

Chapter 11

Congress: The People's Branch

Key Chapter Questions

1. What are the politics of representation and how does Congress organize itself to do the work of law making and representation?
2. What are the major job responsibilities of a member of Congress? Also, what are the personal characteristics of congressional representatives?
3. Why is the passage of a bill considered to be a legislative obstacle course? What are the factions that influence congressional decision-making?
4. Why are committees so important to the proper functioning of Congress?
5. What are specific criticisms directed at Congress and what reforms are suggested to remedy institutional defects?
6. How is Congress unique among the world's legislatures?

Chapter Outline

- I. Introduction/Congressional elections (public criticizes Congress, but do they understand democracy?)
 - A. 435 in House, 100 in Senate; 2yr. and 6 yr. Terms; 25 and 30 qualifying ages
 1. Safe seats
 2. Most incumbents win—90% won in 2000
 - B. Districting and apportionment
 1. The Constitution gives Congress the right to apportion representatives among the states according to population, and Congress has given state legislatures control over the drawing of their respective congressional districts
 2. Subject to a gubernatorial veto, state legislatures draw the district lines for the House of Representatives; the party in control of the state legislature traditionally draws the lines to enhance its own political fortunes, which is called gerrymandering
 3. State legislatures are free to draw congressional districts as they wish, subject to some constitutional limitations (note effect of gerrymandering)
 - a. Each district must be equal in population, or as equal as possible; redistricting occurs once a decade, after each national census
 - b. A state legislature must not be overzealous in favoring one party at the expense of another
 - c. Although a state legislature can design congressional districts to virtually guarantee the election of a member of a particular minority, it must be careful not to do so in a way that focuses only on racial considerations and ignores county lines and city boundaries
- II. The structures and powers of Congress
 - A. Bicameralism most important feature
 1. In other countries, upper house has fewer powers (France, Germany)

2. Consequences: serves to moderate influence, allows bargaining
- B. Constitutional separation of powers
 1. Article I powers, such as borrowing money, regulating commerce; raise and support armies
 2. In impeachment, House brings charges, Senate is jury (Clinton impeachment)
 3. Senate powers—confirm president’s nominations, consent to treaties
- C. Functions of Congress
 1. Representation
 2. Law making
 3. Consensus building
 4. Overseeing the bureaucracy
 5. Policy clarification
 6. Confirming by a majority vote presidential appointees (for the Senate)
 7. Investigating the operation of government
- D. The House of Representatives
 1. The Speaker and other leaders (saga of Newt Gingrich; followed by Dennis Hastert)
 - a. The Speaker is formally elected by the House yet is actually selected by the majority party; the Speaker directs business on the floor of the House, and is very influential
 - b. The majority leader assists the Speaker by helping plan party strategy, conferring with other party leaders, and trying to keep members of the party in line
 - c. The minority leader steps into the speakership when his or her party gains a majority in the House
 - d. Whips assist each floor leader, serving as liaisons between the house leadership of each party and the rank-and-file (Tom Delay was majority whip in 2001)
 2. The House Rules Committee
 - a. Helps regulate the time of floor debate for each bill as well as limitations on floor amendments
 - b. Closed rule versus open rule
 - c. An arm of the leadership, offers a "dress rehearsal" on procedural issues
- E. The Senate
 1. A smaller body, more informal, and more time for debate
 2. The president of the Senate (the vice-president of the United States) has little influence, can vote only in case of a tie and is seldom consulted in decision-making
 3. President pro tempore is elected from among the majority party, and is official chair in the absence of the vice-president
 4. Party machinery includes party caucuses (conferences), majority and minority floor leaders, and party whips (Majority leader in 2001 was Trent Lott)
 5. Each party has a policy committee, which is responsible for the party's overall legislative program
 6. Political environment
 - a. Senators have more diverse policy interests than do members of the House, serve on more committees, and are more likely to wield power in their state parties
 - b. The Senate is a more open, fluid, and decentralized body now than it used to be
 - c. Practice of the “hold,” now a tactic to kill a bill
 7. The filibuster
 - a. Used to delay Senate proceedings in order to delay or prevent a vote
 - b. Cloture votes may end the filibuster (16 signatures, three-fifths vote, 1 hour per senator)
 8. The power to confirm
 - a. The Senate has the constitutional power to confirm presidential appointments to such positions as the cabinet, the U.S. Supreme Court and other federal courts, all

ambassadorial positions, and many executive branch positions, serving as an important check on executive power

- b. By a tradition called senatorial courtesy, the president confers with the senator(s) from the state where an appointee is to work
- c. Note difference between judicial and administrative appointments

III. The job of the legislator

A. Congress as a place to work

1. The working center of our nation's legislative process
2. Congressional staffs are 10 percent smaller than they were in the early 1990s

B. Legislators as representatives

1. Congress is both a law-making institution and a representative assembly
2. Legislator's role as delegate versus trustee

C. Legislators as lawmakers

1. Policy and philosophical convictions
 - a. On controversial issues, knowing the general philosophical leanings of individual members provides a helpful guide both to how they make up their minds and how they will vote
2. Voters
 - a. Members hear most often from the attentive public rather than the general public; still, members of Congress are generally concerned about how they will explain their votes, especially around election day
3. Colleagues
 - a. Legislators look to respected members of the committee who worked on a bill
 - b. For some legislators, the state delegation reinforces a common identity
 - c. A member may vote with a colleague with the expectation that the colleague will later vote for a measure about which the member is concerned is called log rolling
4. Congressional staff
 - a. Staffers draft bills, conduct research, and do much of the legislative negotiating and coalition building, often influencing legislative decisions
5. Party
 - a. Partisan voting has increased; party differences are stronger over domestic, regulatory, and welfare reform measures than over foreign policy or civil liberty issues
 - b. Very strong partisan differences in Clinton's impeachment (98% each way)
6. Interest groups
 - a. In addition to their roles as financiers of elections, they provide information
 - b. They can mobilize grassroots activists to lobby Congress
7. The president
 - a. Presidents are partners in the legislative process
 - b. Presidents, on key votes, usually win needed majority support more than half the time
 - c. Presidents and executive branch officials influence how legislators vote, particularly on foreign policy or national security issues

IV. The legislative obstacle course

A. How a bill becomes law

1. Congress operates under a system of multiple vetoes; in each chamber power is fragmented and influence is decentralized
2. After introduction, bill is referred to appropriate standing committee
3. 85 percent of bills die in subcommittee
4. Importance of hearings, mark-up, and riders (increasing number added to spending bills)

5. Conference committee reconciles different versions of a bill
 6. Bill passes both houses, president can veto or sign; pocket veto possible
 7. If vetoed, Congress can override by two-thirds vote (hard to achieve)
- B. Authorization and appropriation
1. After Congress and the president authorize a program, Congress, with the president's concurrence, has to appropriate the funds to implement it
 2. Appropriations are processed by the House and Senate Appropriations Committees and their subcommittees
- C. The importance of compromise
1. One decision is whether to push for action in the Senate first, in the House first, or in both simultaneously
 2. Another decision concerns the committee to which the bill is assigned
 3. Getting a bill through Congress requires that majorities be mobilized over and over again
- V. Committees: the little legislatures
- A. Types of committees
1. Joint committees
 2. Select or special committees
 3. Standing committees (exclusive, major, non-major)
- B. Choosing committee members (House members rarely serve on more than three)
1. In the House of Representatives, a Committee on Committees of the Republican membership allots places to Republican members; on the Democratic side, assignment to committees is handled by the Steering and Policy Committee of the Democratic caucus in negotiation with senior Democrats from the state delegations
 2. In the Senate, each party has a small Steering Committee that makes committee assignments
- C. Seniority rule
1. The practice of elevating the senior member of a committee to serve as committee chair remains the general rule (encourages retention, promotes expertise, reduces interpersonal politics)
 2. Since mid-1990s, Republicans have departed somewhat from seniority rule
- D. Investigations and oversight
1. Congress conducts investigations to determine if legislation is needed, to gather facts relevant to legislation, to assess the efficiency of executive agencies, to build public support, to expose corruption, and to enhance the image or reputation of its members
 2. Congressional hearings are an important source of information and opinion; the oversight function involves the responsibility to question executive branch officials to see whether their agencies are complying with the wishes of the Congress and conducting their programs efficiently
- E. Conference committees
1. At least 15 percent of all bills passed must be referred to a conference committee – a special committee of members from each chamber – that settles the differences between versions
 2. Both parties are represented, but the majority party has more members
 3. The proceedings are an elaborate bargaining process; the conference report can be accepted or rejected but it cannot be amended
 4. Sometimes called a “third house,” or one that arbitrarily revises policy
 5. The impact on legislation is generally equal between House & Senate in conference committees

- VI. Congress: an assessment and a view on reform
 - A. Criticisms of Congress
 - 1. Congress is inefficient (not up to the modern information age)
 - 2. Congress is unrepresentative (only 14% women, 7% African-American)
 - 3. Congress is unethical (ethics codes exist; can't accept gifts of over \$100)
 - a. Defenders argue that money would not tempt so many congressional millionaires
 - 4. Congress lacks collective responsibility (too much dispersion of power—who's in charge?)
 - 5. But desire to be reelected fosters accountability
 - B. A defense of Congress
 - 1. Congress's greatest strengths--its diversity and deliberate character--also weaken its position in dealing with the more centralized executive branch
 - 2. How to reconcile the need for executive energy with republican liberty?
 - 3. Governing is difficult because of complex issues and lack of consensus
 - 4. Lack of public consensus on an issue affects Congress
 - 5. Congress was never intended to act swiftly