

Structure of Congress Impacts Public Policy

The bicameral (two-house) structure of the Congress made it a necessity to develop an organization that would result in the ability of each house to conduct its own business, yet be able to accomplish the main function—the passage of legislation.

Each house has a presiding officer. The influence of the Speaker of the House cannot be underestimated. The speaker is selected by the majority party and, even though a House Majority Leader is also part of the unofficial structure of the House, it is the speaker who is really the leader of the majority.

The speaker presides over House meetings and is expected to be impartial in how meetings are run, even though he or she is a member of the majority party. However, with the authority to preside and keep order, the speaker wields a great deal of power: recognizing members who rise to speak, referring bills to committees, answering procedural questions, and declaring the outcome of votes. The speaker also names members to all select (special) committees and conference committees (a committee that meets with the Senate to resolve differences in legislation). The speaker usually votes only to break a tie and has the power to appoint temporary speakers, called speakers pro tempore, to run meetings. The speaker is also third in line after the vice president to succeed the president.

The presiding officer of the Senate, the president of the Senate, is the vice president of the United States. It is a symbolic office, and more often than not the Senate chooses a temporary presiding officer, the president pro tempore to run the meetings. The only specific power of the vice president in the capacity of Senate presiding officer is to break ties. The president pro tempore does not have the same power or influence as the Speaker of the House. Unlike in the House, the real power in the Senate lies with the Senate Majority Leader. In 2014, the Republicans took control of the Senate; and, thus, the Senate majority leader was a Republican.

The Committee System

Committee chairs, those representatives who chair the standing committees of the House and Senate, wield a great deal of power. In fact, most of the work is done through the committee system. Committee chairs are selected as a result of the seniority system, an unwritten custom that establishes the election of chairs as a result of length of service and of which party holds the majority in the House or Senate. Four types of committees exist in both houses of Congress. Standing committees deal with proposed bills and are permanent, existing from one Congress to the next. Examples of standing committees are Banking, Foreign Affairs, Energy, Governmental Affairs, and Appropriations. Select committees are specially created and conduct special investigations.

The Watergate Committee and Iran-Contra investigators were select Senate committees. Joint committees are made up of members from both houses for the purpose of coordinating investigations or special studies and to expedite business between the houses. Conference committees resolve legislative differences between the House and Senate. Such bills as the Crime Bill of 1994 and the Welfare Reform Act of 1996 had to go through conference committees. Many bills, in fact, must be resolved in this manner. Committee makeup is determined by the percentage of party representation in each house. Representatives attempt to get on influential committees such as the House Ways and Means Committee (which is responsible for appropriations measures), the Senate Judiciary Committee (which makes a recommendation regarding presidential judicial appointments) and the House Rules Committee. Legislation in the House cannot get to the floor without a vote from the Rules Committee. The only exception is if a majority of representatives sign a discharge petition. This action bypasses the Rules Committee, but very rarely succeeds because the

majority party usually applies pressure on its members not to sign the petition. The Rules Committee also allocates time for debate and the number of amendments that can be introduced. The House can also convene into a committee of the whole, which is the entire body operating as a single committee to discuss business. This procedure is also not often used.

Most representatives are members of at least one standing committee or two subcommittees (smaller committees that are organized around specific areas). These committees influence legislation by holding hearings and voting on amendments to legislation that have been referred to them. The committees also provide oversight, reviewing the actions of the executive branch. In the House, a key oversight committee is the Committee on Oversight and Government Reform. This committee holds hearings that investigate executive branch abuses. Two examples of this were hearings held regarding the attack on the American embassy in Benghazi and on Internal Revenue Service overreach. In the Senate, the Senate Intelligence Committee investigated conduct by the Central Intelligence Agency resulting in torture, and in 2014 released a scathing report condemning such practices. After the 1994 elections, the Republican majority passed new rules that limited the terms of House committee chairs to no more than six years and reduced the number of committees and their staffs.

Along with the committee system, each house has a party system that organizes and influences the members of Congress regarding policy-making decisions. The majority and minority leaders of both houses organize their members by using “whips,” or assistant floor leaders, whose job is to check with party members and inform the majority leader of the status and opinions of the membership regarding issues that are going to be voted on. Whips are responsible for keeping party members in line and having an accurate count of who will be voting for or against a particular bill. The party caucus or party conference is a means for each party to develop a strategy or position on a particular issue. The majority and minority party meet privately and determine which bills to support, what type of amendments would be acceptable, and the official party positions on upcoming business. They also deal with selection of the party leadership and committee membership.

It is one thing to introduce a bill that one day might become law (legislation), and it is another thing to get the votes that can turn that bill into a law. Tactics such as the Senate filibuster, an ongoing speech that needs a vote of 60 senators to cut it off, called cloture, protect minority interests. In 2013, the Senate changed its filibuster rules by passing what was called “the Nuclear Option.” Instead of requiring 60 votes to approve presidential appointments other than Supreme Court nominees, this new rule required a simple majority for approval. The Republican minority was against this procedural change, claiming that it weakened the ability of the minority to debate the qualifications of appointees. When the Republicans gained control of the Senate in 2016 and the Democrats threatened to filibuster President Trump’s appointment of Neil Gorsuch to the Supreme Court, the Republicans also used the Nuclear Option, requiring a simple majority to approve Supreme Court justices. An example of Senate collegiality is the unanimous consent rule. This rule requires the agreement of the entire Senate to move a vote forward. It is usually not challenged because both parties do not want the other party to object. Objections occur when senators feel their voices are not being heard on whatever is being discussed. If a senator wants to slow down the nomination process, then he or she can place a hold on that nominee until any relevant questions get answered.

With treaties, the Senate has a built-in check: senators must approve treaties by a two-thirds majority and can approve presidential appointments by a majority vote. Such significant treaties as the 1962 Nuclear Test Ban Treaty and the 2010 Strategic Arms Limitation Treaty are good examples of the president working closely with the Congress.

Constituent Service Is a Component of Representative Accountability Models

If the essence of a senator or representative revolves around the issue of representing his or her constituency, then this member of Congress must define the kind of congressperson he or she will be.

Once elected through the formal process of an open and free election, the definition must begin. *Demographic representation* mirrors the desires and needs of the various people being represented. *Symbolic representation* is defined by the style and message of the congressperson and how the people perceive the job he or she is doing. How responsive the legislator is to constituents' wishes is the last characteristic of representation. How a representative responds to the people who elected him or her is called "constituent service." The question of whether the representative should reflect the point of view of his or her constituents or vote according to his or her own opinion after hearing information on any issue is a long-standing problem for elected officials. There are three different types of constituent accountability models:

- **Trustee model**—voters trust their congressperson to make decisions that the member believes is in the best interests of constituents.
- **Delegate model**—voters elect their senator and representatives as their delegates and expect them to vote on the basis of what their constituents believe.
- **Politico model**—representatives and senators are the most political in this model, utilizing both the trustee model and delegate model to make decisions.

Gridlock and Divided Government Affect How Congress Operates

As the focal point of public-policy development, Congress has come under public criticism. Polls have reflected deep voter concern regarding the issues of "congressional gridlock," term limits for representatives and senators, and the influence of lobbyists and PACs on Congresspersons. Many newly elected representatives have committed to reforming congressional structure, procedures, and practices.

Of the three branches of government, the public has given Congress the lowest approval rating. Yet every election they send a majority of incumbents back to Congress. There seems to be a love/hate relationship between the people and their representatives and senators. Many suggestions have been made to improve and reform the organization and productivity of Congress. The poll pointed out the following beliefs:

- Gridlock is a problem. Congress is considered inefficient, and because of the complicated legislative process, most bills never see the light of day. Reforms have been made, such as streamlining the committee system, improving the coordination of information between the House and the Senate, and requiring some kind of action on all bills proposed.
- Congress does not reflect the views of its constituents. People have suggested that with the growth of the Internet, representatives should interactively get information from their constituents before voting on crucial issues.
- Representatives are so busy running for office that they become beholden to special-interest groups and PACs. The response has been that some states voted to establish term limits. The Supreme Court decided this issue in 1995 and ruled that it was unconstitutional for states to enact term limits for senators and representatives.
- Relations between Congress and the president have deteriorated when one party is in control of the executive branch and the other party controls one or both houses (divided government). When there is a fiscal crisis, the conflict between the branches increases.

The debt ceiling crisis in 2011, when the Republican-majority House fought the president over the debt limit having to be raised, and the fiscal cliff crisis at the end of 2012, when the Republican Congress resisted raising taxes for those couples making more than \$500,000, are examples of the conflict between the president and the Congress.

Divided government, where one party controls the executive branch, and the opposition party controls one or both houses of Congress, was rejected by the American people in the 2016 presidential election. That election, when the Republicans maintained control of Congress and won the presidency, ended an era of divided government.

History of Divided Government

A party era exists when one political party controls either the executive branch and/or legislative branch. From 1968 to 2016 there was an era of divided government. It has been characterized by the election of a president having to deal with an opposition party in one or both houses of Congress.

With the election of Bill Clinton in 1992 and his reelection in 1996, the emergence of an ideological party era seemed to be on the horizon. Even though Clinton had a Democratic majority in both houses during his first term, much of his legislative agenda was embroiled in an ideological battle among liberals, moderates, and conservatives who did not always vote along party lines.

An example of divided government was signaled by the Republican takeover of Congress in 1994. In the 2000 election, divided government became the theme. After the presidential election when Vice President Al Gore received more popular votes than George W. Bush but still lost the electoral vote, Congress initially remained Republican but was closely divided. Then in 2001, the Democrats gained a majority in the Senate after a Republican senator left the party. In 2006, the midterm election—dominated by the Iraq War, and what some called the Bush administration’s “culture of corruption,” there was also a great deal of dissatisfaction with President Bush’s job performance. The end result was a Democratic takeover of Congress. The Democratic incumbents did not lose a single seat and gained 29 seats in the House and six seats in the Senate. The results of this election could be attributed to an unpopular president and a war that had lost public support. One thing is certain. Republican gains in the once-Democratic South suggest a continuation of the party realignment in that area of the country.

The 2008 presidential election was a short-lived start of a new party era—one-party majority rule. Barack Obama had the largest congressional majority since Lyndon Johnson, who also enjoyed a large Democratic majority in both houses of Congress. The era of divided government shifted to this new era of one-party dominance of the executive and legislative branches. This changed after the 2010 midterm election when Republicans regained control of the House of Representatives. In 2014, the GOP also gained more seats in the House and a majority in the Senate, strengthening their hand in policy debates with the president. The 2016 presidential election brought an end to divided government when Republican Donald Trump was elected president. Trump, along with the Republican Congress, had control of the three branches of government. Many political scientists question the strength of party eras because of the weakening of political parties as illustrated by the increasing number of independent voters, and the rise of the Tea Party. The first decade of this century can be described as a time where one party had majority rule until a “wave” election brought divided government. The rise of the so-called religious right, an evangelical conglomeration of ultraconservative political activists joining the Republican Party, has contributed to this rise of an ideological party era. The attempt at bipartisanship has been replaced by temporary coalitions that depend upon the issue of the day. After the 2000 election, political scientists began referring to the nation as divided into the “blue states” won by the Democrats and the “red states” won by the Republicans.

Fallout from Divided Government

During periods of divided government, when the president is from one party and the Congress has a majority from the other party, the president becomes a “lame duck” much earlier in his term than if the president’s party controlled the Congress. An example of how this played out occurred in President Obama’s second term. Justice Antonin Scalia suddenly died in early 2016, and President Obama named U.S. Court of Appeals Justice Merrick Garland as his replacement. But the Republican-controlled senate refused to hold hearings, asserting that the winner of the 2016 election should make that choice. President Trump named to the court a conservative justice, Neil Gorsuch, who was on a list of names he had unveiled during the campaign.

Optional Readings

Is Congress the “Broken Branch?” by David R. Mayhew (2009)

Key Quote:

Congress exhibits a particular kind of popular democracy. It tends to incorporate popular ways of thinking—the tropes, the locutions, the moralisms, the assumptions, the causal stories and the rest that structure the meaning of political life in the mass public. Whether this is a service at all can be contested. But there it is. Generation after generation, Congress has juxtaposed popular styles of thinking to the thrusts of rationalization or high-mindedness often favored by the executive branch, the judiciary, or the intelligentsia.

From Sam Rayburn to Newt Gingrich: The Development of the Partisan Congress, by Barbara Sinclair (2011)

Key Quote:

“The Republican party moves right; right-wing intellectuals and Evangelical Christians transform the Republican [P]arty—The internal engines of partisan polarization: the [H]ouse in the Democratic era—The internal engines of partisan polarization: the Republican [H]ouse—Unorthodox lawmaking in the hyperpartisan house—Partisan polarization, individualism, and lawmaking in the Senate—The President and Congress in a polarized environment—Filibuster strategies and PR wars: strategic responses to the transformed environment—From fluid coalitions to armed camps: the polarization of the National Political Community—The consequences of partisan polarization: the bad, the ugly, and the good?”

KEY CONCEPT 2.B: THE EXECUTIVE BRANCH

The President has specific powers outlined in the Constitution as well as inherent powers that have increased the power of the presidency.

The **Big Idea, Constitutionalism**, is reflected by this concept.

