

No Labels Would Hurt Separation of Powers

By LOUIS FISHER

Guest Observer

In the July 14 New York Times, Peter Baker describes a list of recommendations offered by the bipartisan group No Labels. Its announced goal: make government function more effectively. In large part, however, it would push the United States away from separation of powers and checks and balances to one closer to the British parliamentary model.

No Labels proposes that the president hold monthly news conferences and twice-a-year citizen news conferences, meet quarterly with the Congressional leadership of both parties and submit to 90-minute question-and-answer sessions each month on the floor of Congress, similar to the British question hour. In its report "Make Congress Work!," No Labels

No Labels' suggestions to make government more functional would favor the executive branch and give it more power.

expresses regret that campaign promises to fix government are regularly followed by "poisonous rhetoric and partisan posturing." Anyone watching the British question hour is treated to a stream of ad hominem, poisonous rhetoric and partisan posturing. Why expect a U.S. version to function differently?

Why would our political system be better if the president talks more than he currently does? As evident with President Barack Obama and his predecessors, talk and rhetoric do not automatically lead to improved results. What is needed is political judgment and realistic legislative agendas. Presidents and their advisers regularly demonstrate few of those skills. Talk can be helpful in winning a campaign. It has scant value in actually governing.

No Labels is impressed by what hap-

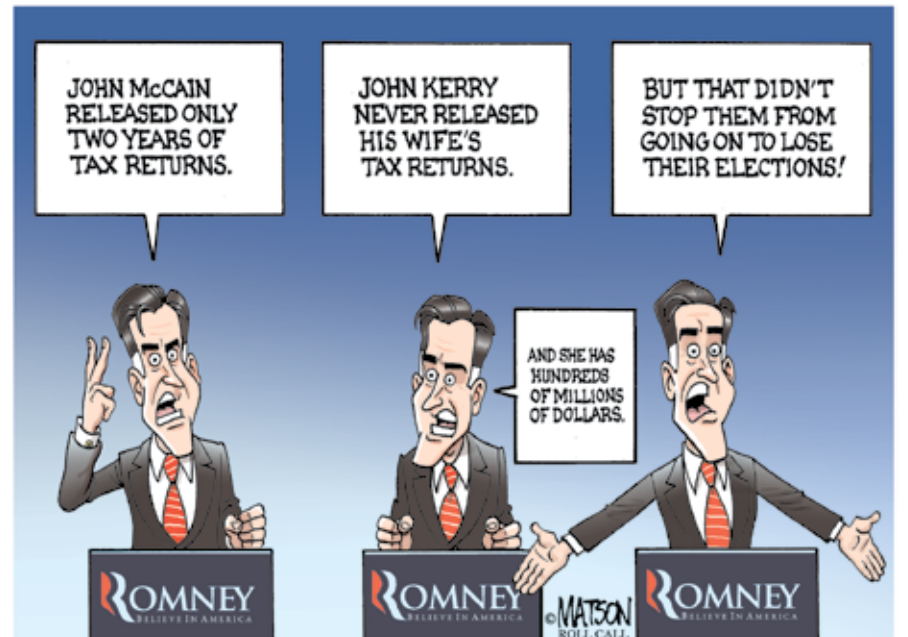
pened in January 2010, when Obama attempted a Republican retreat to publicly debate the merits of the administration's proposed health care law. "For a few hours at least, the American public got to see our leaders engage and truly debate one another. We haven't seen anything like it since."

There was little in the way of genuine debate. Obama dominated the discussion and marginalized Republican lawmakers. Given that experience, there would be no invitation for a repeat performance.

No Labels favors new powers for the president, such as authority to recommend the deletion of individual items in spending bills. It explains that when a president receives an appropriations bill he must choose between vetoing the entire bill and accepting "some really unappealing" items. The solution: authorize the president to return those items to Congress for an expedited, up-or-down vote. This may sound appealing, but the procedure would shift the spending power from Congress to the president. More likely: to political appointees and agency careerists. Consider also the president's opportunity to coerce lawmakers. A typical quid pro quo: "I won't put your pet project on the rescission list if you agree to back my spending initiatives." Through this accommodation, spending would go up, not down. It would certainly not deliver what No Labels advocates: "more transparency and accountability in the legislative process."

As proposed by No Labels, presidential appointment powers would be greatly strengthened. Nominees must be confirmed or rejected within 90 days. If the Senate failed to reject nominees during that period, they would be automatically confirmed. The Senate's advice and consent function under the Constitution would disappear. Nonaction during a period of 90 days cannot be considered "consent." Why would Senators cede that authority to a president?

Finally, No Labels wants to empower the president to send legislation to Congress twice a year that could not be amended but only approved or rejected. Such a procedure would undermine the deliberative process in Congress and the system of representative government. Congress should not permit a president to drive the legislative agenda in this manner. One can imagine presidents and ex-



ecutive officials meeting privately with selected lawmakers to have their particular needs included in the president's bill, thus building advance Congressional support. Another step toward "more transparency and accountability in the legislative process?" Hardly.

In "Make Congress Work!," No Labels claims it does not "favor any party or particular cause." Yet its partiality for the president is evident. It recalls that on Aug. 5, 2011, Congress "had collectively lost its mind" by putting America's credit at risk. The debt ceiling crisis turned Congress into "one of the least respected institutions in the United States." There is a pressing need, it says, "to fix our broken Congress."

Nowhere does the report confront the broken presidency, including going to ruinous wars on false intelligence (Korea, Vietnam, Iraq) and a sustained failure by recent presidents to address budget deficits that threaten the nation. By assigning all political and constitutional ills to Congress, No Labels asks us to trust in presidential power without explaining why. The record does not show that we have been blessed by competent, effective, reliable and honest chief executives.

Louis Fisher is scholar in residence at the Constitution Project, after serving in the Library of Congress for four decades as senior specialist in separation of powers at the Congressional Research Service and specialist in constitutional law at the Law Library. He is the author of the forthcoming "The Law of the Executive Branch: Presidential Power" from Oxford University Press.

QUOTABLE

"The president may be right in how he reads the Constitution. But he also may be wrong. And if he is wrong, who is there to tell him so? And if there is no one, the President, of course, is free to pursue his course of erroneous interpretations. What then becomes of our constitutional form of government?"

Leon Jaworski, Watergate special prosecutor in arguments before the Supreme Court, July 8, 1974.

Editorial Director **Mike Mills**
Editor **Scott Montgomery**
Managing Editor, Operations **Katie Smith**

Senior Editor **Morton M. Kondracke**
Politics Editor **Lauren W. Whittington**
Senate Editor **Emily Pierce**
House Editor **Jason Dick**
Lobbying and Influence Editor **Adriel Bettelheim**
Night Editor/Congress.org **Ryan Teague Beckwith**
Opinion/Special Publications Editor **John Bicknell**
Associate Politics Editor **David M. Drucker**
Photo Editor **Douglas Graham**
Staff Writers
Kate Ackley • Steven T. Dennis
Shira Toeplitz • Daniel Newhauser
Kyle Trygstad • Janie Lorber
Joshua Miller • Amanda Becker
Neda Semnani • Eliza Newlin Carney
Meredith Shiner • Humberto Sanchez
Jonathan Strong • Warren Rojas
Emma Dumain • Abby Livingston
Niels Lesniewski

Staff Photographers
Tom Williams • Bill Clark
Chris Maddaloni
Design Director **Marilyn Gates-Davis**
Copy Chief **Emily Ortman**
Deputy Copy Chief **Sara Bondioli**
Copy Editors
Cyra Master • Alex Muller
Editorial Assistant
Emily Cahm
Staff Cartoonist **R.J. Matson**
Contributing Writers
Norman Ornstein
Stuart Rothenberg
Don Wolfensberger
C. Simon Davidson
Nathan L. Gonzales
Stan Collender
Interns
Rachael Johnson • Nora Grenfell
Justin Worland
CQ Roll Call Daily Briefing Editor
David Hawkings

Roll Call

The Newspaper of Capitol Hill Since 1955
AN ECONOMIST GROUP BUSINESS

Founding Editor and Publisher **Sid Yudin**

Copyright 2012 CQ-Roll Call, Inc. Reproduction of this publication in whole or part is prohibited except with the written permission of the publisher. Roll Call maintains strict neutrality on all partisan issues.

rollcall.com

Letters to the editor: editors@rollcall.com

Main office phone: 202-650-6500

Reprint requests: cqrollcall.com/reprints

Subscriptions: circdept@rollcall.com or 800-289-9331

Classified advertising inquiries: classifieds@cqrollcall.com

Display advertising inquiries: advertise@cqrollcall.com

CQ
ROLL
CALL

EVP & Managing Director **Keith White**

ADVERTISING

SVP and Publisher, Advertising **Beth Bronder**
Vice President, National Sales Director **Mary Cadwallader**

Directors

Paul Anderson (Southeast Sales), **Dave Deker** (Midwest Sales)
Marie Kilroy (Mid-Atlantic Sales)

Valerie Voci (Marketing), **Braden Wright** (Online & Consumer/Classified)
Lauren York (Advertising Operations)

Director of Circulation **David Glickstein**
Classified Sales **Shishir Sharma, Todd Kapner**

Director of Promotions **Rebecca Gale**
Manager of Media Relations **Sujata Mitra**

CIRCULATION SALES

SVP **Jim Gale**
VP **Sean F. Doyle**

FEDERAL LEGISLATIVE SERVICES
SVP & Publisher **Meg Hargreaves**

ADVOCACY & ENGAGEMENT
SVP & Publisher **Peter A. Anthony**

HUMAN RESOURCES

SVP **Rodney Whitmore**

STRATEGY & MARKETING

SVP **Rick Rockelli**

VP **William Kiniry**

TECHNOLOGY
SVP & Chief Technology Officer
Dennis Arndt