

## HONEY, I SHRUNK THE SPEAKERSHIP!

The contrasts could not have been more stark. On the morning of January 6, 2023, Democrats together with families of the police officers who lost their lives as a result of the January 6 insurrection attended a [brief ceremony](#) on the steps of the Capitol to honor those who lost their lives or were injured. Rep. Brian Fitzpatrick, a former FBI supervisory agent, may have been the only Republican to attend. That afternoon, in the East Room of the White House, President Biden [presented](#) 14 Presidential Citizens Medals, including three awarded posthumously, to DC Police and Capitol Police officers and election officials for their service to the country on and around the January 6 insurrection and the events that led up to it.<sup>1</sup>

Meanwhile, on the House floor, chaos continued until early the following morning, when Kevin McCarthy won election as Speaker of the House. In short, the ultraconservative wing of the GOP does not trust McCarthy sufficiently to adhere to conservative principles. This group, which has only one objective – to exercise power – has the ability to hold the GOP and the House hostage. I explore below the implications of the leverage now wielded by the next generation of the Freedom Caucus.

### 15 Ballots

McCarthy's victory came after 14 failed ballots over the better part of the past week, repeatedly undercut by a group of ultraconservative lawmakers. The floor fight,<sup>2</sup> during which no business could be conducted in the House as there was no Speaker, was the longest since 1859. Ultimately, the 15<sup>th</sup> ballot gave McCarthy 216 votes to Hakeem Jeffries' 212, with six Republicans (Reps. Andy Biggs (AZ), Lauren Boebert (CO), Eli Crane (AZ), Matt Gaetz (FL), Bob Good (VA) and Matt Rosendale (MT)) voting “present.”<sup>3</sup> Twelve of the 20 ultraconservative rebels who voted against McCarthy were election deniers.<sup>4</sup> Ahead of the 15<sup>th</sup> ballot, Rep. Marjorie Taylor Green reportedly put Reps. Biggs, Gaetz and Rosendale on the phone with Donald Trump.

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<sup>1</sup> Earlier in the week, a [letter](#) drafted by former Metropolitan Police Officer Michael Fanone (who was brutally assaulted during the insurrection), and signed by more than 1,000 military veterans, active duty military, law enforcement officers and military families, was delivered to top GOP House leaders, calling on them to publicly condemn political violence and hold members of the GOP House conference accountable for endorsing violence. The submission was organized by [Courage for America](#) and [Common Defense](#). Also earlier this week, the GOP leadership removed metal detectors installed in front of the House chamber after the January 6 insurrection.

<sup>2</sup> An actual fight was narrowly avoided when Rep. Mike Rogers (a McCarthy supporter) lunged at Rep. Matt Gaetz, who had just scuppered the 14<sup>th</sup> ballot by voting “present” after another rebel cast his vote for an alternative. Rogers was [restrained](#). This evening, it was reported that Rep. Nancy Mace had called Gaetz a “fraud” for fundraising off his efforts to block McCarthy from winning.

<sup>3</sup> Other GOP House members who voted for alternative candidates or “present” included Dan Bishop (NC), Josh Brecheen (OK), Michael Cloud (TX), Andrew Clyde (GA), Byron Donalds (FL), Paul Gosar (AZ), Andy Harris (MD), Anna Paulina Luna (FL), Mary Miller (IL), Ralph Norman (SC), Andy Ogles (TX), Scott Perry (PA), Chip Roy (TX), Keith Self (TX) and Victoria Spartz (IN).

<sup>4</sup> See tracking by the New York Times, available [here](#) and [here](#).

That chaos was summed up by Charlie Sykes, who [tweeted](#), “The MAGA crackup accelerated as crackpots fought with nihilists, wingnuts pointed fingers at extremists, and grifters started slap-fights with one another.” Dana Milbank, [writing](#) in the Washington Post, characterized the systematic destruction by the GOP of the norms and institutions of democracy as an insurrection by other means. To save his speakership, Milbank concludes, McCarthy, after excusing the attack on the Capitol and welcoming a significant number of election deniers to his caucus, has institutionalized chaos.<sup>5</sup>

To be clear, the rebellion against McCarthy had nothing to do with his relationship with Trump, either on or in the immediate aftermath of the insurrection or his craven supplication weeks later. This is not a battle between pro-Trump Republicans and anti-Trump Republicans, as there are few now in the caucus that have distanced themselves from Trump. Two of the GOP House members leading the charge against McCarthy (Reps. Perry and Biggs) were among four members referred to the House Ethics Committee for their roles in Trump’s efforts to overturn the 2020 election (the other two being McCarthy and Rep. Jim Jordan). There are no policy differences or differences in ideology. In fact, McCarthy himself is no ideologue. This is about personal power, and the narrow margin in the midterms has given the ultraconservatives the leverage to project that power.

The irony is that McCarthy now leads the chamber that he ultimately refused to protect.

- He said he would call on Trump to resign (and recordings surfaced to buttress the claim), and he then denied it.
- He voted against impeachment of Trump for inciting the insurrection.
- He supported the purge of House GOP members who voted for impeachment.
- He set out conditions for an independent commission to investigate the insurrection and then pulled his support, notwithstanding the fact that Speaker Pelosi had agreed to his conditions. The Democrats then fell back on a bipartisan select committee and offered McCarthy the opportunity to appoint five members. Two were rejected, prompting McCarthy to boycott the committee, a move that ultimately backfired on him. Reps. Liz Cheney and Adam Kinzinger were appointed in place of the five.
- He defied a subpoena from the select committee and has criticized the select committee as partisan and illegitimate.
- He endorsed the primary challenger to Liz Cheney.

## **The Price**

The victory comes at a steep price for McCarthy, for Congress and for the country. The concessions, which reportedly include, among others,

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<sup>5</sup> CBS News [projected](#) that 156 GOP House members in the 118<sup>th</sup> Congress raised doubts about the validity of the 2020 election, an increase from the [139 GOP House members](#) who voted to object to the certification of the Electoral College results (one or both votes). Of the 139, 118 returned in 2023.

- the ability of a single member of the House to force a vote (a motion to vacate) at any time to oust the Speaker;<sup>6</sup>
- a commitment to give the Freedom Caucus approval over three seats on the powerful [House Rules Committee](#), which controls what/when legislation reaches the House floor and how it is debated and amended (its 13 members are divided – nine for the majority and four for the minority); and
- unlimited amendments to spending bills,

will diminish the Speaker’s power considerably, presaging significant disfunction over the next two years. In addition, the McCarthy-aligned Conservative Leadership Fund PAC has agreed to no longer work against far-right candidates in open GOP primaries in safe seats. Bloomberg and POLITICO reported that McCarthy had agreed in effect to cut \$75 billion in defense funding (by reverting to FY 2022 levels), presumably in response to the right wing’s ambivalence about support of Ukraine. There are reports of new select subcommittees, including (according to an [article](#) in POLITICO) a subcommittee of the Judiciary Committee to investigate the “weaponization of the federal government.”

Dana Milbank concludes that “to save himself, [McCarthy] sacrificed the Congress itself. The saboteurs won.”

### **Historical Record**

Joanne B. Freeman, [writing](#) in the New York Times, notes that the GOP is now paying the price for its failure to stand up to hate and election denial proffered by many of its candidates to capture votes. She notes that, since 1789, the House has elected a Speaker 128 times, and in only 15 cases has the election required multiple ballots (of which only nine needed more than three ballots). Thirteen of the multiple-ballot elections occurred before the Civil War. In 1856, the process lasted two months and involved 133 ballots – with the overlay of splintering parties and the quest for compromise over slavery. Before this past week, the last multiple-ballot election occurred in 1923. (See [House Elections](#).) These prior instances have in common a litmus test of the state of both party politics and the nation. Unlike these previous battles, however, as noted above, the 2023 incarnation was about neither policy nor legislation, it was simply about power. (Like the election in 1856, the elections in 1848 (63 ballots) and 1860 (44 ballots) were overshadowed by slavery.)

### **Against Government and Governing**

At its core, today’s GOP is animated most by what it is against, not what it is for. The antagonism to government and to governing, which ultimately found its footing in the performative politics of the Trump era, has its roots in the 2006 commitment to block every element of the Obama legislative agenda. That effort, which coalesced around blocking the

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<sup>6</sup> In 2019, then Speaker Pelosi and House Rules Chair Jim McGovern, as part of the rules crafted for the 116<sup>th</sup> Congress, weakened the motion to vacate, so that it could be voted upon over the objection of the leadership only if offered at the direction of the party caucus or conference, rather than by a single member. Its history is set out in an [analysis](#) by Aaron Blake in the Washington Post.

Affordable Care Act, begot the Tea Party (and later the Freedom Caucus, formed in 2015, to be “a more agile and active” group of conservatives), whose ultimate target was the size and scope of the federal government. John Boehner, and his successor for Speaker Paul Ryan (who was the compromise candidate in 2015 when Kevin McCarthy’s bid to succeed Boehner faced insurmountable opposition from the far right), each lost out (and stepped down) in battles with the ultraconservatives. Even under Trump, GOP House members could not fashion an alternative to the ACA; their signature legislative achievement was tax cuts.

Unlike the Freedom Caucus, today’s firebrands, in the words of Dan Balz, [writing](#) in the Washington Post, are the new breed of ultraconservatives, “for whom social media, cable news and self-aggrandizement take precedence over the institutional obligations and governing challenges of being an elected official.”

Richard H. Pildes, [writing](#) in the New York Times, consistent with this last theme, attributes the current political chaos to structural forces that are changing democracy. Advances in technology and communications have transformed democracy in more significant and profound ways than the more familiar threats of disinformation and hate speech. These advances have enabled individual lawmakers to function as “free agents” and have allowed individual and groups to mobilize opposition to government action and drive polarization within the parties in ways that undermine control by the party leadership. The opportunity to cultivate national audiences and tap into small donor grassroots networks has diminished the control of the parties. This has all been exacerbated by gerrymandered maps that increasingly reduce the number of contested seats, and reward the taking of more extreme positions to survive the only races that matter, the primaries.<sup>7</sup>

### **The Fading Trump Effect**

Despite reports that Trump might offer himself up as a compromise candidate and speculation about whether he would support “his” Kevin, Trump was largely on the sidelines of this past week’s chaos. Trump did ultimately support McCarthy, but that mattered little. The 20 who voted against McCarthy in early rounds largely were MAGA Republicans – 15 of the 20 had been endorsed by Trump during the 2022 primaries. Matt Gaetz, who rose in national stature largely on the basis of his loyalty to Trump, was among the original five “Never Kevin” members who set out to upend McCarthy’s quest for the gavel regardless of the consequences for the party or the House. Lauren Boebert, another Trump loyalist, called on Trump to tell McCarthy to withdraw from the Speaker’s race.

### **What Is Next**

Each new Congress passes a new set of House rules, which will be the first priority next week. With control of the White House and the Senate in the hands of Democrats, the House GOP majority will be stymied in their efforts to pass legislation, other than on a bipartisan basis. Most significantly, the slim majority and the willingness of the ultraconservative wing to hold the majority hostage will call into question whether Congress will be able to fund the government and increase the federal debt limit to avoid a default (currently \$31.4 trillion).

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<sup>7</sup> Democrats owe a debt of gratitude to Nancy Pelosi for keeping her often-times fractured House Democratic Caucus in line, a group that ranged from Blue Dog moderates to the progressive squad. Nancy Pelosi never lost a leadership fight and she rarely lost a legislative battle.

These are “must-pass” bills. (In recent years, Congress typically has funded the government up to the deadline for expiration of extant funding authorizations, and then extended the extant funding levels via a continuing resolution and/or passing a single “omnibus” bill, as happened last year with the passage of a continuing resolution on September 30 to fund the government on a temporary basis and the passage of the \$1.7 trillion spending package in December.<sup>8</sup>)

With control of committees and subpoena power, the GOP will be positioned, should they choose, to launch investigations of Hunter Biden, the Department of Justice and the FBI, DHS Secretary Mayorkas over the southern border, the Afghanistan withdrawal and the origins of the COVID-19 pandemic. (See [op-Ed](#) by incoming chair of the House Oversight and Reform Committee, James Comer). The Department of Education could also be on the radar screen.

### **What Voters Want**

A Morning Consult [poll](#) taken after the midterm elections shows that few Americans want to Congress to prioritize investigations of the Biden administration (or Hunter Biden) and that Americans overwhelmingly reject proposed cuts to Medicare and Social Security in exchange for raising the federal debt limit. Among the 17 priorities tested, only one was ranked first by a majority of all voters: investigating fentanyl trafficking into the United States. Only 28% support impeachment of President Biden or investigations into Hunter Biden’s finances, and similarly, only 28% support investigating the Afghanistan withdrawal or the oversight authority of the IRS. In each case, there is significant, but not overwhelming, support among Republican voters.

### **Concluding Thoughts**

With a narrow 222–212 majority (with one vacancy created by the death of the Democratic incumbent in VA-04), five GOP House members can create paralysis on “must-pass” legislation. Deadlock in the GOP ranks could present an opportunity for bipartisanship if moderate Republicans are willing to work with Democrats to mitigate the threats of the ultraconservatives to hold on spending and debt ceiling legislation. The same might apply to the farm bill and defense authorization. This was the case, for example, in 2011 and 2014.

It is far too early to tell how this will all play out – including what alliances across the aisle might evolve. Details of the reported concessions by team McCarthy over and above those set out in the [package](#) released on Friday, are still sketchy. We will know more on Monday as the House votes on the new package of House Rules. What we can expect is two years of performance politics – legislation that stands no chance of passing in the Senate and a tsunami of investigations.

### **Postscript**

I end by quoting from Minority Leader Hakeem Jeffries, as he handed over the gavel to Speaker Kevin McCarthy:

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<sup>8</sup> James Risén, [writing](#) in The Intercept, notes that the multi-pronged threats posed by House Republicans help explain why a sufficient number of Senate Republicans joined Democrats to pass the omnibus spending package, which includes aid for Ukraine.

“... Now I recognize that this is a moment of transition. As we transition from one Congress to the next, from one majority to the next. From a year of accomplishment, a year of accomplishment to a year of ambiguity. A moment of transition. The American people understandably after the events of this week recognize that the congress is at a fork in the road. And are asking the question, what direction will we choose?

On this first day, I do not pretend to answer that question on behalf of my colleagues on the other side of the aisle. But we do extend our hand of partnership to you. And want to make clear that we extend and intend to try to find common ground, whenever and wherever possible on behalf of the American people. Not as Democrats, not as Republicans, not as Independents, but as Americans.

But I also want to make clear that we will never compromise our principles. House Democrats will always put:

<b>American values over autocracy.</b>	<b>Normalcy over negativity.</b>
<b>Benevolence over bigotry. The</b>	<b>Opportunity over obstruction.</b>
<b>Constitution over the cult.</b>	<b>People over politics.</b>
<b>Democracy over demagogues.</b>	<b>Quality of life issues over q-anon.</b>
<b>Economic opportunity over extremism.</b>	<b>Reason over racism.</b>
<b>Freedom over fascism.</b>	<b>Substance over slander.</b>
<b>Governing over gaslighting.</b>	<b>Triumph over tyranny.</b>
<b>Hopefulness over hatred.</b>	<b>Understanding over ugliness.</b>
<b>Inclusion over isolation.</b>	<b>Voting rights over voter suppression.</b>
<b>Justice over judicial overreach.</b>	<b>Working families over the well-connected.</b>
<b>Knowledge over kangaroo courts.</b>	<b>Xennial over xenophobia.</b>
<b>Liberty over limitation.</b>	<b>Yes we can over you cannot do it. And</b>
<b>Maturity over Mar-a-Lago.</b>	<b>Zealous representation over zero sum</b>
	<b>confrontation.</b>

We will always do the right thing by the American people. So let us not grow weary of doing good. For the American people will reap the benefit of the harvest if we do not give up. God bless you. God bless the House. And God bless the United States of America.”

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