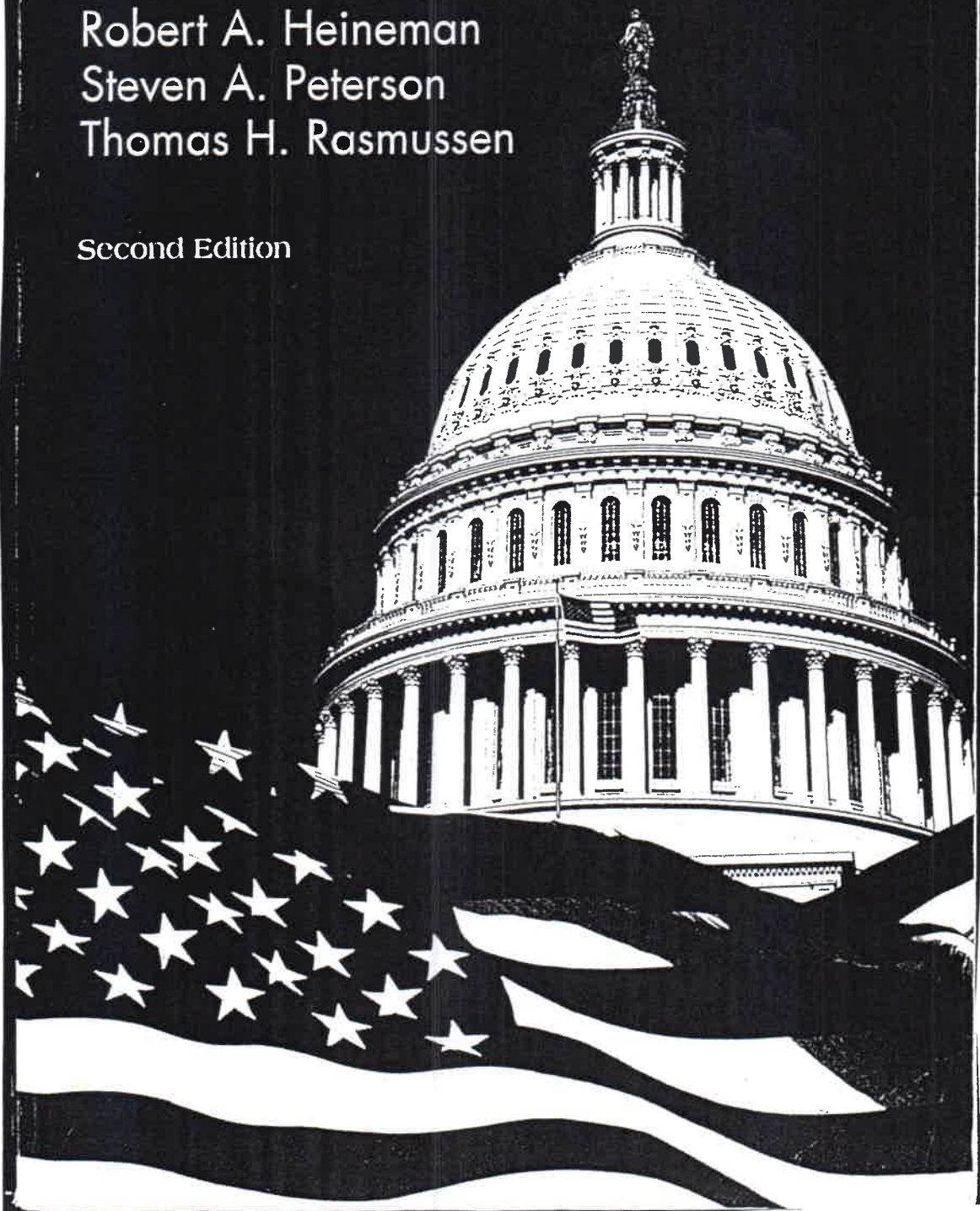


American Government

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CHAPTER 8

Congress: Institutions and Processes

Of all the policy-making bodies at the national level, Congress is the most complex. This complexity stems from its bicameral structure, its size, and its lack of any formal or informal coordinating power. The separate bodies of the House of Representatives and the Senate make Congress bicameral. The House has 435 members, who have two-year terms, and the Senate has 100 members, who have six-year terms. The House membership alone is large for a legislative chamber and combined with the Senate makes Congress an unwieldy body. This unwieldiness is worsened by the fact that Congress lacks central direction or coordination. Within each house of Congress, numerous power centers exist. The result is a tremendous amount of fragmentation in the congressional policy process. Working successfully with Congress requires negotiation and coordination among a variety of power holders, who in each instance must be satisfied that positive action is in their best interests.

The growth of the presidency in the twentieth century has overshadowed the policy position of Congress. During the late nineteenth century, Woodrow Wilson, in his classic Congressional Government, could treat Congress as the dominant power at the national level. In more modern times, however, even with relatively weak and inept presidents, Congress has moved to a position of deferring to executive initiative. Post-World War II relations between the presidency and Congress have been complicated by the fact that

the presidency has often been held by a Republican while Congress has, with rare exceptions, been under Democratic control. During the Reagan administration, the fragmentation of party control in Congress and the continued Democratic control of the House forced the administration and the congressional leadership to circumvent the normal legislative route when major policy proposals, such as social security reform, budget control, and defense base closures, had to be enacted. However, even Democratic presidents have found Congress a difficult body to lead. Despite early majorities in both houses of Congress, President Clinton frequently had difficulty holding the Democrats together in support of his proposals. The basic problem has been that the presidency answers to a national constituency and the members of Congress see themselves as responsible first and foremost to their districts or their states. Without major procedural reforms and a marked increase in party discipline, it is difficult to envision Congress as a coequal policy partner of the president.

Basic Relationships

An understanding of congressional activity must begin with recognition of the pervasive importance of three relationships or variables—the role of party affiliation, the importance of seniority, and the function of procedure.

Party Affiliation

Although party affiliation is the basis on which leadership control is allocated in each Congress, it has not provided a strong basis for leadership direction. The presiding officers in each house and the committee and subcommittee chairs are all members of the majority party. When Congress is organized every two years at the beginning of each new Congress, every legislator supports his or her party. From this point, however, party discipline fades rapidly. In the British House of Commons, if the Conservatives have a majority, Conservative proposals are almost guaranteed passage because every Conservative member of that body is expected to vote with the party. Such is not the case in the U.S. Congress. Democrats and Republicans often cross party lines on votes. Although party affiliation gives a general indication of how a member of Congress will vote, only in rare instances will all party members vote together on an issue. The lack of party discipline increases the importance of other forms of control and power. Two of these are seniority and the use of procedure.

Seniority

Seniority refers to the length of time a member of Congress has served in the House or the Senate. Usually, the more senior members are automatically considered for leadership positions, although in recent years some exceptions have been made. This use of seniority builds the power of the older members and eases the problem of allocating important positions. However, seniority in a less formal sense is also important because, through years of service, the older members have gained a thorough knowledge of procedures and policy issues and have built close relationships with members from both parties. When a senior member of Congress is in difficulty, he or she may be able to manipulate the rules and draw on obligations of colleagues to affect the outcome.

Procedure

The procedures of Congress are quite involved and are not neutral. They protect individual legislators, and at times the entire legislative body, from being held accountable for their actions by the public, and they operate to inhibit or prevent change. On especially controversial or sensitive issues, members of Congress may wish to avoid taking a public stand. At these times, they may resort to procedural ploys to delay or quietly kill a measure. It is not unusual in Congress for the important votes determining the fate of a bill to be on procedural questions, with the vote on the substance of the measure being essentially anticlimactic. Because of the complexity of the legislative process, new proposals must win approval at numerous stages in that process, whereas those forces opposing change have to be successful at but one or two points to defeat a measure. Congress, then, more closely resembles an obstacle course for legislation than an open conduit for legislative passage.

How Representative?

Although members of Congress pride themselves on being close to the people, Congress as a whole does not closely reflect the population characteristics of the nation.

Gerrymandering

The House of Representatives is based on population, but the Senate represents states. Each state has two senators regardless of how large or small it is. Representation in the House must be based on congressional districts that have nearly the same population within a state. However, state legislators have mastered the art of manipulating district boundaries. Usually this is done to

favor incumbents, and because until 1995 the Democrats controlled the House since the 1950s, redistricting has tended to favor them. This kind of manipulation is called gerrymandering. Partly because of gerrymandering, the partisan division in the House can vary considerably from the partisan division in the popular vote for members of the House. In 1985, for example, the Democrats in the House outnumbered the Republicans 253 to 182, a 58 to 42 percent division, while the popular vote for members of the House in 1984 was 52 percent Democratic to 47 percent Republican. The figures for the 367 House seats that were contested in 1984 are even more graphic. In these congressional races, the Republicans actually had 500,000 more total votes nationwide, but district by district the Democrats won 30 more seats.¹ This trend continued through the 1990 election, in which Democratic candidates received 54 percent of the popular vote to 45 percent for Republican candidates yet won slightly over 61 percent of the House seats to slightly over 38 percent for the Republicans.

The 103rd Congress (1993–1994) reflected the effects of legally sanctioned gerrymandering. In 1982 Congress had amended the Voting Rights Act of 1965 to provide that when redistricting occurred, special efforts should be made to facilitate representation of blacks and Hispanics. In a rather unlikely political coalition, Republicans worked with black and Hispanic leaders after the 1990 census to ensure implementation of this part of the law. Republicans calculated that if Hispanic and black voters, who tend to vote heavily Democratic, were concentrated in single districts, Republican candidates would have greater chances of success in the remaining districts. These efforts resulted in some very strangely configured districts, of which the 12th Congressional District of North Carolina and the 4th District in Illinois were two of the most contorted (see Figure 8.1). As a consequence of this imaginative gerrymandering, blacks and Hispanics increased their representation in the 103rd Congress, and most of this increase came from the newly drawn districts.² Republicans, however, did not fare as well. Their gain was a modest 10 seats in the new House of Representatives. The constitutionality of North Carolina's 12th District has been challenged, but, whatever the courts decide on this point, the deliberate use of district boundaries to favor one group over another raises broader questions that focus on the issue of electoral equity across the population.

Nonpartisan Biases

In nonpartisan terms, the bias in Congress is markedly toward wealthy white men. Women make up a very small percentage of the House and Senate. The 54 women in the 103rd Congress constituted only 10 percent of the

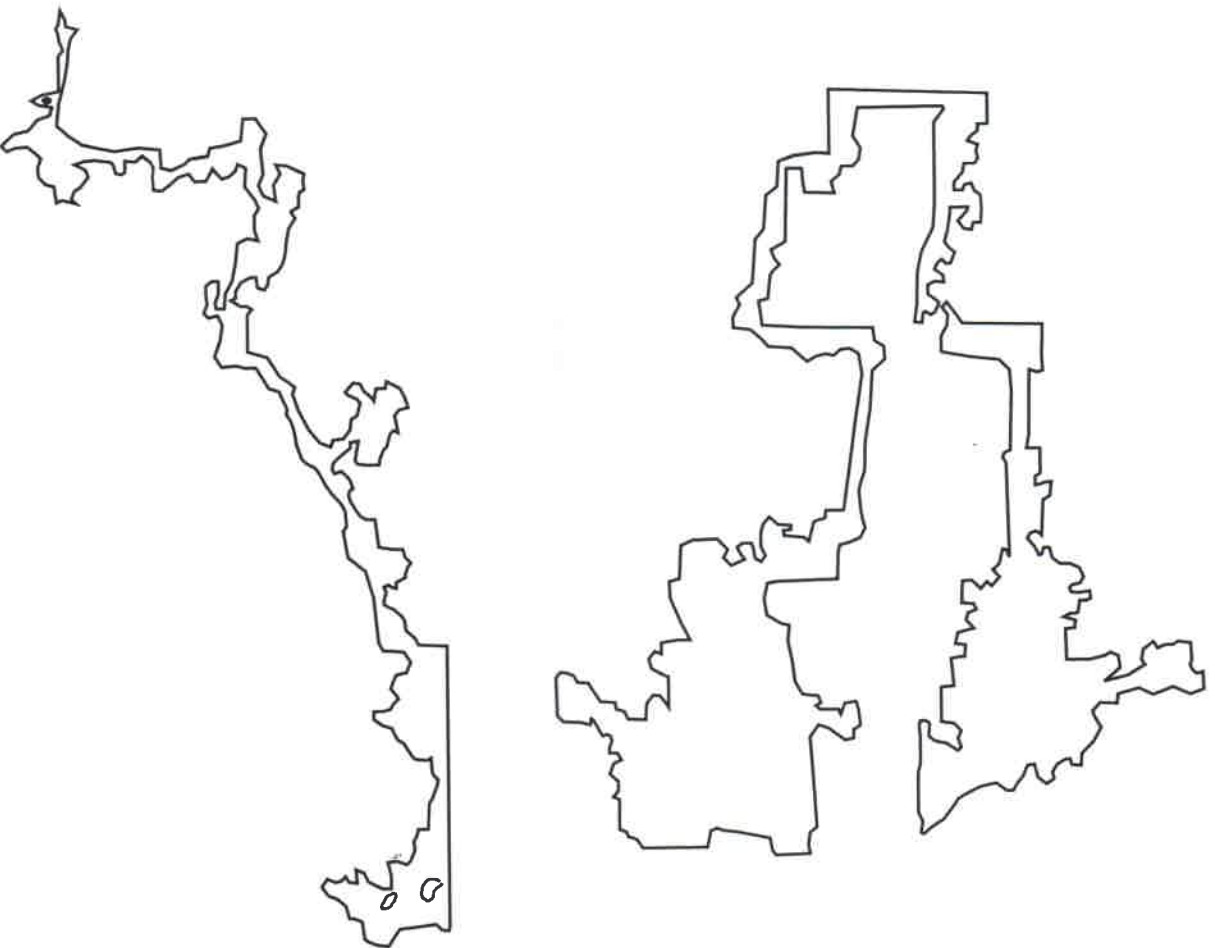


Fig. 8.1 Approximate shapes of two congressional districts drawn to maximize minority representation. The Illinois 4th Congressional District (top) was drawn to favor Hispanic voters. The North Carolina 12th Congressional District (bottom) was drawn to favor black voters. The 12th District's boundaries are currently being challenged in the federal courts.

total membership. Hispanics were also underrepresented with 17 members. In contrast to these two population groups, the 39 blacks in the 103rd Congress constituted a percentage of congressional membership that was only slightly below their percentage of the nation's population. Perhaps most significant is the lack of working-class and poor people in Congress. People in these socioeconomic groupings are simply without the knowledge and finances to mount effective campaigns. Although congressional salaries may appear high to the average person, the expenses entailed in maintaining two residences are a serious financial burden for those members of Congress dependent on their congressional income. In fact, efforts to keep congressional salaries low help ensure that only the wealthy or those with extensive financial backing will be able to serve in Congress. Occupationally, Congress remains overpopulated with attorneys (239 in the 103rd Congress). However, recent Congresses have shown some greater occupational heterogeneity.

Attitudes of the Members

An evaluation of how well Congress represents constituent interests also must consider the attitudes of the legislators themselves. One determinant of attitude is simply whether the member is serving in the House or in the Senate. Members of the House, until they have served several terms, find that they are running for office continually. They no sooner have been elected than they must begin preparing for the next election. Senators, on the other hand, serve six-year terms and represent entire states. They can be more independent than representatives in their voting behavior.

A second consideration of major importance is how a member of Congress—whether in the House or the Senate—individually views his or her role. Is that role one of a delegate, one who simply reflects the desires of constituents? Or is it one of more deliberate decision making in which the elected representative considers the desires of constituents but also uses his or her judgment as to what is appropriate? Former Representative Barber Conable (R-N.Y.), for example, acted in the latter fashion, having become interested in international finance and tax policy while in the House. Most members of Congress, however, feel that they must give a substantial amount of attention to constituency service, sometimes termed errand running. They recognize that their intervention on behalf of their constituents with administrative agencies and in other areas is a needed service for people puzzled or stymied by government. They also know that constituency service well done translates fairly directly into voting support. After several terms in office, a member of Congress who attends carefully to the requests of constituents becomes difficult to unseat. For example, in a very tough reelection campaign in 1992, Sen-

ator Alphonse D'Amato (R-N.Y.) ran as "Senator Pothole" to emphasize his dedication to the needs of his constituents, and he won a narrow victory against a strong challenger in a state that in the same election voted heavily for Bill Clinton.

Much less interested in constituency service would be someone like Robert Kennedy, who ran for the Senate from New York State in 1964 primarily to keep alive his possibilities for running for the presidency. In this respect, some senators can be seen as congressional senators, those whose primary goal is to work within the Senate. Others might be characterized as presidential senators in that they use their positions to generate a national image. Recently, former Representative Jack Kemp (R-N.Y.), who served as Secretary of the Department of Housing and Urban Development in the Bush administration, and Representative Richard Gephardt (D-Mo.) have been examples of members of the House of Representatives who have focused on building a national image.

Organization

Leadership

The leadership positions in each house of Congress are the key coordinating mechanisms for legislative action. The leaders are also important as communication links between the White House and Congress. In meetings with the president, congressional leaders will give the president a sense of how Congress feels on issues, and at the same time, they will obtain information about the plans of the chief executive. This information is an important source of power for congressional leaders in their dealings with the membership. Leadership in Congress is an uncertain matter. An individual may hold an official leadership position and yet be defeated on important issues. In a practical sense, that person is no longer seen as capable of leading members of his or her party. Congressional leaders are careful to avoid being associated with too many defeats. If an issue is headed toward probable defeat, they will distance themselves from it. On the other hand, they will hasten to attach themselves to issues that have a lot of support among the membership.

Leadership in the House

Majority Leadership. The leader of the House of Representatives is the Speaker of the House, who is elected at the beginning of each Congress every two years, as are the majority and minority leaders of each house. In practical terms, the Speaker is selected by the majority party in the House. The Speaker's powers are extensive. This official has control over floor debate,

control over which committees receive what bills, significant influence over what committee assignments members of the majority party receive, and the right to appoint the chair of the powerful Rules Committee. Aiding the Speaker in the House is the majority leader. The majority leader leads the members of the party in guiding legislative issues through the House and is particularly important in influencing the fate of legislation once it has left a committee. The majority leader is assisted in turn by the majority whip. The whip, with the aid of a number of assistants, has the task of maintaining communication with the membership on issues and trying to line up votes for measures favored by the leadership. Although the House leaders have important procedural advantages over the membership, ideological flexibility on issues remains an essential component of really effective leadership.

Minority Leadership. The minority party in the House also has a leader and a whip system. The minority leader speaks for the party on major policy issues. Because of the size of the House, procedure is fairly rigorously controlled by the majority party. This leaves the minority party and its leadership at a decided disadvantage. The minority leadership can have its greatest impact when the majority party splits on an issue and provides the minority with the opportunity to provide the winning margin. Continuous Democratic control of the House from 1954 until 1995 meant that the Republicans were perennially the minority party and had to search for opportunities to influence legislation.

Leadership in the Senate

The Senate presents a different leadership picture because of its smaller size and because, constitutionally, the vice president is designated as its presiding officer. In fact, the vice president rarely presides over the Senate and votes only in the case of a tie. The vice president's appearance in the Senate usually means that a major bill under consideration may need a tie-breaking vote. Some vice presidents, such as Nelson Rockefeller, have taken an interest in presiding over the Senate, but in Rockefeller's case this caused considerable apprehension on the part of Senate Democrats because he was a Republican presiding over a Democratic-controlled body. Unlike the House, the Senate, with its smaller membership, allows considerable flexibility in procedure and is suspicious of any effort by a presiding vice president to control debate or manipulate discussion in favor of the president's position. In the absence of the vice president, the Senate's presiding officer is the president pro tempore, who is usually a senior member of the majority party selected by that party. Even this person, however, does not often actually preside. Most often the task devolves to junior members of the majority party.

Leadership power in the Senate is exercised by the majority leader. This person, in consultation with the minority leader, decides when and how issues will be brought to the Senate floor. Both the majority and minority parties also have whips, whose primary function is to line up voting support on issues.

As in the House, the most effective majority leaders appear to be those senators who have no strong ideological positions but who are adept at working with their colleagues to fashion an acceptable policy position. Senator Robert Byrd (D-W.Va), for example, made his reputation as a majority leader on this basis and on his knowledge of the parliamentary procedures of the Senate. In 1987, when many of his colleagues were concerned about having to take a position on the nomination of Robert Bork to the Supreme Court, Senator Byrd moved to assist them. He suggested that the Senate Judiciary Committee report the nomination out with no recommendation. He expected that the nomination would then be successfully stopped by a filibuster on the Senate floor, the intended result being that the Bork nomination would be killed and no senator would have had to vote on the nomination directly. This did not happen (the nomination was defeated on a direct vote), but Byrd's proposal indicates how Senate procedures can be used by an able majority leader to protect his or her colleagues.

Committees

The standing committees and their subcommittees are the core of the congressional process. Votes on the floor of the Senate or House may finally determine the success or failure of a proposal, but the important decisions that determine its ultimate fate have normally already been made in the committee that considered it.

Congressional committees derive their power from a number of contributions to the legislative process:

1. They perform a necessary division of labor for Congress, which is annually faced with a tremendous number of issues covering a wide variety of subjects. The committee system apportions these issues to committees that have developed experience in particular areas.
2. This subject-related experience has given committee members expertise in their areas. It is difficult for other members of Congress to challenge a committee's decisions on a bill because they must confront legislators thoroughly familiar with the subject matter. It is also difficult, however, because legislators themselves do not in turn wish to be challenged. Thus there is a tendency for members of Congress to defer to the decisions of their committees.

3. Some committees and subcommittees have built powerful political relationships with agencies and interest groups. They are one of the points of the cozy triangles, or subgovernments, that form important units of political power in the policy process. They are the source of authority and funding for agency programs, and they tend to be very sensitive to the views of the organized interests affected or served by the programs.

Committee Jurisdiction

Jurisdiction, or the subject matter considered by a committee, makes some committees more powerful than others. The standing committees within each house make up the largest number of committees in Congress. Standing committees continue from Congress to Congress without having to be reauthorized. The most important of these are the House Rules Committee, the House and Senate Budget Committees, the House and Senate Appropriations Committees, the House Ways and Means Committee, and the Senate Finance Committee. The Rules Committee is powerful because in the House most major legislation must receive favorable action from it, but in recent years it appears to be increasingly under the direction of the Speaker. The Budget Committees, which have existed only since 1974, can exercise considerable control over other committees through their enforcement of spending limits. The Appropriations Committees provide funding for many programs. The Ways and Means and Finance Committees consider tax or other revenue legislation. In this respect, the Ways and Means Committee has somewhat more stature than its Senate counterpart, the Finance Committee, because the Constitution requires that all revenue measures originate in the House. Similarly, the Senate Foreign Relations Committee has more status than its parallel committee in the House because of the Senate's power over treaties and presidential appointments of ambassadors. This committee also has attracted the lion's share of media coverage. Stephen Hess reported that for the period from February 1979 through June 1984, the Senate Foreign Relations Committee had more than twice as many major network television cameras present than the next most popular committee, the Senate Judiciary Committee. Not surprisingly, over the years, many senators who have served on this committee have developed presidential ambitions.³

Committees that consider particular subject matter areas become influential as issues in those areas move onto the agenda for consideration, but they are also important to legislators whose constituency interests or personal interests make it useful for them to serve on a particular committee. For example, a legislator elected from an agricultural area would find it advantageous to his or her reelection chances to serve on the Agriculture Committee. Legislators compete for positions on choice committees. Appointments to com-

mittees are made by party committees for each party in the two houses. These choices are subject to nominal ratification by the entire party membership, but in practice, the party leadership plays the primary role in seeing who is placed where. The most important committees are attained by those who have sufficient seniority to move onto them, but the committees dealing with particular subjects are still important to junior members of Congress. The result is that committees tend to be composed of members who are favorable to the interests that are regulated by them. The Senate Committee on Agriculture, Nutrition, and Forestry in the 103rd Congress, for example, consisted of 18 members, all of whom were from the South, Midwest, and West, with the exception of 1 member from Vermont. The Agriculture Subcommittee of the Senate Appropriations Committee exhibited the same pattern. In that instance, 1 senator was from Pennsylvania and the other 10 members were from the South, Midwest, or West.

A particularly flagrant example of leadership power in making appointments to committees is the case of Shirley Chisholm. Chisholm, a Democrat, was black and from inner-city New York. In terms of seniority, race, gender, and geography, she was at the margins of power in the House and in 1969 was given the House Agriculture Committee as her first assignment. Ms. Chisholm's reaction to this obvious attempt to put her on the back shelf politically was sufficiently vociferous to force the Democratic leadership to reconsider. She was quickly reassigned to a committee dealing with issues considerably more important to her constituents than agriculture.⁴

Committee Chairs

Committee chairpersons are the centers of power on the committees and are the bases of power within each house of Congress. The more important the committee an individual chairs, the more important that individual is in the House or Senate. Chairpersons are usually selected on the basis of being the most senior member of the committee in the majority party. However, in the House, senior Democratic committee members have occasionally been deprived of chairs because they were not considered sufficiently loyal to the party or were thought to be weak representatives of the party's positions. In 1985, for example, Les Aspin (D-Wisc.) became chairman of the House Armed Services Committee over several more senior committee members. (Later, under President Clinton, Aspin became the secretary of defense.) The House leadership and committee members apparently wanted someone who projected a knowledgeable, positive image in this important area. Chairpersons have considerable power over their committees. They control most of the staff appointments and money. They determine the flow of committee business, and they are important in floor debates and other consideration of mea-

asures from their committees. Members of a committee will not easily move to oppose a chairperson, and when a committee meets without the chairperson or attempts in other ways to oppose that person, it is a clear sign that the chair is in serious difficulty with the committee.

Although chairpersons are powerful, they are subject to sanctions if committee members wish to challenge them. The chair's image of powerfulness works to the advantage of the membership because it allows members to hide behind that person. For example, a committee member may have a bill that he or she believes is not very good but that has public support. The committee member can give public support to the measure and encourage the committee chair to avoid bringing it up in the committee. In this way the committee member can appear to be supportive of the measure but ensure that no serious action is taken on it. Committee chairs are willing to do these favors for their members, but in return they expect to have the support of their members. Most committee chairs operate fairly carefully with their committee member's backing. They are, in short, able politicians.

The number of permanent standing committees in the House and Senate is not large. In the 103rd Congress, the House had 22 such committees and the Senate had 16. Each of these committees is subdivided into subcommittees, with members from the whole committee apportioned among the subcommittees. Over the years, the number of subcommittees has multiplied, so that there are now over 100 in each house. From the legislators' point of view, there are advantages in having a large number of subcommittees: more members obtain chairs, and power is more widely distributed. However, for the congressional process and the public, the proliferation of subcommittees further fragments and complicates the congressional process, and it aggravates the work load of each legislator by increasing the number of subcommittee assignments that he or she must carry.

Other Types of Committees

In addition to the standing committees, Congress has joint committees and select committees. These committees undertake studies, hold hearings, and issue reports, but they do not have the power to propose legislation.

Select Committees. Select committees are intended to be temporary and to deal with a particular investigation or problem. Some of these select committees, the House Select Committee on Aging, for example, have been continued from Congress to Congress. However, in the 103rd Congress, authorizations for this select committee and three others in the House were allowed to expire in response to demands that Congress make greater efforts to control its spending.

Joint Committees. Joint committees are composed of members from each house, with the chair rotated between houses each year. Currently, the Joint Economic Committee is the best example.

Informal Organization: Party Committees

The most important area of congressional organization outside the legally established committee system and leadership positions are the committees established by the parties to further their interests. Both parties in each house have meetings of the entire party membership. In each house, the Republicans also have a committee on committees, which chooses Republican members of committees, and a policy committee, which meets to try to formulate party positions on issues. In the House, the Democrats have combined these two functions in the Steering and Policy Committee. In the Senate, the Democrats have a Policy Committee and a Steering Committee, which considers appointments to committee positions. In addition to these committees, the parties have campaign committees in each house. These committees are naturally oriented toward helping members of Congress win reelection, although the Republican House Campaign Committee sponsors a training program for challengers for House seats. Each of these committees is an important conduit for funds for congressional races.

Congress is also networked with many other informal groups, some of which have become institutionalized. The Democratic Study Group was formed in the 1950s to give greater voice to liberal Democrats in the House. The Wednesday Group gives moderate and conservative Republicans in the House an opportunity to meet to discuss common concerns. There are caucuses representing the interests of frost-belt states versus those of the sunbelt states. Other caucuses include those of minority members in Congress who have organized in an effort to give their common concerns greater voice. With President Clinton, a Democrat, in the White House and an increase in the number of black representatives, the Congressional Black Caucus became an important political force in the 103rd Congress.

Congressional Staffing

Staff Serving Members and Committees

Each senator and representative is provided with funds for a staff, and each committee and subcommittee has staff assigned to it.

The increase in subcommittees and subcommittee staff has had the effect of further fragmenting the policy process. Subcommittee staff became important points of access for the clientele groups of the agency programs that the subcommittee supervises. In an important sense, they owe their jobs to the

existence of those programs. If the programs were eliminated or severely reduced, there would be no need for a subcommittee to oversee them, and the subcommittee members to whom staff members owe their allegiance and their jobs could suffer a loss of influence in a policy area. The result is that the subcommittee staff people often have a vested interest in preserving the strength of the cozy triangle relationship that has developed among their subcommittee, their agency, and that agency's clientele.

Staff Serving Congress as a Whole

Since World War II, in response to expansion of the executive bureaucracy, Congress has become increasingly concerned about the need for adequate staff assistance for itself. There has been a growing reluctance to depend on the executive branch for information and analyses. Thus, in addition to the staff directly serving the members and their committees, Congress has established agencies that answer directly to it. One of the most important of these is the General Accounting Office (GAO). Established in 1921, this agency undertakes audits of government programs and studies of how programs are being run. The GAO is headed by a comptroller general who is appointed by the president and approved by Congress for a 15-year term. The GAO reports directly to Congress.⁵ The Congressional Research Service, created in 1914 as a unit of the Library of Congress, has become important as a source of data and analysis for Congress. The Office of Technology Assessment, established in 1972, undertakes studies for Congress. Of considerable recent importance is the Congressional Budget Office (CBO). Since 1974, the CBO has provided Congress with budget figures and interpretations of budget plans, separately from the executive branch. This agency also monitors congressional legislation to coordinate cost estimates of congressional decisions.

The Legislative Process

Enough has been said to indicate that the successful passage of legislation through Congress involves a great deal of political skill and persistence, knowledge of procedure, and some luck. The following discussion traces the path of a bill through Congress and notes some of the procedural pitfalls that can threaten it along the way (see Figure 8.2).

Origins of Legislation

Most legislation stems from the needs of the executive branch. Agencies have problems with their programs and ask Congress for legislation to correct them. Appropriations bills providing funds for many programs must be passed annually. Laws authorizing programs tend to expire after four or five years at

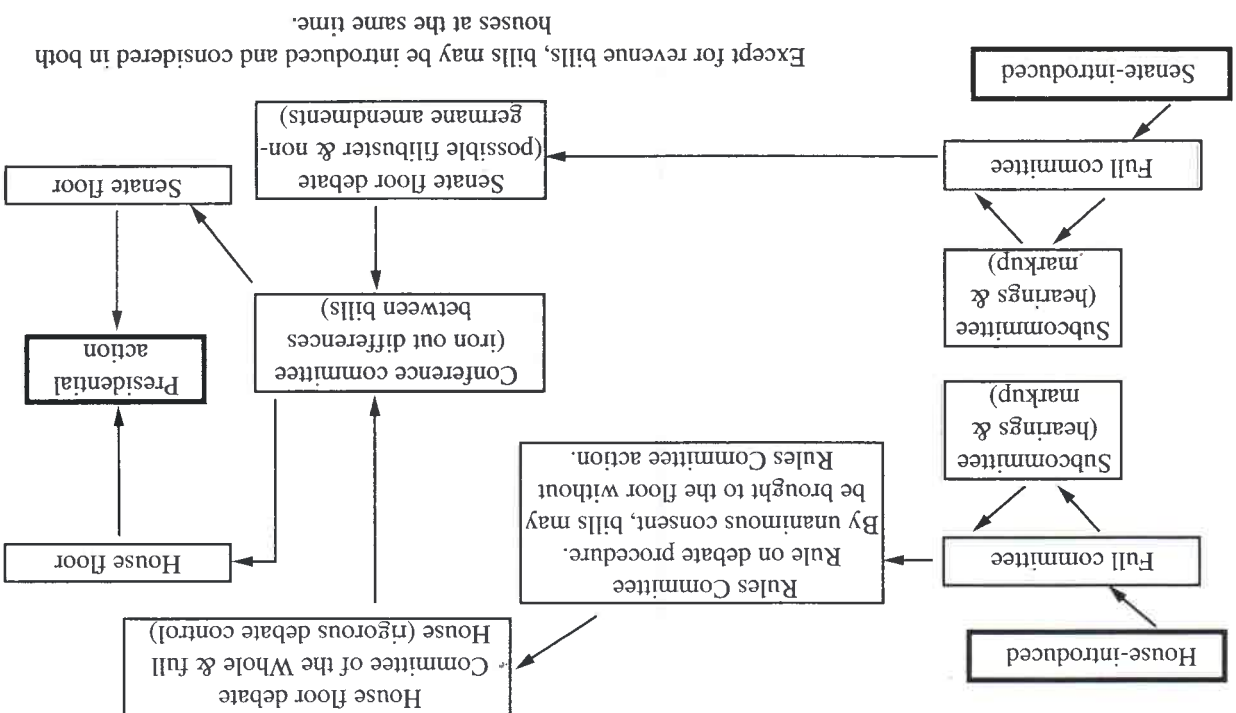


Fig. 8.2 Normal Legislative Route for Major Bills

the most, and they need to be renewed. And last but certainly not least, the White House has important initiatives that it asks Congress to consider.

Individual members of Congress, congressional committees, and interest groups also are sources of legislation. Because of the bicameral structure of Congress, these legislative proposals face a difficult hurdle—the transition from one house to the other. A legislator may have sufficient status and power in his or her house of Congress to gain approval there for a bill, but once a bill leaves the house in which it originated, its sponsor will not have comparable power in the other house. With rare exceptions, interest groups have the same problem. The wisest course for any of these sponsors is to obtain White House support for their proposals. If the president takes an interest in a bill, congressional liaison people can push for its passage in both houses. The president is the one force that can consistently bridge the gap between the two houses. However, securing presidential support is not an easy task. Presidents have an ample number of issues confronting them and normally are not eager to add to the list.

Writing of a Bill

Many bills, especially those dealing with defense and international issues, are written within agencies; others are authored in committees or in the offices of individual members of Congress. Wherever they are written, good politics and effective policy formulation dictate consultation with affected parties. In this manner potential difficulties in the language of the bill can be anticipated and perhaps avoided. Consultation also allows the parties affected by the proposed legislation some feeling of involvement in it. President Johnson, for example, was distrustful of the bureaucracy. Several of his major and most controversial proposals were formulated by task groups separate from the agencies that were to implement them. The result was that the effectiveness of these programs was limited because neither the agencies nor Congress had much attachment to their success.

Introduction of a Bill

If a bill is to be considered seriously in Congress, it must be introduced by someone with political stature. Anyone in Congress may introduce a bill, and thousands of bills are introduced every session. But most bills are referred to a committee and never seen again. Usually administration proposals are introduced by the chairperson of the committee or subcommittee that will consider them. Members of Congress who have developed recognized expertise

in an area can introduce bills for themselves or an interest group and expect them to receive attention.

A bill may be introduced in either house or both houses at once, with the exception of revenue measures. By constitutional mandate, tax bills must be considered by the House of Representatives first, and this requirement is what gives added status to the House Ways and Means Committee.

Referral to Committee

After introduction, a bill is referred to committee. The Speaker in the House and the presiding officer in the Senate are empowered to make these referrals, but in practice these decisions are usually made by the parliamentarians for each house.⁶ The determination as to which committee will consider a bill can be an important procedural point. Committee jurisdictions often overlap, so a number of committees might be appropriate to consider a particular bill. Some may be much more sympathetic to the bill than others, and obviously, the bill's sponsors want it referred to the committee most likely to be favorable to it. Where jurisdiction over a bill is not clear, several committees may be given the opportunity to consider it.

Committee Consideration

Most bills quietly disappear once they are sent to committee. Those which have serious support are usually referred to a subcommittee of the committee. It is here that most of the significant action on a bill occurs.

Subcommittee Hearings

Often the subcommittee holds hearings on proposed legislation. Supporters and opponents of the legislation are invited to appear before the subcommittee and testify and respond to questions from subcommittee members.

The hearings appear to serve the purpose of providing the subcommittee with information, but this appearance is misleading. Much of the testimony is repetitious, and the subcommittee has staff people who could gather the input from the witnesses more easily and economically. The real function of the hearings is to draw public attention to the issue being considered. Testimony by important public figures receives press coverage and increases public awareness about a proposal. The more important the witness, the more press coverage that will result. The status of a witness gives an indication of how important the issue is to the group that the witness represents. Thus, if the president of the AFL-CIO appears before a subcommittee, that is a clear signal that organized labor has considerable interest in the proposed legislation.

At the same time, hearings easily can be used as weapons of attack or defense. Legislators can stack the witnesses to give an unfavorable image of proposed legislation or of those supporting or opposing it. Or they can set up hearings to whitewash what could be a potentially embarrassing situation.

However they function, hearings may provide some sense of fairness to the parties on both sides of an issue. At least opponents of a measure have had a chance to appear and to place their views on the record.

Markup Session

After the hearings are concluded, the subcommittee usually holds a markup session. For most subcommittees, these sessions are public. It is here that the subcommittee decides what to do with a bill. The subcommittee staff is very important at this stage. Its members have been making notes on problems with the bill and proposed changes. These are considered at this point. The subcommittee has essentially three choices. It can kill the bill, amend it, or report it out unchanged. Procedurally, amendment at this stage can be a very effective way of crippling a measure, leaving the bill's proponents with a bill that does very little. The proponents are then faced with the dilemma of supporting a do-nothing bill or opposing a bill that they had originally sponsored. If the subcommittee kills the bill, at least its supporters have the clear-cut option of coming back with another proposal later.

Full Committee Action

After a bill leaves the subcommittee, it is considered by the full committee. Typically, the full committee defers to the judgment of its subcommittee. On particularly controversial issues, serious debate and close votes may ensue at the full committee level. Also, if the subject is of great national significance, hearings may be held by the entire committee instead of at the subcommittee level. But these situations are rare. Usually, the full committee ratifies the decision of the subcommittee. In the Senate, the bill is reported out and placed on one of the calendars for floor consideration. In both houses, the calendars are simply ways of classifying legislation and scheduling it for floor action. In the House, if the bill is major legislation, it must pass through an additional gauntlet, the Rules Committee.

The Rules Committee

The Rules Committee exists in the House primarily because of the size of that body. Over the years, it has functioned as a traffic cop that sets the procedures by which legislation will be considered on the floor of the House. The Rules Committee grants a rule for each bill that it allows to proceed to the floor of the House. The rule specifies the amount of time to be permitted for

debate and whether a measure can be amended on the floor. A rule may be closed, meaning no amendments are allowed; it may be open, allowing amendments; or, as has occurred with increasing frequency in the 1980s and 1990s, it may allow some amendments and not others.

The type of rule can affect the outcome on the House floor. For example, in the early years of the Reagan administration, supporters of the Equal Rights Amendment attempted to resurrect it for a second time. After committee consideration, it went to the Rules Committee. Supporters of the amendment feared that the rule granted it would allow floor amendments on such issues as abortion and military service and that these additions would doom it to defeat on the House floor. To avoid the Rules Committee, Speaker Thomas P. O'Neill (D-Mass.) brought the proposal to the floor under suspension of the rules. This procedure allows only 40 minutes of debate and prohibits amendments. It is normally used for routine bills that are not controversial. Speaker O'Neill's parliamentary maneuver, however, backfired. Many members of the House were outraged that the leadership would try to circumvent the normal procedures on such an important measure, and 14 of the measure's original cosponsors joined the opposition to send it down to defeat by 6 votes.

The Rules Committee is more than a traffic cop. If it refuses to grant a bill a rule, that bill is for all practical purposes dead. In the late 1930s, when the conservative Democrats on the Rules Committee began to vote with the Republicans, the Rules Committee became a conservative bastion in the Democratic-controlled House and was a serious thorn in the side of activist presidents. Today, it has been made more responsive to House leadership by giving the Speaker the power to nominate its majority members and to select its chairperson. Still, if the Rules Committee does not favor legislation before it, the originating committee has the choice of modifying the proposal or watching it disappear. The latter alternative may, of course, be the preference of the committee. Despite criticisms of it, the Rules Committee will cover for members of the House by killing bills they do not want to see get to the floor but which they do not want to take personal responsibility for defeating. Increasingly, however, the House leadership has used its control of the Rules Committee to obtain "special rules" limiting amendments and other challenges to legislation that they support.

Removing a Bill from Committee

As indicated earlier, bills may reach the floor of the House without going through the Rules Committee. Routine bills can be brought to the floor by unanimous consent, which allows suspension of the rules. These bills must, however, be passed by a two-thirds majority.

The Discharge Petition

A procedure that allows the House to override the negative judgment of a committee on a bill is the discharge petition. Through this device, a bill can be discharged from a committee and brought to the floor. A discharge petition lies on the Speaker's desk until it receives 218 signatures. The House then votes to bring the bill to the floor. Committee members may watch the number of signatures, however, and report the bill out on its own if it appears that 218 will be achieved. By acting first, the committee can amend the bill; if the discharge petition is successful, the bill must be reported out unchanged. The Senate also has a discharge petition procedure, but it is considerably easier to use than that of the House.

Floor Amendments

An approach to removing a bill from a committee in the Senate that is more direct than the discharge petition is the use of floor amendments. Unlike the House, the Senate has no rule of germaneness for amendments on the floor. In other words, an amendment to a bill does not have to have any relationship to the subject matter of that bill. Thus, if senators are unhappy that a bill is not being released by a committee, they can simply propose it as an amendment to legislation on the floor. For example, the 1960 Civil Rights Act was brought to the Senate floor as an amendment to a bill allowing an officers' club building on a military base to be used as a temporary school building. From the point that it was successfully added as an amendment, it, of course, became the focus of debate and discussion.

Effectiveness of Overruling Attempts

A word of caution on discharge petitions and other attempts to overrule committee decisions should be given at this point. Members of Congress are proud of their committees and solicitous of their power. They rarely will act to trample on what they see as a committee's prerogatives. Further, committee chairpersons usually have a good sense of how much support there is for a measure regardless of the number and intensity of public statements. As a consequence, discharge petitions that are successful do not often result in legislation.

Floor Action

To this point, except for the role of the Rules Committee in the House, there is not much difference between Senate and House treatments of legislation. This is not the case once a bill reaches the floor of the House or Senate. Because of its size, the House operates with considerably less flexibility in debate. Members are given a specified amount of time to speak, and if they

have not been allotted time during debate on a bill, the Speaker need not recognize them if they rise to speak. In the Senate, on the other hand, debate is technically unlimited unless extraordinary action is taken to shut it off, and senators are careful to see that everyone has an opportunity to participate.

Filibusters

Probably the procedure that gains the most attention in Senate debate is the filibuster. The Senate prides itself on being one of the last major legislative bodies that allows its members unlimited debate. The filibuster, however, is more than a form of unlimited debate. It is a means by which a minority of the Senate can kill legislation by gaining the floor and refusing to relinquish it. This tactic blocks consideration of other Senate business and, if successful, will force the leadership to drop the offending bill in order to proceed with other matters. One person can hold the floor of the Senate to dramatize a particular concern, but physically no one person can delay the Senate for more than approximately 24 hours. The real threat of the filibuster arises when several senators divide into teams and hold the floor in shifts of several hours each. Using this approach, a group of senators can filibuster for weeks.

The primary means of stopping a filibuster is the imposition of cloture. If 60 senators vote to end a filibuster, the filibustering senators, after a specified additional period, must give up the floor. This means that if 41 senators oppose a bill and mount a filibuster against it, there is no way they can be stopped unless they inadvertently give up the floor through some parliamentary mis-cue. The filibuster is one point in the congressional process where minority power clearly can frustrate majority desires. Not only does the technique give negative power to a minority in the Senate, but, of course, the Senate itself distorts majority views by representing states equally no matter how small or large they are.

House Debate on the Rule for a Bill

When the House begins debate on a bill, the first hour, which is in addition to the time allotted by the Rules Committee, is on the rule provided by that committee. Actually, the debate is usually on the measure itself, and the technicality allows the House an additional hour of debate time. At the end of that hour, the House votes whether to accept the rule. If it rejects the rule, the bill is in serious trouble because the Rules Committee does not look kindly on rejection of its rules.

To his discomfort, President Reagan discovered that House rejection or acceptance of the rule for a bill can be an important procedural point in consideration of legislation. In trying to get his 1986 tax reform legislation through Congress, President Reagan was faced with revolt from conservative Republicans in the House. After some arm-twisting, they pledged to vote for

the legislation on the House floor. However, when the measure reached the floor of the House, they voted against the rule for the bill and defeated it. It took some explaining to the president before he realized that his procedural ploy threatened to defeat the entire bill. After considerable embarrassment to the administration, and more arm-twisting of recalcitrant Republicans, the House was persuaded to bring the bill up again. This time the rule was accepted, and debate proceeded on the tax bill itself.

Committee of the Whole

When the rule for a bill has been approved on the floor of the House, the House usually resolves itself into the Committee of the Whole. To anyone observing the House in person or watching it on C-SPAN, there is no discernible difference between this committee and the House proper except that the mace (an ornamental staff consisting of 13 rods representing the original states surmounted by a globe and eagle that symbolizes the authority of the House) is not mounted in its usual place on a table to the right of the Speaker's podium and the Speaker is not presiding. Although little is written about it, much of the business of the House is conducted as the Committee of the Whole because the rules of procedure are more flexible. A quorum, the number needed to officially conduct business, for the Committee of the Whole is only 100, whereas for the House it is 218. Measures can be killed or amended in the Committee of the Whole but cannot be finally passed there. For this to occur, the Committee of the Whole must resolve itself back into the House of Representatives proper.

Use of Procedures for Legislative Advantage

Although often characterized by long-winded speeches, floor action at its best can be fascinating. Those with knowledge of the rules and a good sense of timing can accomplish a great deal. Senator Robert Byrd has been one of the ablest operators in this respect in recent years. When the Senate was considering the nomination of Daniel Manion to a federal judgeship in 1986, Byrd called for a vote on short notice, hoping to catch the Republican majority off guard. There had been considerable criticism of Manion's credentials, and a number of Republicans had their doubts about his nomination. Nonetheless, on the first vote the Senate voted 48 to 47 to confirm Manion. Because the vote was so close, Byrd switched his vote to the majority before the vote was finally recorded. This allowed him to move for reconsideration of the vote, which he did, and then he tabled the motion. Byrd hoped to convince one senator to change his or her mind, which would be enough to defeat the nomination on a second vote. However, in the later vote to reconsider, Byrd again lost by a narrow margin, and Manion became a federal judge. In 1987, when he was in the majority party, Byrd used the same ploy in an attempt to override

President Reagan's veto of a highway spending bill. This time he persuaded Senator Terry Sanford (D-N.C.) to switch his vote. On the second vote, the Senate overrode the President's veto by one vote.

In 1988, with the Republicans now in the minority in the Senate, Senator Jesse Helms (R-N.C.) demonstrated again that knowledge of parliamentary procedure can work benefits for the minority. At issue in this instance was a bill authorizing funds for AIDS education and treatment. There was overwhelming bipartisan support for this legislation, and it was clear that Helms and his sympathizers were heavily outnumbered. The bill's proponents expected an amendment from Helms prohibiting the use of funds for organizations that "promote or encourage, directly, homosexual sexual activity," and they were prepared with language to dilute this amendment if he offered it. Helms, however, outmaneuvered his opponents by offering his language as an amendment to a pending amendment rather than as an amendment to the bill itself. Helms knew that under Senate rules an amendment to an amendment could not be further amended. In other words, the Senate had to vote directly on his exact wording. As one knowledgeable commentator described this parliamentary ploy, Helms and his allies "were able to craft their proposals so that members found it politically impossible to vote against them," and Helms's amendment passed 71 to 18.⁷

Voting Procedures

Voting in the House and Senate differs slightly. In the House, there are four forms of votes: a voice vote, a standing vote, a teller vote, and a roll-call vote.

Voice Vote

A voice vote is simply a call for the yeas and nays, and the presiding officer must make a judgment as to who has the majority. This decision can be challenged, and a more precise form of voting must then be used.

Standing Vote

The standing vote requires those for or against to stand. Again, the presiding officer makes an estimate of the outcome. Both these forms of voting are imprecise, but they have the merits from the point of view of the participants of not forcing them to go on the record and of saving time.

Teller Vote

The teller vote is more precise, but it still enables members of the House to avoid responsibility for their votes. Under this procedure, those for a bill file down the center aisle first; those opposed follow. The members are counted *as they reach the end of the aisle*. Since 1970 it has been possible to request

a recorded teller vote, which has eliminated much of the advantage of the device. Further limiting the use of the teller vote has been the availability of electronic voting.⁸

Roll-Call Vote

On roll-call votes, each member's vote is recorded. In the House these are now electronically entered, allowing them to be taken accurately and quickly. The Senate does not have electronic voting and does not use the teller vote.

Conference Committee and Final Action

Often, after a bill has passed both houses of Congress, there are differences between the two versions. In order to resolve those differences, the leadership in the two houses usually appoints delegates to a conference committee. A conference committee is purely ad hoc, or temporary, for dealing with one particular bill. The delegates from each house are normally the senior majority and minority members of the committee and subcommittee that considered the bill. Each house has one vote in the conference committee, and the two sides must agree before an issue is resolved. Their failure to agree on a part of a bill may doom the entire bill to defeat. On difficult bills, a conference committee may have to meet a number of times before a common bill is fashioned.

The conference committee is another point in the congressional process where important parts of a bill may be eliminated or seriously weakened. This was even more of a possibility in the past when these committee meetings were secret. Ample opportunities for clever maneuvers remain, however. The fact that much legislation logjams at the end of each congressional session increases the power of conference committees. During the final two or three weeks of a session, Congress may be working day and night to complete its business. Conference committees are meeting on many different bills at this time, and it is exceptionally difficult to keep track of what these committees are doing. Some major bills are several hundred pages in length, and very few people know what is in them. The Tax Reform Act of 1986, for example, made the cost of season tickets to University of Texas and Louisiana State University football games tax deductible, a detail that gives some idea of the complexity of bills of this sort and an indication as well of the political clout of the legislators from those two states. The 1987 comprehensive appropriations measure, passed late in the first session of the 100th Congress, was 1193 pages in length and was estimated by the Senate minority leader to weigh between 10 and 12 pounds.

When the conferees have reached agreement, the bill is presented on the floor of each house for final passage. Normally, each house accepts the con-

ference committee's version of the bill. If a part is reported out in disagreement, each house has the choice of retreating from its original position or ordering the conferees to try again. In the House of Representatives, unanimous consent is necessary for immediate consideration of the final version of a bill. Such consent is routinely given. However, if such consent is not forthcoming, the bill must go back to the Rules Committee for a rule. Once again, in the rush of business at the end of a session, the Rules Committee can kill a bill by refusing or delaying a rule. If both houses agree to the final version of a bill, it is sent to the White House for presidential action.

Legislative Oversight Function

In addition to the constituency service and legislative roles of members of Congress, oversight of executive agencies is an important legislative function. When the White House is held by a party different from that controlling Congress, the oversight function of Congress can easily be turned to political advantage. Regardless of the political motivations involved, legislative oversight of their activities is a serious matter for federal administrators, and most make every effort to remain in the good graces of those members of Congress responsible for their agencies. Where a cozy triangle relationship has been achieved, members of Congress and administrators work within a framework of understanding that makes life easier for both parties.

Committees and Subcommittees

The committee and subcommittee system is the mechanism through which most oversight occurs. Agency people have to appear before the subcommittees to receive authorization for new programs and renewal of existing ones. They also must answer to appropriations subcommittees each year to receive funding. When special problems arise, a committee or subcommittee may undertake an investigation and hold hearings. These can be very difficult experiences for an administrator who is not in favor with the legislators. The questioning can become verbal harassment of the most vicious sort. For example, David E. Rosenbaum of the *New York Times* reported that seminars were offered to prepare witnesses called to testify in investigations undertaken by Representative John D. Dingell (D-Mich.), who had a reputation as "the most feared inquisitor on Capitol Hill."⁹

The Legislative Veto

Over the years, Congress evolved a technique known as the legislative veto to give it closer control of agency policy. The legislative veto allowed Congress, one house of Congress, or a committee to veto agency decisions in

an area. In *Immigration and Naturalization Service v. Chadha* (462 U.S. 919 [1983]), the Supreme Court ruled that the legislative veto was unconstitutional because it circumvented the constitutional requirement that legislation must be presented for presidential approval or disapproval. Clearly, the legislative veto made presidential direction of the bureaucracy, of which the president is chief executive, more difficult.

Use of Special Prosecutors

Another area of legislative oversight that has raised constitutional questions has been Congress's authorization of the use of independent counsels, often called special prosecutors in the media. The use of special prosecutors independent of the Justice Department to investigate scandals extends back at least to the administration of President Ulysses S. Grant, but since the Watergate scandal, their appointment has become almost commonplace. During the Nixon administration, Congress forced the president to appoint a special prosecutor to investigate the Watergate scandal. In order to protect these prosecutors from the president, Congress institutionalized the device in the Ethics in Government Act of 1978. Under this approach, the attorney general must make a finding that there is sufficient evidence to warrant an investigation. A panel of three federal judges then selects a special prosecutor to investigate the matter and to prosecute any illegalities found. The 1978 act was extended for another five years, and the term "special prosecutor" was changed to "independent counsel" in 1982. Many in the Reagan administration contended that the special prosecutor approach is unconstitutional because it involves federal constitutional courts in the prosecution of cases. They argued that Congress had imposed on the courts a nonjudicial duty that was properly exercised by the Executive Branch. In 1987, a reluctant President Reagan signed into law legislation authorizing the independent counsel system for another five years, and in 1988 the Supreme Court upheld the constitutionality of the approach.

Impeachment

A form of oversight of last resort, often characterized as judicial in nature, is impeachment. Congress has the power to impeach judges and the president and vice president. Seven lower federal court judges have been impeached and convicted. No presidents or Supreme Court justices have been convicted through impeachment. Under the impeachment procedure, the House of Representatives votes the articles, or charges, of impeachment and the Senate tries the defendant on the charges. Since 1986, the Senate has allowed a panel of 12 senators to make recommendations for impeachment and

then voted on those recommendations. It takes a two-thirds Senate vote to convict and remove an individual through impeachment.

Congressional Reform

Criticisms of Congress vary, but there is little question that as an institution it is held in low esteem by the public. One of the most serious problems has been the decentralized nature of the congressional process. This is worsened by the decline in party discipline and the continued power of committees and subcommittees. From the perspective of public, the decentralized nature of Congress renders it incapable of effective, coherent responses to problems and encourages individual members to avoid responsibility to their constituents.

The Budget Process

An area where congressional fragmentation has had serious repercussions has been in the annual consideration of the budget. Basically, the difficulties that Congress has had with the budget stem from rivalries between the authorizing committees and the appropriations committees. These rivalries, which began to have serious policy effects in the 1960s, became most intense in the House because members of the House Appropriations Committee do not serve on other major committees, and in the 1960s they tended to be fiscally conservative. The essence of the problem was that an authorizing committee—for example, the Agriculture Committee or the Armed Services Committee—would approve a program for a number of years and authorize the agency to spend a specified amount of money during that period. The Appropriations Committee would then each year appropriate a portion of the total that was authorized, but this committee tended to be stingy with the public's money and often did not appropriate sufficient money fast enough to satisfy the authorizing committees.

To counter the power of the appropriation committees, authorizing committees began to devise ways of limiting their control over programs. They used annual authorizations that forced the agency to return to them every year for authorization before going to the appropriations committees. They established borrowing programs that allowed an agency to avoid the appropriations process for most of their money. They instituted entitlement programs that were open-ended as long as the recipients met the qualifications for receiving money. The result of all this was that the budget process took more time in Congress and control of spending became even more difficult.

The Budget Impoundment and Control Act

In response to presidential criticism of its inadequacies in the budgetary area, Congress passed the Budget Impoundment and Control Act of 1974. This act instituted a number of changes aimed at giving Congress more control over the budgetary process. It moved the beginning of the fiscal year to October 1 to give Congress more time to enact a budget. It established a House Budget Committee, a Senate Budget Committee, and the Congressional Budget Office. Finally, it set up a schedule by which Congress was to vote on budget totals and move budget bills through the legislative process. The act did institute a more comprehensive view of the budget that gave Congress a better idea of what it was doing. Congress still had difficulty completing the budget by the new fiscal year deadline, however, and it failed to bring spending and a ballooning deficit under control.

The Balanced Budget and Emergency Control Act

The rapidly increasing size of the federal budgetary deficit finally reached what were seen by many members of Congress as crisis proportions. In 1985, with the Balanced Budget and Emergency Control Act, popularly known as the Gramm-Rudman-Hollings Act, Congress enacted a draconian approach to cutting federal spending. Essentially, the act set up deadlines by which budget deficit reductions had to be met. If Congress and the president could not agree on budget reductions, the comptroller general of the GAO was empowered to make percentage cuts across the board, with some programs exempted. This latter provision was challenged in the courts by dissident House members, and in *Bowsher v. Synar* (478 U.S. 714 [1986]), the Supreme Court held it unconstitutional because it violated the constitutional provision that the president shall see that the laws are "faithfully executed." In the Court's view, the comptroller general, although appointed by the president, was responsible to Congress, and Congress cannot both make and execute a law. As the deficit threatened to continue to grow, Congress in 1987 fashioned an alternative approach to implementing the Gramm-Rudman-Hollings Act by modifying the deadlines and placing the authority to make mandated cuts in the director of the Office of Management and Budget, an executive agency.

The revised Gramm-Rudman-Hollings Act was not effective in holding federal spending and the deficit in check. In the fall of 1990, under the act, President Bush was faced with allowing deep cuts in spending that would have been politically harmful or revamping the budgetary rules in Congress. The president and the Democratic-controlled Congress opted for the latter course. After extensive meetings between the White House people and con-

gressional leaders, Congress approved new budgetary rules that focused on spending limits rather than on the size of the deficit. Federal programs were apportioned into three areas—domestic, international, and defense—and separate spending caps were put on each area. Even this did not prove effective in controlling the deficit, however, and President Clinton made a comprehensive tax and spending plan one of his first priorities in an effort to slow the growth of the federal deficit.

The conclusion to be drawn from Congress's attempts to control federal spending is that not much hope exists for increased congressional responsibility in dealing with difficult problems. Attempts to provide greater coherence to the legislative consideration of the budget illustrate the difficulties posed by the competing sources of power within Congress. Legislated deadlines are meaningless when the divisive forces in Congress cannot be brought under control. The plan that Congress was finally able to provide for budgetary control implicitly acknowledged the likelihood that it would be unable to make tough budget decisions.

Congressional Ethics

Further eroding Congress's public image have been the numerous scandals involving members of Congress. The Abscam investigation (1980), in which seven members of Congress were convicted of taking bribes, was the largest recent scandal. One response of Congress to the Abscam scandal was to investigate the methods of the FBI to ensure that none of its members were entrapped by that agency's methods and perhaps also to convey a subtle warning to the federal investigators.

In the 102nd Congress (1991–1992), many members of the House of Representatives were embarrassed when information on their misuse of House banking privileges became public. Traditionally, House members had written personal checks on their accounts with the House bank, which the bank honored without interest even if the member had no funds in his or her account. In 1990 and 1991, as the result of GAO audits, it became apparent that some House members were abusing their checking privileges in this respect and were essentially giving themselves no-interest loans by writing checks for which they had no funds and repaying their overdrafts later. The House leadership initially attempted to prevent disclosure of the extent to which House members had overdrawn their checking accounts, but the public outcry finally forced a listing of all House members who had overdrawn checks that were covered by the House bank. This information indicated rather clearly that some members of the House had consistently used the House bank as a source

of additional money by writing checks for amounts that they did not have in their accounts. In all, 325 current and former members had overdrafts, and 22 members were formally cited by the House Ethics Committee for abusing the privilege. In response to the unfavorable publicity, the House closed its bank as of December 31, 1991. By this time, however, the scandal had further eroded public confidence in Congress as an institution and had motivated a number of members of the House to retire rather than face the electorate in a reelection campaign.

Largely because many of its members are constantly in need of funding, a fact reflected in each of the major scandals described above, Congress has consistently failed to act forthrightly to limit the power of interests to influence its members. Its strongest measures have been requirements that members report sources of income and observe limits on outside income. Political action committees (PACs), however, have almost free rein in providing funds to members of Congress, although they are limited in how much each may contribute to individual legislators. For its elections, Congress refuses to provide federal campaign financing and limitations on campaign contributions similar to those that it has provided for presidential elections. As a result, the influence of special-interest PACs has continued to increase at the congressional level.

Related to the issue of congressional ethics are the attempts to make members of Congress more responsible for their actions by requiring that committee markup sessions and conference committees be open to the public. Instead of increasing responsible action, these changes may have inhibited it further. In the past, individual legislators were willing to act in terms of broader interests if they could do so privately. Today, however, interest representatives watch every move and vote of legislators, making it extremely difficult for legislators to act flexibly. By trying to make individual legislators more responsible to the public, the reformers may have made Congress as a whole less responsible to the public interest.

Term Limits

One concern of students of Congress has been the fact that turnover from one Congress to the next has typically been low. In 1992, it was believed that voter dissatisfaction with Congress might lead to greater losses for incumbents. It was true that there was greater turnover, but this was largely due to redistricting required by the 1990 census and a large number of retirements. Although there were 114 new faces in the House of Representatives and 14 new senators in the 103rd Congress, only 24 of the House incumbents run-

ning in the general election lost (an additional 19 incumbents had been defeated in the primaries) and only 4 of 27 Senate incumbents lost in November.

Concern about the entrenched position of incumbents has led to calls for term limits on members of Congress, and one of the biggest stories of the 1992 election was the enthusiasm with which voters supported such proposals. Term limits were approved in all 14 states in which they appeared on the ballot, and 10 of these proposals received at least 60 percent of the vote. So in 1993, with the previous approval of term limits in Colorado, there were 15 states with a total of 181 senators and representatives that limit the terms that members of Congress can serve. Typically these provided for a 6-year limit on representatives and a 12-year limit on senators. The number of members of Congress abiding by the concept of term limits is, however, greater than these figures indicate because increasingly candidates are running for office on the promise that they will voluntarily leave office after a specified number of terms.

Supporters of term limits are currently striving for a constitutional amendment that would apply to all of Congress. The constitutionality of term limits is being challenged in the courts, and those favoring term limits hope to offset the possibility of unfavorable rulings with a constitutional amendment. Additionally, a constitutional amendment would ensure that all states are equally affected in Congress.

Toward Effective Reform

It seems clear that effective change in Congress will require structural and procedural changes that will move it toward greater centralization. Some one group or individual must be able to provide direction to Congress. One answer might be more disciplined political parties that present clear programs and insist on a greater party loyalty in Congress. Such a change would be unlikely without some weakening of the influence of the PACs. Another change that has been suggested is to make the terms of members of the House of Representatives coterminous with that of the president. Making their terms four years would relieve them of having to run continually for office, and tying their elections to that of the president would perhaps make them more responsive to presidential leadership.

Suggesting approaches to reform is far easier than achieving even moderate reforms. Americans seem to prefer legislators who respond to their particular needs, and members of Congress are not eager to become more responsible to a national electorate. These attitudes reinforce and encourage continued fragmentation in the making of policy in Congress. Effective re-

form will require more than structural changes. Fundamentally, it requires changed attitudes about legislators and their proper role.

Epilogue: The 1994 Congressional Elections

The results of the 1994 congressional elections assured that for the first time in 40 years the Republicans would control both houses of Congress. The results in the House of Representatives were especially dramatic. There the Republicans gained more than 50 seats to wipe out what had been a 256 to 178 Democratic advantage. Most of the Republican gains in the House and the Senate were in races where incumbents were not seeking re-election. At the same time, no Republican incumbent seeking re-election in either house lost.

Despite the dramatic partisan changes occasioned by the 1994 elections, the gender and racial makeup of the 104th Congress did not differ significantly from that of its predecessor, although for the first time in history a major Senate committee had a woman as chair. In the House, the new Republican majority focused on reducing the number of standing committees and congressional staff. Nonetheless, the basic structure and procedures of Congress remained essentially intact. That body's approach to policy issues, however, promised to be considerably different from the business as usual posture that had come to characterize many of the preceding Congresses.

Although Congress is expected to represent the electorate, there are serious questions about how representative Congress is. Organizationally, the locus of power and activity in Congress is in the committees and subcommittees. Overall, Congress is characterized by fragmented organization and procedures. Party leadership and affiliation have some effect on members' actions, but neither provides sufficient discipline to coordinate the many power centers provided by committees and subcommittees or the complexities of procedure. Because of this lack of party discipline, the procedures become important devices for members of Congress to attack legislation without taking responsibility for a position on an issue. The inability of congressional leaders to coordinate and direct policy has been especially obvious in Congress's faltering attempts to deal with budgetary problems. At the same time, the growing tendency for members of Congress to rely on special interests for financial support has increased pressures toward fragmentation and encouraged illegal behavior. Reform seems tied to changing basic American atti-

cludes toward legislators and to slowing or reversing the weakening of party discipline among members of Congress.

Recommended Reading

- In addition to reading the following books, which cover important aspects of Congress, the student is encouraged to watch Congress in action on the C-SPAN television network, which carries many debates and hearings live.
- Joel D. Aberbach: *Keeping a Watchful Eye: The Politics of Congressional Oversight*, Brookings Institution, Washington, D.C., 1990.
- John M. Barry: *The Ambition and the Power: A True Story of Washington*, Viking Penguin, New York, 1990.
- Congressional Quarterly Almanac*, Congressional Quarterly Press, Washington, D.C., published annually.
- Congressional Quarterly Weekly Report*, Congressional Quarterly Press, Washington, D.C., published weekly.
- Roger H. Davidson, ed.: *The Postreform Congress*, St. Martin's, New York, 1992.
- Morris Fiorina: *Congress: Keystone of the Washington Establishment*, 3d ed., Yale University Press, New Haven, 1989.
- Alvin M. Josephy, Jr.: *On the Hill: A History of the American Congress*, Simon and Schuster, New York, 1979.
- Paul C. Light: *Forging Legislation*, Norton, New York, 1992.
- Walter J. Oleszek: *Congressional Procedures and the Policy Process*, 3d ed., Congressional Quarterly Press, Washington, D.C., 1989.
- Steven S. Smith: *Call to Order: Floor Politics in the House and Senate*, Brookings Institution, Washington, D.C., 1989.

CHAPTER 9

The Presidency

Time Line

- 1789 The Constitution grants executive power to an independent, elected president.
- 1860 During the Civil War, Abraham Lincoln dramatically expands presidential power.
- 1921 The Budget and Accounting Act shifts responsibility for preparing the budget from Congress to the president.
- 1932 To combat the Great Depression, Franklin Roosevelt's New Deal programs expand the role of government in American life.
- 1941 Presidential foreign policy responsibilities increase during and after World War II.
- 1946 The Employment Act of 1946 calls on the president to promote steady economic growth, high employment, and stable prices.
- 1973 The Watergate scandal intensifies concerns about a too-powerful "imperial" presidency.

3. See Jack L. Walker, Jr., *Mobilizing Groups in America*, University of Michigan Press, Ann Arbor, 1991, pp. 29–38, 62–64.
4. Theodore J. Lowi, *The End of Liberalism*, 2d ed., Norton, New York, 1979.
5. *Ibid.*, p. 93
6. Mancur Olson, *The Rise and Decline of Nations*, Yale University Press, New Haven, 1982.
7. Ralph Nader, *Unsafe at Any Speed*, Grossman, New York, 1965.
8. Rachel Carson, *Silent Spring*, Houghton Mifflin, Boston, 1962.
9. Mancur Olson, *The Logic of Collective Action*, Harvard University Press, Cambridge, Mass., 1971, pp. 1–3.
10. David B. Truman, *The Governmental Process*, Knopf, New York, 1951, pp. 264–270.
11. Randall B. Ripley and Grace A. Franklin, *Congress, the Bureaucracy, and Public Policy*, rev. ed., Dorsey, Homewood, Ill., 1980, pp. 101–104.
12. Robert Heineman, *Authority and the Liberal Tradition*, 2d ed., Transaction, New Brunswick, N.J., 1994, pp. 158–161.
13. Graham Wootton, *Interest Groups*, Prentice-Hall, Englewood Cliffs, N.J., 1985, pp. 127–130.
14. James Q. Wilson, “Mr. Clinton, Meet Mr. Gore,” *Wall Street Journal*, October 28, 1993, p. A22.
15. *U.S. v. Harris* (347 U.S. 612 [1954]).
16. *Buckley v. Valeo* (424 U.S. 1 [1976]).

Chapter 8

1. *Congressional Quarterly Weekly Report*, April 13, 1985, p. 687. *CQ* notes that part of this discrepancy can also be attributed to the fact that some Democrats are elected from urban districts that have very low voting turnout.
2. Thirteen of the new black Representatives and six of the new Hispanic representatives won in districts specifically drawn to increase minority representation.
3. Stephen Hess, *The Ultimate Insiders: U.S. Senators in the National Media*, Brookings Institution, Washington, D.C., 1986, pp. 30–36.
4. Rudolf Engelbarts, *Women in the United States Congress, 1917–1972*, Libraries Unlimited, Littleton, Colo., 1974, p. 23.
5. Two useful works on the GAO are Frederick C. Mosher, *The GAO: The Quest for Accountability in American Government*, Westview, Boulder, Colo., 1979, and Wallace Earl Walker, *Changing Organizational Culture: Strategy, Structure, and Professionalism in the U.S. General Accounting Office*, University of Tennessee Press, Knoxville, 1986.

6. Each house in Congress has a parliamentarian and parliamentarian assistants. One of these people is always on the floor to advise the presiding officer on points of order. These people also help the membership generally with questions about procedures.
7. See Julie Rovner, “After Fiery Debate, Senate Passes AIDS Bill,” *Congressional Quarterly Weekly Report*, April 30, 1988, pp. 1167–1169.
8. *Congressional Quarterly’s Guide to Congress*, 2d ed., Congressional Quarterly Press, Washington, D.C., 1976.
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Chapter 9

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