAGED CITIZENS, POLARIZATION, AND AMERICAN DEMOCRACY* (2010); MORRIS P. FIORINA, SAMUEL J. ABRAMS & JEREMY C. POPE, *CULTURE WARS? THE MYTH OF A POLARIZED AMERICA* (3d ed. 2010).

6. MCCARTY ET AL., *supra* note 2, at 44–54; see also BYRON E. SHAFER & RICHARD JOHNSTON, *THE END OF SOUTHERN EXCEPTIONALISM: CLASS RACE, AND PARTISAN CHANGE IN THE POSTWAR SOUTH* (2006).

7. See MCCARTY ET AL., *supra* note 2, at 49 fig.2.18.

struggles to explain.<sup>8</sup> Most importantly, the story does not travel backward to the depolarization of the first party of the nineteenth century. The South was firmly under the control of white Democrats from 1896 to the 1960s, yet there is tremendous variation in the level of polarization in Congress.

While race has been and will continue to be a driving force of American politics, it is important not to neglect the role of other historical forces in shaping polarization. For example, changes in income and wealth inequality have altered the economic bases of the two parties. Specifically, as the incomes of Republican voters rose relative to those of Democratic voters, the differences in the policy preferences between the partisan bases increased.<sup>9</sup> This simple dynamic is consistent with the very strong correlations between the polarization measures of Figure 1 and various measures of economic concentration dating back to the early part of the twentieth century.<sup>10</sup> The South plays an important role in this story as well: because of its dramatic economic growth over the past several decades, high-income Southerners have become a core constituency of the Republican Party.

## II.

### IMPACT OF INDIVIDUALS ON POLARIZATION

I also agree with Professor Pildes that we may reject explanations based on “persons.” As demonstrated by Figure 1, polarization moves in a rather smooth, continuous trend. There are few, if any, identifiable break points that we could attribute to polarizing leadership, unstatesmanlike behavior, or one party “dissing” the other in some way. Polarization began rising well before Reagan was elected, Bork was Borked, Clinton was impeached, and the Supreme Court gave George W. Bush Florida’s electoral votes. Polarization was low during the period of McCarthyism and Lyndon Johnson’s “Daisy” ad suggesting that the election of Barry Goldwater would lead to nuclear war.

I see two possible objections to the rejection of personal explanations. The first is primarily normative. If we carry the argument too far, we absolve any individual responsibility for polarizing behavior by blaming it on the environment. Responses based on this rationale would make it considerably more difficult to use social opprobrium to limit extreme partisan behavior and help sustain polarization. This is not a particularly strong argument. If the environment otherwise disincentivizes civility and bipartisan cooperation, finger wagging at individuals is unlikely to change it.

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8. The typical attempt at such a story postulates that white voters in the Northeast and Midwest, turned off by Southern-style conservatism, abandoned moderate and liberal Republican candidates. While the story is plausible, it has not been proven and it seems much more a description of the late 1990s and 2000s than the early part of the rise in polarization.

9. See MCCARTY ET AL., *supra* note 2, at ch. 3.

10. See *id.* at ch. 1.

The second objection is conceptual and methodological. My—and I would argue implicitly Professor Pildes’s—rejection of the notion that individuals impact polarization is that it requires that individual action at time  $t$  “cause” changes in the level of polarization at time  $t + 1$ . Of course, such analyses are subject to the criticism that they ignore dynamic factors such as lagged effects, path dependence, or feedback loops. While there have been many efforts to capture such dynamics in both qualitative and quantitative political science, the methodological problems are formidable.<sup>11</sup> It may well be the case that some individual or small group of individuals caused this mess, but it would be hard to make that case through social science.

### III.

#### IMPACT OF INSTITUTIONS ON POLARIZATION

My narrative of economic inequality has much in common with the race argument stressed by Professor Pildes. Both stories blame polarization on large macrosocial forces that are not easily addressed by political reforms. While Professor Pildes recognizes these constraints, he is nevertheless optimistic that a number of modest reforms in electoral and legislative practice can take some of the edge off our polarized politics. Below, I consider each of Professor Pildes’s concrete reform proposals, but am less optimistic about the reforms than is Professor Pildes.

##### *A. Open Primaries*

It seems almost a logical certainty that opening primary elections to more nonpartisan and independent voters should have a moderating effect on politics by increasing the chance that moderate candidates get nominated. Consequently, calls for more “open” primaries have become more frequent over the years. However, empirical research examining the correlation between the type of primary system and the extremism of the legislators elected has produced mixed conclusions.

Elisabeth Gerber and Rebecca Morton find that for a single cross section of primary laws, the position of the winning candidate in House elections was more extreme (relative to constituency preferences) in states that used the closed or partisan primary system.<sup>12</sup> However, they make no attempt to account for the fact that primary laws are not distributed randomly (moderate states might choose open primary laws). As Poole, Rosenthal, and I explained, based

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11. For examples, see PAUL PIERSON, *POLITICS IN TIME: HISTORY, INSTITUTIONS, AND SOCIAL ANALYSIS* (2004) and Scott E. Page, *Path Dependence*, 1 Q.J. POL. SCI. 87 (2006).

12. Elisabeth R. Gerber & Rebecca B. Morton, *Primary Election Systems and Representation*, 14 J.L. ECON. & ORG. 304 (1998).

on the same cross-sectional analysis, the correlation takes on the opposite value for the Senate.<sup>13</sup>

David Brady, Hahrie Han, and Jeremy Pope find that incumbent House members with extreme voting records, relative to their districts, perform better in primaries and worse in general elections.<sup>14</sup> This finding suggests that primary elections do pull candidates from the center. The authors find, however, that incumbents perform equally well in open and closed primaries.<sup>15</sup>

Recently, Shigeo Hirano and his collaborators closely examined the effects of primaries on Senate polarization.<sup>16</sup> They have three main findings. First, the introduction of primaries historically had no effect on polarization in the Senate. Second, despite the common belief that participation in primaries is decreasing, primary turnout has always been quite low. On the Republican side, where most of the polarization has occurred, turnout has stabilized since the 1970s at a low level. Thus, it is doubtful that changes in participation can explain the polarizing trends of the last three decades. Finally, there is no econometric evidence that either low primary turnout or low primary competition leads to the polarization of senators.

Arguably, none of these studies directly addresses the question raised by Professor Pildes: Would polarization be lower if there were fewer states using closed primaries? Therefore, it is helpful to examine new evidence on the role of closed primaries in House elections.<sup>17</sup> First, an admittedly crude time series analysis would suggest that primary laws matter little, as trends in primary laws tend to suggest that more primaries have become open over time, while polarization has increased. The data collected by David Brady, Hahrie Han, and Jeremy Pope reveals that the percentage of states using a closed primary fell to 39 percent in 2000 from 45 percent in 1970 during the period of escalating polarization.<sup>18</sup>

Second, an important part of Professor Pildes's argument is that open primaries do in fact attract more independent voters. This is a surprisingly difficult proposition to test because whether or not a voter registers as independent is likely to be a consequence of the type of primary system. A Republican-leaning voter may be more likely to register as an independent in a

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13. MCCARTY ET AL., *supra* note 2, at 67–70.

14. David W. Brady et al., *Primary Elections and Candidate Ideology: Out of Step with the Primary Electorate?*, 32 LEGIS. STUD. Q. 59 (2007).

15. Ideally, the authors would have interacted the type of primary system with legislator extremism to ascertain whether extreme legislators performed better in closed than open primaries.

16. Shigeo Hirano et al., *Primary Elections and Partisan Polarization in the U.S. Congress*, 5 Q.J. POL. SCI. 169 (2010).

17. See, e.g., RHODES COOK ET AL., *AMERICA VOTES 2007–2008* (28th ed. 2009) (compiling data on primary elections). I thank Hahrie Han, Jeremy Pope, and David Brady for their data on the primary systems. The details of the statistical analyses reported here are available from the author.

18. Brady et al., *supra* note 14.

state with an open primary system because her lack of party registration would have little impact on her ability to participate in her preferred primary. But the same voter would register as a Republican in a closed system. Thus, if the same hypothetical voter participated in both types of states, it appears there would be greater participation of independents in the open states, even though the electorates may be identical in every way except for party registration rates.

Given the difficulty of identifying the effect of primary system type on the composition of the electorate, I find it preferable to test for an effect on the total level of turnout. Such a test is reasonable because most arguments about the effects of primary systems implicitly assume that closed primaries have lower turnout because independents are excluded. However, there is no evidence that the type of primary affects the overall level of turnout. Table 1 gives the average percentage of voting age population participating in contested House primaries by party and type of primary system from 1972 to 2000.

**Table 1: Turnout in House Primaries by System**

	Open Primary	Closed Primary
Democrat	11.6%	11.7%
Republican	8.1%	8.7%

Not only are the differences quite small, turnout is higher in closed primaries. In a multivariate regression model that controls for the competitiveness of the primary, the partisanship of the district, the presence of an incumbent, coincidence of competitive presidential and senate primaries, and a time trend, the effect of closed primaries is to reduce turnout by an eighth of a percentage point. But this estimate is not statistically distinguishable from zero. By estimating separate models for Democratic and Republican primaries, I find that closed primaries reduce turnout in Democratic elections, but they have no effect in Republican races. For Democrats, the reduction was small, about one percentage point—much smaller than the effect of a coterminous presidential primary or a primary close to the general election. Moreover, because the movement of the Republicans to the right is the main source of polarization, the party asymmetry in the effects on turnout are opposite what one would expect if closed primaries played a causal role.

So while the preceding analysis suggests that turnout is not the mechanism by which primary election institutions matter, I conclude by examining whether there is a direct connection between closed primary systems and more extreme legislators. Specifically, using the individual DW-NOMINATE scores on which Figure 1 is based, it is possible to see whether

closed primary elections produce more conservative Republicans and more liberal Democrats after controlling for time trends and other district level factors. I focus on the winners of open-seat elections—those without incumbents—because those are the races where one would expect the effects of primary electorates to be the largest.<sup>19</sup>

In a multivariate analysis controlled for time trends, partisanship using presidential vote, average income and education, and the racial composition of the district, I estimate that Democratic open-seat winners nominated by closed primaries are -.051 units more liberal than those nominated in other systems. The effect is statistically significant, but it is small, representing less than 10 percent of the increase in polarization since the 1970s. But more importantly, the estimated effect on Republicans is indistinguishable from zero. So again, I find no effect on the party whose ideological transformation is most responsible for the increase in polarization.

In summary, the way in which states structure their nominating primaries seems to have very little impact on the degree of polarization or candidate extremism.

### B. Gerrymandering

There are several reasons why I do not think gerrymandering is a large part of the polarization story. First, the logical foundations of the claim that gerrymandering causes polarization are weak. Consider a *partisan gerrymander*, where the majority party attempts to control as many seats as possible by giving itself a small majority in many districts and packing the opposition party into a few districts, such as the famous efforts of Phil Burton in California in the 1970s and Tom DeLay in Texas in the 2000s. Consequently, majority party members will represent reasonably competitive districts while minority party members will get safe seats. If electoral security promoted extremism—a proposition with a weak empirical foundation—then the majority party would be moderate and the minority party extreme. Because there are more majority party districts than minority party districts, the net effect would presumably be for gerrymandering to reduce polarization. The *incumbency protection gerrymander* is a districting plan designed to increase the electoral security of all members, regardless of party. If security leads to extremism, such a plan might exacerbate polarization; but because such gerrymanders are bipartisan, there is something paradoxical about blaming them for polarization.

Setting the logical foundations aside, the empirical evidence for a relationship between gerrymandering and polarization is almost nonexistent. First, consider the Senate, which has not been gerrymandered since the Dakota

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19. Despite some very recent high-profile exceptions, like Joe Lieberman and Arlen Specter, incumbents are rarely seriously challenged in primaries.

Territory was split in the 1890s.<sup>20</sup> Yet, as Figure 1 shows, the polarization in the Senate follows a nearly identical trajectory as that in the House, especially since the 1960s. Polarization in the Senate may be a tad lower than that in the House, but those differences are easily attributable to factors other than gerrymandering. While some have argued that gerrymandering polarized the Senate as former House members brought their partisan approaches to politics to the Senate,<sup>21</sup> there is no statistical evidence that House polarization “causes” Senate polarization.<sup>22</sup> Because the Senate appears to have polarized without the aid of gerrymanders, it seems doubtful that the House required it.

Another problem with the gerrymandering story is the underlying premise that electoral security promotes extremism. The relationship between the two is weak.<sup>23</sup> In an innovative study on California, Elisabeth Gerber and Jeff Lewis found that it is the politically heterogeneous districts favored by reformers that are more conducive to extreme legislative behavior.<sup>24</sup> By the “law” of unintended consequences, an explicit attempt to reduce polarization by creating heterogeneous districts may in fact increase it.

Next, consider a central claim of those who tout gerrymandering as a cause of polarization, the idea that gerrymandering produces an excessive number of highly partisan districts relative to the underlying population of a state. To assess this claim, my coauthors and I compared the distribution of presidential votes—a reasonable measure of mass partisanship—across districts with that of counties. If gerrymandering creates artificially partisan districts, there would be a much larger percentage of very Republican and very Democratic districts than there are highly partisan counties, after appropriately adjusting for the differences in size. However, that is not what we found. The distribution of partisanship across counties is almost identical to the distribution of partisanship across districts. Essentially, the only difference between the partisanship of counties and districts is that they may be accounted for by the

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20. See Charles Stewart & Barry R. Weingast, *Stacking the Senate, Changing the Nation: Republican Rotten Boroughs, Statehood Politics, and American Political Development*, 6 *STUD. AM. POL. DEV.* 223 (1992).

21. See JULIET EILPERIN, *FIGHT CLUB POLITICS: HOW PARTISANSHIP IS POISONING THE U.S. HOUSE OF REPRESENTATIVES* 87–88 (2006); SEAN M. THERIAULT, *PARTY POLARIZATION IN CONGRESS* 210–15 (2008); see also Sean M. Theriault & David W. Rohde, Paper Presentation at the University of California, Berkeley, History and Congress Conference: The Gingrich Senators and Their Effect on the U.S. Senate (July 26, 2010). Theriault and Rohde argue that Republican House members elected since 1978, which they dub “Gingrich senators,” have driven polarization in the Senate in recent years. They provide no evidence that links the extremism of this group to gerrymandering.

22. MCCARTY ET AL., *supra* note 2, at 65–66.

23. Thomas L. Brunell & Bernard Grofman, *Evaluating the Impact of Redistricting on District Homogeneity, Political Competition, and Political Extremism in the U.S. House of Representatives, 1962–2002*, in *DESIGNING DEMOCRATIC GOVERNMENTS* 117 (Margaret Levi et al. eds., 2008).

24. Elisabeth Gerber & Jeffrey Lewis, *Beyond the Median: Voter Preferences, District Heterogeneity, and Political Representation*, 112 *J. POL. ECON.* 1364 (2004).

creation of majority-minority districts under the Voting Rights Act. Contrary to the gerrymandering hypothesis, the partisanship of districts closely approximates the underlying political geography.

Claims about gerrymandering also typically do not deal with the fact that polarization in Congress is the consequence of two distinct phenomena. The first is that Republican and Democratic districts are distinctive. The second is that a Republican and a Democrat represent the same district in different ways. Gerrymandering may have some effect on the first source of polarization, but not on the second. Empirically, the second is most important, and there is little evidence that redistricting has systematically increased the differences between Democratic and Republican districts.<sup>25</sup> Gerrymandering fails to account for the specific way in which the parties are polarized.

The final piece of evidence against gerrymandering is the results of simulations that my coauthors and I conducted to predict what polarization would be like under different methods of districting.<sup>26</sup> Short of electing all legislators in at-large statewide elections, no districting method had a substantial impact on polarization. And of course, at-large elections are no panacea as they eliminate the possibility that Congress can represent the heterogeneity of voter interests.

In summary, the theoretical arguments linking gerrymandering to polarization are weak, and the data fail to support either the premises or the conclusions.

### *C. Legislative Procedures*

Rising polarization has been associated with an escalation in “hardball” legislative tactics ranging from filibusters, holds, the expansive use of reconciliation, recess appointments, and more. Some see this tit-for-tat escalation as a cause of polarization, but the increased use of these legislative weapons is more likely a consequence of polarization. In a more polarized environment, there is more to gain and less to lose from stretching the rules to their limits and beyond, so reform is unlikely to reduce polarization. Even if the rules were changed, it seems implausible that the parties would adhere to them if adherence would put them at a disadvantage.

It may well be the case however, that reform, especially in the U.S. Senate, could do much to reduce some of the adverse consequences of polarization. As I have argued previously,<sup>27</sup> one of the primary consequences of polarization is the reduction of legislative output or “gridlock” in Congress. But

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25. See Nolan McCarty et al., *Does Gerrymandering Cause Polarization?*, 53 AM. J. POL. SCI. 666 (2009).

26. *Id.*

27. Nolan McCarty, *The Policy Effects of Political Polarization*, in *THE TRANSFORMATION OF AMERICAN POLITICS: ACTIVIST GOVERNMENT AND THE RISE OF CONSERVATISM* 223 (Paul Pierson & Theda Skocpol eds., 2007).

polarization by itself is not responsible for that effect. In fact, a polarized *majoritarian* legislature might well be very productive and efficient, as a cohesive majority party would wield considerable power. But a polarized legislature with super-majoritarian elements, such as the hold and the filibuster, would not be, as some level of bipartisan agreement becomes necessary. Polarization combined with Senate procedures has also had pernicious effects on the Senate confirmation process. As Rose Razaghian and I documented, polarization has not led to more defeats of presidential nominations on the floor, but to greater delays and defeated nominations by holding them to the end of the congressional session.<sup>28</sup> As a result, presidents of both parties have been forced into constitutionally questionable uses of their powers to make recess appointments.<sup>29</sup>

While legislative reform may alleviate some of polarization's consequences, we are forced to ask how or whether such reforms might be forthcoming under the circumstances. Although political scientists generally agree that a Senate majority—not necessarily a filibuster-proof one—is sufficient to change the rules related to filibusters, holds, and confirmations, majorities seem reluctant to disarm the minority for fear of what will happen should they lose control.<sup>30</sup> Some scholars argue that there might be grounds for the courts to step in, but this strikes me as unlikely. While the courts often step in on separation of powers issues, such as the appointment power or the line-item veto, they have taken a fairly broad interpretation of the right of each chamber of Congress to set their rules for procedure.<sup>31</sup> I suspect reform will wait until one party is secure enough in its majority status that it loses fear of what happens when it returns to the minority.

#### D. Campaign Finance

Evidence that campaign finance affects polarization is also not very strong. It is true that many big contributors concentrate their largesse on relatively extreme legislators,<sup>32</sup> and that moderates have few ideological

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28. See Nolan McCarty and Rose Razaghian, *Advice and Consent: Senate Response to Executive Branch Nominations 1885–1996*, 43 AM. J. POL. SCI. 1122 (1999).

29. See T.J. HALSTEAD, RECESS APPOINTMENTS: A LEGAL OVERVIEW, CRS REPORT FOR CONGRESS (2005), available at [http://assets.opencrs.com/rpts/RL33009\\_20050726.pdf](http://assets.opencrs.com/rpts/RL33009_20050726.pdf), and Michael B. Rappaport, *The Original Meaning of the Recess Appointments Clause*, 52 UCLA L. REV. 1487.

30. See, e.g., GREGORY J. WAWRO & ERIC SCHICKLER, FILIBUSTER: OBSTRUCTION AND LAWMAKING IN THE U.S. SENATE 61–87 (2006).

31. See Catherine Fisk & Erwin Chemerinsky, *The Filibuster*, 49 STAN. L. REV. 181, 225 (1997). However, Fisk and Chemerinsky argue that a plausible legal case can be constructed against the two-thirds requirement for changing the standing rules of the Senate. Eliminating this rule, they speculate, would lead to majority cloture. I disagree on both counts. First, I find it implausible on political grounds that the Supreme Court would so directly confront the Senate. Second, it is widely held that a sufficiently determined Senate majority could change the standing rules if it wanted, see WAWRO & SCHICKLER, *supra* note 29.

32. MCCARTY ET AL., *supra* note 2, at ch. 5.

patrons. Yet because the bulk of campaign money is not given for ideological reasons, in net, there is very little fundraising advantage for extreme candidates.<sup>33</sup> The relevant data does not support the notion that candidates have incentives to move to the extremes in search of greater campaign dollars.

Contrary to conventional wisdom, there are reasons to believe that reforms of the campaign finance arena have been counterproductive to reducing polarization. Before the McCain-Feingold reforms placed limits on so-called “soft” money contributions, political parties played the role of funneling the contributions of extreme donors to the benefit of their more moderate and electorally vulnerable members.<sup>34</sup> Thus, the old campaign finance system placed constraints on the effects of money on polarization. Under the current system, the role of political parties has been more circumscribed. Now, ideological contributors are more likely to funnel money through 527 groups, which tend to stress ideological conformity over electoral vulnerability when allocating resources.<sup>35</sup>

#### CONCLUSION

Professor Pildes and I agree that the causes of polarization run deep into the American political and economic system. Although we may disagree as to whether primary blame should be placed on the transformation of racial politics or on changes in the structure of the economy, neither of us doubts that polarization is a big result of a big cause, and I remain quite skeptical that eliminating some of the small causes will have discernable effects. In the lifetimes of many Americans, partisan polarization was much lower despite more egregious gerrymandering, more partisan nominations systems, and an unregulated campaign finance system. As I have argued, our system of polarized politics is short of some major realignment precipitated by war or depression.<sup>36</sup> Thus, it is probably best for any reform agenda to focus on limiting the impact of polarization on governance and policymaking. As discussed above, I think reforming the filibuster and the confirmation process would have salutary effects, though I remain unconvinced of the political feasibility of such reforms.

One may well share my skepticism that political reforms can reduce polarization yet still believe it is worth considering them. Perhaps a small difference will be worth it. Reforming primary elections, districting, and campaign finance may restore voter confidence in the system, which may have benefits even if there is no direct impact on polarization. We must be wary

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33. *Id.*

34. See Nolan McCarty & Lawrence Rothenberg, *Coalitional Maintenance: Politicians, Parties, and Organized Groups*, 28 AM. POL. Q. 291 (2000).

35. See Michael Murakami, *Divisive Primaries: Party Organizations, Ideological Groups, and the Battle over Party Purity*, 41 PS: POL. SCI. & POL. 918 (2008).

36. MCCARTY ET AL., *supra* note 2, at 199–203.

though of unintended consequences. Many of the proposed reforms for partisan polarization aim to achieve their ends by reigning in political parties, but this approach may be backwards. Much of the emphasis on ideological purity comes not from within the formal parties, but from the pressures of outside groups—MoveOn on the left and Club for Growth on the right. Perversely, weakening parties (in particular their role in campaign finance and candidate selection) may only exacerbate polarization by increasing the importance of using outside groups for resources and voter mobilization.<sup>37</sup>

Fundamental to addressing the question of the “causes and consequences” of polarization is determining what exactly America is polarized over. Yet the substance of America’s political divide is rarely touched upon in Professor Pildes’s Article, although the extent to which polarization is a manifestation of social-economic cleavages, racial divisions, or clashing religious and cultural values matters a lot. The answer appears to be “all of the above.” By mechanisms that social scientists do not yet fully understand, extreme positions on all of these issues have been conjoined both in the party system and in the minds of the voters. A better understanding of this process is the key to understanding polarization and its consequences.

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37. *Id.*

