

CHAPTER 7 CONGRESS

Narrative Lecture Outline

Congress

Most people seem to hate Congress, but love their congressional representatives. This seeming paradox comes out of the dual roles that members of Congress need to fulfill. On the one hand, they are law and policy makers, and on the other hand, they represent the needs and best interests of their particular constituents. These duties are often at odds. Public cynicism about the institution is also nudged along by negative media coverage and the fact that people are often uninformed about what Congress does, how it does it, and the constraints under which it operates. Citizens also tend to hold Congress to very high standards and that further contributes to cynicism about the institution when they do not live up to those expectations.

Leadership is important in any institution and Congress is no exception. In 2002, the House chose Nancy Pelosi (D-CA) as Democratic House Whip and she became the first woman in history to win an elected position in the leadership of the House of Representatives. Two years later, she became minority leader. And in 2006, she became the first woman Speaker of the House and thus third in the line of presidential succession. Speakers, as we will see as we study Congress, have a significant amount of power and Nancy Pelosi will wield this power in the 110th Congress.

The 110th Congress will run from January 2007 to January 2009. The Democrats are back in control of both houses for the first time since 1995. The 110th Congress has a number of unique attributes:

- ✓ The first woman to serve as Speaker of the House: Nancy Pelosi (D-CA)
- ✓ The first Muslim elected to office: Keith Ellison (D-MN)
- ✓ The first Buddhists elected to office: Mazie Hirono (D-HI) and Hank Johnson (D-GA)

So how did we get to the 110th Congress?

The Constitution and the Legislative Branch of Government

Article I creates the legislative branch of government. Congress is a bicameral institution. The upper house is called the Senate in which each state receives two representatives, and the lower house is called the House of Representatives that is apportioned by population. The formal requirements for membership are:

- Senate
 - 30 years old
 - nine years a U.S. resident

- legal resident of their state
- House of Representatives
 - 25 years old
 - seven years a U.S. resident
 - legal resident of their state

The Senate has a six-year term with 1/3 of the seats up for reelection every two years, and the House has a two-year term. Originally, senators were chosen by state legislatures. The Seventeenth Amendment in 1913 provided for the direct election of senators.

So the Senate was designed to represent state interests and the House the interests of the people. The Senate has longer terms to allow them to address weighty issues that may not appeal to the public such as foreign affairs. They were also to be chosen indirectly to insure that statesmen and not politicians served in the Senate. The House members represent districts within states, and therefore are closer to the people. Since they are up for election every two years, they are considered to be more responsive to the people as well.

Apportionment and Redistricting

The Constitution requires that all Americans be counted every ten years by a census. The census would then determine the representation in the House of Representatives. The first House was set at 65 members or one representative for every 37,000 persons. As the population grew, the House became larger. In 1910, the House reached 435 members and in 1929 the size was fixed by statute.

Since the Constitution requires the House to be based on population, a fixed number of seats demands that after each census the House seats be redistributed as populations shift—this is called redistricting or reapportionment. For example, in 1990, California had gained substantially in population and received an additional seven seats so that they had a total of 52 seats. Many northeastern states lost representatives because their population went down. Redistricting is done by state legislatures and, of course, always has political overtones. When the process is outrageously political, it is called gerrymandering and is often struck down by the courts.

Constitutional Powers of Congress

The most important constitutional power of Congress is the power to make laws. This power is shared by the House and the Senate. In order to become a law, a bill must be passed by both the House and the Senate.

The powers of Congress are set out in Article I, section 8:

- law-making
- lay and collect taxes and duties
- declaration of war
- raise an army and navy
- coin money
- regulate commerce with foreign nations and among the states
- establish federal courts and their jurisdiction
- establish bankruptcy rules

- establish rules of immigration and naturalization
- issue patents and copyrights
- borrow money
- define and punish piracy
- provide for a militia
- exercise power over the District of Columbia
- override a presidential veto with 2/3rds vote of both houses
- make all laws "necessary and proper" to carrying out the foregoing powers

This last clause is also referred to as the Elastic Clause. It allows Congress's powers to be expanded beyond the enumerated list. The Supreme Court has often interpreted the necessary and proper clause quite broadly, though in recent years decisions seem to be leaning toward restricting broad federal grants of power.

The House has 435 members and all money bills must originate, and the impeachment of executive and judicial officials must occur, in the House. Impeachment is charging the president, vice president, other civil officer, or judge with "treason, bribery, or other high crimes and misdemeanors." The Senate has 100 members. It tries impeachment cases and can remove officials with a 2/3rds vote. The Senate also provides advice and consent on presidential appointments and treaties with a 2/3rds vote.

The House and Senate operate differently as well. The House, being a much larger body, tends to be more formal, centralized, and has stronger leadership. The Rules Committee exists only in the House and exercises substantial control over time and rules of debate in conjunction with the Speaker. The House is impersonal, more partisan, and its members are highly specialized. The Senate is less centralized, less formal, and has weaker leadership. The Senate has the possibility of filibustering—talking a bill to death—that can only be limited through a cloture vote. Debate in the Senate can also be limited by unanimous consent. The Senate is more personal and Senators tend to be generalists. Whereas the House emphasizes tax and revenue policy, the Senate tends to emphasize foreign policy issues.

How Congress is Organized

Every two years, a new Congress is seated. The first order of business is the election of leaders and adoption of new rules. Both houses of Congress are organized on the basis of party for both leadership and committee purposes.

The Role of Political Parties in Organizing Congress

Parties are not mentioned in the Constitution but parties rapidly developed along the cleavages left over from the ratification debates. At the beginning of each new Congress, each party gathers in its caucus or conference to nominate and elect officers, review committee assignments, discuss policy and more.

The House of Representatives

The Speaker of the House

The Speaker is the only House officer mentioned in the Constitution. The Speaker is elected at the beginning of each new session of Congress by the entire House. The Speaker and all committee chairs are members of the majority party in Congress (this

is not a rule, but a political fact). The Speaker in the 110th House is Nancy Pelosi (D-CA) Generally a Speaker serves until he/she leaves the House, chooses to step down, or if his/her party loses the majority.

The Speaker presides over the House, oversees House business, is the official spokesperson for the House, and is second in line of presidential succession (if the president and vice president both died, the Speaker would become president). The Speaker is expected to be a liaison with the president and promote his/her parties' legislation through the Congress.

Other House Leaders

Other House leaders are elected by their own parties in party caucuses.

Majority leader—second most important person in the House

Majority whip(s)—maintain contacts and rally support on the floor among the majority party

Minority leader—leader of the minority party.

Minority whip(s)—maintain contacts and rally support among minority party members.

In the 110th House these leaders are:

Majority Leader: Steny Hoyer (D-MD)

Majority Whip: James Clyburn (D-SC)

Minority Leader: John Boehner (R-OH)

Minority Whip: Roy Blunt (R-MO)

The Senate

The presiding officer of the Senate, according to the Constitution, is the vice president of the United States. He is not a member of the Senate and can only vote in case of a tie.

The official chair of the Senate is the president pro tempore who is selected by the majority party and presides in lieu of the vice president. It is primarily an honorific office with few duties and no power. The president pro tempore is usually the senior senator of the majority party. Usually junior senators actually preside over the Senate.

The true power in the Senate is the majority leader who is elected by the majority party.

The Senate also has a minority leader and whips for both parties.

In the 110th Senate these leaders are:

President *Pro Tempore*: Robert Byrd (D-WV)

Majority Leader: Harry Reid (D-NV)

Majority Whip: Dick Durbin (D-IL)

Minority Leader: Mitch McConnell (R-KY)

Minority Whip: Trent Lott (R-MS)

The Committee System

Most of the work of Congress takes place in committees. Committees are controlled by the majority party and often set the congressional agenda. They are highly

specialized and have staffs of their own. Most committees also have subcommittees that are even more specialized.

Most bills die in committee. Fewer than 10 percent of the over 8,000 bills considered in any Congress proceed beyond the committee stage. Committees can have a lot of power in the legislative process. Committee chairs can refuse consideration of a bill and refuse to let it go to the floor if they so choose. Bills can be forced out of committee through a discharge petition signed by a majority (218) of the House—but this is rarely done.

Types of Committees

There are four types of committees:

- Standing—permanent committees. Proposed bills are referred to committees, fewer than 10 percent of bills are reported out to the floor.
- Joint—includes members from both houses
- Conference—special kind of joint committee that reconciles the House and Senate versions of a bill. A bill must pass both houses in identical form to become a law.
- Ad hoc, special, or select—temporary committees for specific purposes. They often conduct special investigations or studies.

Committee Membership

Why does a member of Congress seek a particular committee?

- interest or expertise in the area
- the subject matter will help them get reelected
- access to pork barrel (allows them to bring home the bacon to the district) or ability to get ‘earmarks’ for their district
- power and influence within Congress
- attract campaign funds
- support and defend interests vital to the district or state

Representatives and senators are placed on committees by their party's selection committee. They get a chance to express a preference, but not all requests are granted. And someone must serve on the “bad” committees—like Ethics or the District of Columbia governance committee.

Committee membership generally reflects the balance of parties in the chamber. On “critical” committees, the majority party often gets a disproportionate share of seats. In the 110th Congress, the House has 20 standing committees and many subcommittees roughly parallel to the departments in the bureaucracy. The Senate has 16 standing committees and 68 subcommittees. In general, the membership of committees in the Senate more accurately reflects the partisan split in the chamber than committee membership in the House.

The House has a unique committee, the Rules Committee, in which majority party members are appointed directly by the Speaker. This committee reviews all bills before they go to the full chamber and determines the rule under which each bill will be

considered and the date on which it will be heard. It can also specify whether and what kind of amendments might be allowed. Bills considered under a “closed rule” cannot be amended.

Senators hold more committee assignments than House members. Senators, therefore, tend to be generalists whereas House members develop more in-depth specialties. The House tends, as a body, to defer to its committees and their decisions. The Senate is a more individualistic body and Senators tend to look at committee decisions as recommendations to be discussed at great length and changed.

Committee Chairs

Chairs choose when and if the committee will consider any given bill. They can convene meetings when opponents are absent and adjourn meetings when things are going badly. Chairs have a lot of power including control of staff budgets and influence over the life and death of bills.

The power of committee chairs in the House has decreased in recent years due to reforms implemented in 1995. House committees prevent chairs from serving for more than six years (three terms) and chairs can no longer serve as their own subcommittee chairs. In addition, House chairs are no longer selected by seniority as they are in the Senate.

The Members of Congress

Members of Congress have two constituencies:

- party leaders, colleagues, and lobbyists in Washington, D.C.
- constituents at home in their state or district

This fact helps to make the average member of Congress's day incredibly busy and hectic. Members must raise money for their campaigns, perform party tasks, go to committee hearings, vote on the floor of the House or Senate (often many times in one day), do radio or TV interviews, meet with colleagues or the leadership, go to receptions, meet constituents, and more. Often they are on the go from early morning to late evening while they are in D.C. At home, the schedule is quite similar and also very hectic. Most House members spend a considerable amount of time in their district, since they are constantly raising money and running for reelection.

Keeping in touch with one's constituents is a key to success and reelection. Time in district is important. But so is casework. Congressional staff usually handle casework—solving constituent's problems dealing with the bureaucracy. Veterans who need help getting benefits, late Social Security checks, passport problems, student loan concerns, and many other problems keep congressional staff very busy.

In the 110th Congress, Pelosi and other Democratic leaders have advocated more time ‘on the job’ in the House of Representatives. Since 1995, most members of Congress have worked from late Tuesday through Thursday. The new regime has proposed going back to a longer work week characterized as a ‘five day work week’. Representatives will be expected to work from 6:30 p.m. Mondays and will finish their business about 2 p.m. Fridays. The Democrats argue that the 109th Congress worked only 103 days out of their two year term of office. This has been very controversial and it is unclear whether the new leadership will be able to achieve this goal. Does time in the district mean you are not working? Does time in DC have drawbacks? Look at Table 7.4

and think about the information there. (*here you could add a class discussion of the types of work that occur in both DC and the district...have students weigh the costs and benefits of both schedules and perhaps advocate a better solution to the problems of how to schedule the time of Congress*)

Running for Office and Staying in Office

Most members of Congress belong to one of the two major parties, and the ability to raise money is the key to winning and holding office. Incumbency is a significant advantage in elections. Incumbents enjoy name recognition, access to media, and fundraising advantages, as well as the franking privilege in Congress (free mailings to constituents). Many have provided tangible benefits to their districts—pork barreling. Casework wins loyalty for incumbent members. Experience at running a campaign and making speeches is very helpful. Over 95 percent of incumbents win reelection. In 2006, 20 members lost reelection bids, a very large number considering that only 4 lost in 2004.

Congressional Demographics

Congress is older, better educated, whiter, and richer than most of us. However, great strides have been made. Both California and both Maine senators are women. In the 110th Congress, there are 87 women (71 in the House and 16 in the Senate), 42 African Americans in the House (including two nonvoting delegates) and 1 in the Senate, 23 Latinos in the House and 3 in the Senate, and 7 Asian Americans in Congress (2 senators and 5 House members). There is 1 American Indian in the House.

Theories of Representation

There are a number of ways in which an elected official can represent his/her constituents. The book presents three theories of representation:

- Trustee—representatives use their own best judgment
- Delegate—representatives vote the way their constituents want them to
- Politico—representatives act as trustee or delegate depending on the issue

The question of representation is very complex. Can a man represent a woman? Can a white person adequately represent the views of a black person? There are many such questions and no easy answers. Obviously, people bring to D.C. their beliefs, culture, and experiences so diversity in Congress should lead to differences over time in legislation. But it is unclear exactly what the effects are.

(This is a great discussion issue: how can Congress represent “me” when it doesn’t look like “me.”)

How Members Make Decisions

Party

Members often look to party leaders for indicators of how to vote, especially on issues that don’t affect their home districts. However, there is little real party discipline in Congress and the cohesion of parties varies over time and by issue yet party remains a

powerful force in decision making. Campaign aid and the pressure of party whips has helped many congressional members make up their minds.

Constituents

The people who live and vote back home are an important influence on congressional decision making. It is rare for a legislator to disregard strong wishes of constituents, particularly on hot button issues or those contentious issues that get a lot of media attention. But deciding how the voters feel is tough. The perceptions of the representative are important since he/she cannot really know how all the constituents feel about an issue. This is a good reason for all of us to contact our representatives, you can have an impact!

Staff members keep tallies of letters, phone calls, e-mail, and faxes about issues up for a vote. Only if a legislator has a strong personal conviction will they vote against the clearly expressed desires of constituents. If constituents have little knowledge or interest in an issue, the legislator often makes an autonomous decision.

Colleagues and Caucuses

When members must vote on bills beyond their expertise, colleagues who are knowledgeable about such matters often have a lot of influence. On issues that do not concern one's district or on which there is no clear preference in one's district, vote trading or logrolling with colleagues often occurs. Sometimes, personal pleas from respected colleagues or the president can also change votes.

There are a number of special interest caucuses that also help members make up their minds such as the Black Caucus and the Congressional Caucus for Women's Issues.

Interest Groups, Lobbyists, and Political Action Committees

Interest groups provide information to members of Congress. They also instigate, fund, or support grassroots campaigns. Interest groups can win over undecided members but rarely change the minds of the committed. Lobbyists provide an important information role as well. Campaign contributions from PACs may also play a role particularly if a member is undecided.

Staff and Support Agencies

Staff members prepare summaries of bills and brief the senator or representative on their research. If the bill is nonideological or if the member has no position on it, the staff can be quite influential.

Support agencies like the Congressional Research Service, the General Accounting Office, and the Congressional Budget Office also offer information and analysis to members of Congress.

There are also staff associations, as highlighted in the Politics Now box on page 264. Muslim congressional staffers have formed a group, at first just a community group, but now with an educational mission. These groups can have a lot of impact.

The Law-making Function of Congress

Only a member of the House or Senate may introduce a bill but anyone can write a bill. Over 9,000 bills are proposed and fewer than 5 to 10 percent are enacted. There are many places where a bill can die. Promoting and shepherding a bill through the process is difficult and time-consuming. Opponents, however, need only “win” at any one of the numerous potential roadblocks in order to stop a bill from becoming a law. It is much easier to defeat a bill than to get one passed.

A bill must survive three stages to become a law: committees, the floor, and the conference committee. A bill can die at any stage.

How a Bill Becomes a Law: The Textbook Version

- 1) Bill is introduced by a member and often sponsored by a list of members.
- 2) Clerk of the chamber numbers it (HR 1 or S 1)
- 3) Bill is printed, distributed, and sent to the appropriate committee or committees (in the House, bills are referred to committee by the Speaker)
- 4) COMMITTEE—sends it to subcommittee or chair can kill it
- 5) SUBCOMMITTEE HEARINGS—or bill can die here. Bill is discussed and revised and the subcommittee votes
- 6) COMMITTEE—once subcommittee approves, bill goes back to full committee which votes. If passed, referred to floor
- 7) FLOOR—in the House a bill must go through Rules Committee and it is put on the calendar with floor debate limits. House can choose to act as a Committee of the Whole and deliberate or simply vote. If bill survives, it goes to the other house of Congress and goes through the same process of committees and floor consideration. In the Senate, several differences occur. Bills can be stopped by filibuster or hold. A filibuster is talking a bill to death (unlimited debate) and a hold is a tactic designed to keep the bill off the floor. A senator tells the leadership he/she has an objection to the bill. Since they could filibuster, a hold usually keeps a bill from being considered in the Senate. A filibuster may be stopped by a cloture vote—16 senators must sign a motion for cloture then 60 senators must vote to end the debate.
- 8) OTHER CHAMBER
- 9) CONFERENCE COMMITTEE—a joint committee reconciles the two versions if possible
- 10) BACK TO BOTH HOUSES—for an up or down vote. No amendments or changes.
- 11) PRESIDENT—has 10 days to consider the bill
 - a. Sign it and the bill becomes a law.
 - b. Veto it. Congress may override with 2/3rds of both houses.
 - c. Wait 10 days and if Congress remains in session, bill becomes a law without his signature

- d. Wait 10 days and if Congress adjourns—a pocket veto. The bill is vetoed without a signature

How a Bill Really Becomes a Law: The China Trade Act of 2000

Reality is never quite as neat as textbooks often make out. Bills are often controversial, there are opponents and supporters. Lobbying goes on, votes are traded, and deals are struck. Reality also shows us that the legislative process is a long one. Bills are passed, reconsidered, modified, and so on over many, many years.

The example given here is the China Trade Act of 2000. For each bill introduced in Congress, enactment is a long shot. The substance at issue here was the Trade Act of 1974, a Cold War era law that allowed the president of the United States to grant “most favored nation status” (MFN) to any country on a year-by-year basis. This was to be a carrot and stick approach to Communist countries. If they behaved, they would get preferential trading status with the U.S. If not, they would be penalized with tariffs and other trade barriers.

Following the Cold War, and even prior to the end of that era, China was one of the largest trading partners America had. President Clinton and many business leaders wanted the year-by-year renewals of MFN status dropped particularly after China was scheduled to join the World Trade Organization. That meant a new law. Many Republicans favored this change. The benefits of more routinized opening of Chinese markets were huge. In contrast, labor unions—traditionally Democratic supporters—feared lost jobs and were opposed to the bill.

Clinton lobbied for the bill with lawmakers and traveled throughout the U.S. trying to gain support. The Chamber of Commerce and Business Roundtable launched a huge advertising campaign for the bill—over \$10 million, the largest ever for one bill.

On March 8, 2000, Clinton sent his bill to Congress. The proposed legislation was designated S.2277 and was introduced by William Roth (R-Del) and referred to the Finance Committee. The House held hearings throughout the spring, even before the legislation was introduced. Many members expressed concerns about China’s human rights violations, labor market issues (prison labor, child labor, and so on), and the lack of rule of law in China. Finally, HR 4444 was introduced by Bill Archer (R-TX) and referred to the Ways and Means Committee. On May 17th, it was marked up and reported out of committee with a vote of 34-4. The bill received a rule from the Rules Committee allowing for three hours of debate. The bill was closed to amendments and the House Republican leadership strongly supported the bill. Secretary of Commerce William Daley and other Cabinet members were sent out to say that the bill meant jobs for Americans and stability in Asia. Chinese dissidents were asked to say that the bill could improve human rights in China and Billy Graham endorsed the bill.

Interest groups rushed in on both sides. Labor unions lobbied vigorously, and Vice President Al Gore broke ranks with the president and supported their views. Large corporation lobbyists lined up on the other side. Former President

Bush and Defense Secretary Cohen held meetings with legislators to convince them to pass the bill.

House debate began on May 24. The Republican whip structure worked hard to rally support. Colin Powell and former president Bush were called in to help firm up wavering Republicans, and Clinton worked on Democrats who were uncommitted. Lobbyists were everywhere. A last-minute amendment to create a 23-member commission to monitor human rights and a second to monitor surges in Chinese imports helped get 20 more votes.

David Bonior (D-MI) moved to recommit the bill to committee so another amendment could be added. He wanted conditions spelled out that allowed the withdrawal of MFN status if China attacked Taiwan, but the motion failed. In the vote, all Republicans and 73 Democrats voted for it and it passed 237-197.

The bill went to the Senate. Jesse Helms (R-NC) and others immediately criticized the bill as being soft on China. Secretary Daley asked the Senate Finance Committee to help fend off amendments in the Senate. The Committee promptly reported the bill out and several senators announced they would offer a supplemental bill reinstating the yearly review of China's status. The Senate debated the bill on July 26, 2000. Robert Byrd (D-WV), Jesse Helms (R-NC), and others started a filibuster. The majority leader called for a cloture vote and invoked cloture, 86-12. The Senate recessed for Labor Day. Upon return they opened debate again. The bill finally passed without amendment on September 19 by a vote of 83 to 15.

The bill was signed by President Clinton on October 10. Clinton had offered many favors in return for votes including a new zip code for a small town and a natural gas pipeline for a congressional district among other "gifts."

Congress and the President

Especially since the 1930s, the president has often seemed to be more powerful than Congress. In some cases, Congress has handed power to the president. But Congress retains several key powers vis-à-vis the president: funding powers, oversight, and impeachment/removal.

The Shifting Balance of Power

In the early years of the republic, Congress seemed the most powerful branch. During the Civil War, the executive took many powers and became larger and wielded powers previously unheard of. Following the Civil War, Congress took back some of the president's authority. These shifts have continued throughout our history.

In recent years, the presidency has been quite powerful particularly since FDR. Congress generally responds to executive branch legislative proposals. The president actively courts members of Congress to vote his way.

Congressional Oversight of the Executive Branch

Congress has the power to review the actions of the executive branch, and they seem to be doing it more often lately. We have had oversight committees on Whitewater, campaign finance, FBI conduct in Waco, and IRS abuses among others. There are often complaints, especially during times of divided government, that many of these reviews

are politically motivated—however oversight is critical to see if the bureaucracy is enforcing and interpreting laws the way Congress intended.

From the early years of the republic until the election of George W. Bush, Congress increased its oversight of executive action, especially in the 1970s and 1980s. The Republican congressional majorities held numerous hearings on a wide range of issues under President Bill Clinton. However, when Bush was elected and a Republican Congress with him, led to substantially less congressional oversight of executive action. A bipartisan team of scholars concluded that Democrats were kept out of policy making arenas and the Republican majority has done little oversight. The situation was characterized as an ‘unprecedented decline’ in oversight. There have been plenty of situations that in previous administrations would have engendered oversight committees, special prosecutors and the like ranging from the response to Hurricanes Katrina/Rita to detainee abuse at Guantanamo Bay, the War in Iraq to Medicare drug benefits.

Foreign Affairs Oversight

The Constitution divides foreign policy powers between the president and Congress. The president can wage war and negotiate treaties whereas Congress declares war and the Senate ratifies treaties. During the twentieth century, the president has become preeminent in foreign affairs. This is due, in part, to the advent of nuclear weapons and the nature of the crises we have experienced as a nation. Quick decision making and secrecy are essential, and 535 members of Congress are poor at both tasks.

Congress attempted to reassert itself in foreign policy through the War Powers Act in 1973. Presidents had been waging war without congressional approval and without formal declarations for decades. Congress passed a law to stop that practice. The Act required the president get congressional approval before sending troops abroad and to notify Congress within 48 hours of any foreign troop deployment. The president must withdraw troops within 60 days unless Congress declares war. The Act has not been very effective.

In 2001, when Congress passed a joint resolution authorizing the president to act against terrorism, it formally waived the 60-day waiting period (thus expressing Congressional interest in the validity of the War Powers Act). Two Senators, both of whom served in Vietnam, objected to the broad grant of war power. Since then, a number of issues have been covered in the media including wire tapping by the NSA that validate the concerns of those senators.

Confirmation of Presidential Appointments

The Senate confirms key presidential appointees including key members of the executive branch and federal courts. Historically, the Senate has generally confirmed presidential nominees but this seems to be changing. President Clinton’s nominees met a highly hostile Senate and many of his Cabinet appointees failed and his judicial nominees became hopelessly stalled. George W. Bush has had an easier road with Cabinet appointees, though John Ashcroft was highly controversial. His judicial appointees suffered in the democratically controlled Senate of the 107th Congress, but the 108th and 109th were controlled by the Republicans. The 110th, a Democratically controlled Congress, could be another story.

Impeachment and Removal

Impeachment and removal are the ultimate congressional oversight of the president and federal court judges. The Constitution is quite vague about what constitutes an impeachable offense citing only bribery, treason, and high crimes and misdemeanors. Most scholars and pundits believe that impeachment was only to be used for significant abuses of power.

Since impeachment and removal are used so rarely, there aren't many hard and fast rules. There are a number of stages mentioned in the book. The most important thing to remember is that impeachment, which is an inquiry or investigation followed by an indictment, occurs in the House and the removal, which is a trial, occurs in the Senate. A 2/3rds vote in the Senate is necessary to remove an official from office.

Congress and the Judiciary

Judicial review is a powerful check on the legislative powers of Congress. Members need to be cognizant of the Court's perspective when making laws and Congress does not usually want to pass laws that are obviously unconstitutional. However, sometimes they do. An example is a 2004 bill passed just prior to the election regarding partial birth abortion. The law was a political statement in advance of the election, and everyone voting for it knew the Court would invalidate it.

Web Sites for Instructors

Black Elected Officials: A National Roster is a PDF publication available through the Joint Center for Political and Economic Studies.

www.jointcenter.org/whatsnew/beo-2002/index.html

Campaigns and Elections magazine focuses on Congress and elections. Some portions of the site require a subscription. A new feature is their blog directory allowing you to find election and partisan based blogs easily.

www.campaignline.com

Congress.Org is a joint venture of two Washington, D.C. area firms with expertise in communicating with Congress. Capitol Advantage and Issue Dynamics (IDI) teamed up to produce Congress.Org in 1996. Some search engines refer to it as a "one-stop shop" for legislative information including contact information on members, committee assignments, etc. Has added a new feature called "soap box" basically a blog for the sites' readers.

www.congress.org

Congressional Quarterly is a nonpartisan publication whose mission is to inform the electorate. Site includes information on Congress including bios, votes, election information and so on. They also have a link to their state and local-level publication. Subscription is required for much of the information.

www.cq.com/

CQ Politics. CQ's free site with lots of good information and you can get daily headlines by email for free.

www.cqpolitics.com/

The Hill: The Capital Newspaper. "The Hill reports and analyzes the actions of Congress as it struggles to reconcile the needs of those it represents with the legitimate needs of the administration, lobbyists and the news media. We explain the pressures confronting policy-makers, and the many ways—often unpredictable—that decisions are made. But Capitol Hill is more than the focal point of the legislative branch of government. It is also a community not unlike a small city, and we report on its culture, social life, crime, employment, traffic, education, discrimination, shopping, dining, travel and recreation. Our editorial viewpoint is nonpartisan and nonideological." Published on Wednesdays. The Hill now has a congressional blog as well.

www.hillnews.com

Official site of the **House of Representatives.**

www.House.gov

Official government Web site from the **Library of Congress** with information on legislation, the *Congressional Record*, links to Congress-related sites.

thomas.loc.gov

Project Vote-Smart is a nonpartisan information service funded by members and nonpartisan foundations. It offers "a wealth of facts on your political leaders, including biographies and addresses, issue positions, voting records, campaign finances, evaluations by special interests." It also offers "CongressTrack" a way for citizens to track the status of legislation, members and committees, sponsors, voting records, clear descriptions, full text, and weekly floor schedules. As well as access to information on elections, federal and state governments, the issues, and politics. Includes thousands of links to the most important sites on the Internet.

www.vote-smart.org/

RollCall On-Line. "Roll Call is widely regarded as the leading source for Congressional news and information both inside the Beltway and beyond." RollCall On-Line publishes many of the same stories, classifieds, etc. that the print edition publishes. Published on Mondays and Thursdays.

www.rollcall.com

Official site of the **Senate.**

www.Senate.gov

The Washington Post. Check out the "Today in Congress" section including committee hearings and votes.

washingtonpost.com

Web Activities for Classes

- 1) Have students use the Web to locate their member of Congress, senators, and their committee assignments. Assign a paper that analyzes each member's use of the Web, and why that site contains the material it does and the links it offers.
- 2) Have students use the Web to determine what committee hearings are scheduled this week, and when they are held. Assign a brief paper asking students to analyze the role of these committee hearings in the overall policy process.
- 3) Have students use the Web to determine the committee assignments of ten different members of Congress and/or senators and write a brief paper explaining why each representative would choose or serve on those committees.
- 4) Do a Web-based scavenger hunt. Assign your students to find a list of Congress related information on the Web. For example: Name the past and present members of Congress who were/are Native American. How many women are in Congress? Who is the congressional representative from the fourth district of California (or any other district you choose)? How many members ran unopposed? What did the average election cost in the House/Senate? Who is on the House Committee on xx? the Senate Committee on xx? and so on.
- 5) Have students visit five Senate Web sites and five House Web sites. Have them discuss or write a paper comparing the content and discussing why the content differs or why it is similar.
- 6) Have students read their local paper and look at the *Washington Post* online. Compare the coverage of the papers on the congressional branch of government. Discuss why they are similar or different.
- 7) Have students go to the Web and determine one or two bills in which they are interested (or have the entire class pick one bill). During the course of the semester, follow that bill on the Web and discuss the route it travels and whether or not it becomes a law.
- 8) Most Americans claim to dislike and distrust Congress but like and trust their own member of Congress. What explains this paradox? Have students use the Web to do some research on public opinion and voting behavior, analyze the media coverage of Congress, think about what members of Congress do, and why this would be the case. Have them prepare a presentation explaining this phenomenon for class.

General Class Activities and Discussion Assignments

- 1) Have students discuss the roots of the legislative branch prior to the adoption of the U.S. Constitution.
- 2) Have students discuss the nature of apportionment and redistricting and their implications. If your state currently has a redistricting plan before the courts or legislature, try to invite someone in to discuss it.
- 3) Have students discuss the incumbency advantage. Assign them to do research about its strength in the House, Senate, and presidency as well as in state contests. What are the limitations of incumbency advantage? Is it waning?
- 4) Have students address the following: How representative is Congress? (Be sure to discuss the definition and theories of representation.) What proposals exist, or should exist, to address any perceived deficiencies in representation? Would they work in the U.S.?
- 5) Have students write a paper addressing the types, functions, and importance of committees in the House and Senate of the U.S. Be sure they compare and contrast the two.
- 6) Have students write a paper or discuss the role of leadership and party in the House and Senate. Be sure they include the current occupants of each office, and how their styles and personalities affect the exercise of the powers of office.
- 7) Have students do some research and compare how different or similar the various Congresses have been in terms of leadership, representation, minorities, women, structure, incumbency advantage, and rules. What accounts for the similarities and differences?
- 8) There have been a number of high-profile scandals in the Congress throughout history. Americans now seem quite concerned about the ethics of the legislature. Do some research on scandals in Congress. How many have there been? How severe have they been? How widespread have they been? Is it a few bad apples or the whole barrel? Be sure to look at how the media have covered these scandals and discuss the implications of media coverage of ethics issues.

Possible Simulations

- 1) Form a congressional committee or subcommittee. Assign each student a role: i.e. rural Republican congressperson from the Deep South, urban Democratic

- congressperson from the Northeast, etc. Have each group of students pick which committee or subcommittee they would like to be (they can research existing committees on the Web or at the library), determine the party mix, assign the chairperson, and choose a topic. The groups should either debate a bill or try to write one on a certain topic while staying true to their assigned roles. After the exercise, they can discuss why they made certain choices or write a paper.
- 2) Have students re-do the legislative branch of government. Many in our society today complain that Congress is unrepresentative, corrupt, doesn't care about the people, and so on. Have students list the most common complaints against Congress and then devise a new institution to solve those problems. Can they do it? Is a better legislature possible? What are the costs and benefits of the proposed changes? What are the drawbacks of any new system? If the class determines that what we have is actually better, discuss why that might be the case.

Additional Sources

- E. Scott Adler. *Why Congressional Reforms Fail: Reelection and the House Committee System*. University of Chicago Press, 2002.
- R. Douglas Arnold. *Congress, the Press, and Public Accountability*. Princeton University Press, 2006.
- Jeffrey Biggs and Thomas S. Foley. *Honor in the House: Speaker Tom Foley*. Washington State University Press, 1999.
- Sarah Binder. *The Causes and Consequences of Legislative Gridlock*. The Brookings Institution, 2002.
- Paul F. Boller. *Congressional Anecdotes*. Oxford University Press, 1992.
- Chris Casey. *The Hill on the Net: Congress Enters the Information Age*. AP Professional, 1996.
- Lawrence Dodd and Bruce Oppenheimer (eds). *Congress Reconsidered, 7/e*. Congressional Quarterly, 2001.
- Ellen House Greenberg, et al. *The House and Senate Explained: The People's Guide to Congress*. W.W. Norton & Company, 1996.
- John Hibbing. *Congressional Careers: Contours of Life in the U.S. House of Representatives*. University of North Carolina Press, 2001.

David Mayhew. *America's Congress*. Yale University Press, 2000.

Thomas E. Mann and Norman J. Ornstein. *The Broken Branch: How Congress is Failing America and How to Get it Back on Track*. Oxford University Press, 2006.

Karen O'Connor (ed). *Women and Congress: Running, Winning, Ruling*. Haworth, 2002.

Timothy J. Penny, et. al. *Common Cents: A Retiring Six-Term Congressman Reveals How Congress Really Works and What We Must Do to Fix It*. Avon Books, 1996.

David Price. *The Congressional Experience*. Westview Press, 2000.

Richard Sachs. *The President Pro Tempore of the Senate*. Nova Science Publishers, 2003.

Marjorie Sarbaugh-Thompson, et al. *Political and Institutional Effects of Term Limits*. Palgrave Macmillan, 2004.

Charles Stewart III. *Analyzing Congress*. WW Norton, 2001.

Katherine Tate. *Black Faces in the Mirror: African Americans and their Representatives in the U.S. Congress*. Princeton University Press, 2003.

Paul David Wellstone. *The Conscience of a Liberal: Reclaiming the Compassionate Agenda*. University of Minnesota Press, 2002.

Julian E. Zelizer (ed). *The American Congress: The Building of Democracy*. Houghton Mifflin Company, 2004.