American Federal Government

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7. The Functions and Structure of Congress

Chapter Roadmap

In this chapter you will learn what Congress does, its functions of lawmaking, oversight, and constituent service, and its structure as a symmetrically bicameral institution and its leadership structure.

7.1 Functions: Lawmaking

> All legislative powers herein granted shall be vested in a Congress of the United States (Article 1, section 1, U.S. Constitution).

As the legislative power, lawmaking is Congress's primary job. The word "legislature" derives from the latin "legis", which means "law," as in the word "legal."

As the nation's lawmaker, we look to Congress to set the policies that will resolve what we see as national problems. It is common to think of the government as forward looking, able to take a long-term view because—unlike business corporations—it does not have to worry about quarterly reports, its stock price (because unlike businesses it doesn't issue any stock), or profits. This forward-looking perspective may be true of the executive branch agencies, where many officials have civil service protection that ensures their jobs until they retire. But Representatives must run for re-election every two years, and Senators every 6 years, so many political scientists argue that rather than looking far ahead, politicians can usually only look to the next election.

Additionally, lawmaking is not a matter of wise and thoughtful legislators gathering together to objectively consider the issues facing the nation. Instead, it is an arena of political contestation. Individual members who care deeply about a particular issue have to try to coordinate others to also care about that issue, while those others normally have other issues that are—to them—more important. It is an arena where Democrats conflict with Republicans, and each party tries to maximize its control of the agenda and the policy output that is produced through the legislative process, while minimizing the influence and effectiveness of the other party. Sometimes the parties have internal conflicts about policy direction—as discussed above in the example of Speaker of the House John Boehner having difficulty controlling Tea Party Republicans in the House—with different factions within the party trying to dominate the party's legislative agenda. There is an old saying that you don't want to see how either laws or sausages are made—textbook descriptions obscure the messy, and sometimes very ugly, reality.

When the parties do unite on an issue, it is generally in response to what lawmakers perceive as a national crisis. As an example of crisis response, the Clean Water Act was passed in 1972 in large part because public awareness of how polluted the country's waters were skyrocketed after national media reports showed the Cuyahoga River in Cleveland burning, leading people to wonder just how polluted a river has to be to catch on fire. Support in both parties was strong enough that Congress was able to override a presidential veto. Similarly, in the days after the 9/11 terrorist attacks in 2001, Congress overwhelmingly passed the USA PATRIOT Act.

The USA PATRIOT Act is an example of the dangers of crisis response legislation. The final text of the bill was substituted in the middle of the night, and legislators had no chance to review the changes before they were asked to vote on it. But in the aftermath of the worst terrorist attack in the country's history, and with a bill cleverly titled "USA Patriot" (the title is an acronym for Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism), it took a bold Congressmember—or one from a very safe district—to vote against it. As it turned out, some important elements of the law were in violation of the Constitution.

> Every bill which shall have passed the house of representatives and the senate, shall, before it become a law, be presented to the president of the United States; if he approves he shall sign it, but if not he shall return it, with his objection to that house in which it shall have originated…

President Dwight Eisenhower was known to say "I am part of the legislative process," because he had the power of the veto. And presidential scholars agree that one of the President's political roles is that of "Chief Legislator." In addition to the veto, presidents can submit legislation to Congress, and can pressure congressmembers to support the President's proposals, whether by talking to them directly or by "going public" and trying to rally citizen support for his proposals.

In all of this the President is attempting to act as an agenda-setter for Congress. This was not always the norm for American presidents, but in the past century has come to be so, and Americans expect their presidents to be active agenda setters. Of course agenda-setting is a political act, an exertion of power and control, and so the shift of agenda-setting power to the President is a shift of political power from Congress to the President, something of an upset to the Framer's vision of the proper relationship between Congress and President. In some ways Congress has explicitly given agenda-setting power to the President, by statutorily requiring him (through the Budget and Accounting Act of 1921) to propose a budget to Congress—this allows the President to (usually, not always) set the agenda on budget negotiations. The President also has legislative agenda-setting power through the constitutional requirement that he

> from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient (U.S. Constitution, Article Two, §3).

This has evolved into the annual State of the Union Address, in which the President speaks directly to Congress, the country, and even the world, detailing his policy agenda for the coming year.

But the veto power, despite coming at the tail-end of the legislative process, also can be used for agenda-setting power. Normally people do not want to put effort into an activity that they know will fail, so the

President's threat of a veto can sometimes deter Congress from considering a bill. Of course presidents must use this power strategically—they can only effectively deter legislation by threatening a veto when congressional support for a bill is weak enough that Congress will not have enough votes to override a veto.

To summarize this section, understanding the legislative role of Congress requires also understanding the role the President plays in legislation.

Delegation of Authority

All organizations need a body that has authority to make the rules that every member must follow, whether it is a country, a sports league, a church, or any other type of group. In the U.S. that power is given to Congress, and it cannot—in theory—delegate it to any other body. In practice, Congress often delegates substantial amount of its authority to the executive branch, by writing very broad laws and asking executive branch agencies to write regulations that fill in the details. The reasons for this type of delegation of authority are two-fold:

1. Congress often lacks the technical expertise that the specialized bureaucratic agencies have, and while they want to determine the general policy for the direction, they may prefer to defer to those with more specialized knowledge to choose the best means of getting there. For example, when Congress passed the Clean Water Act, it knew that it wanted to set a policy goal of cleaning up America's waters, which at that time were often dumping grounds for industrial waste, but it didn't have the expertise to know how clean water needed to be for human safety (how many parts per million of PCBs can humans safely consume?) or the best methods for getting water to be that clean.

2. It is easier to get agreement on a general policy goal than to get agreement on the specific details. In order to get legislation passed, Congressmembers may prefer to settle for broad but somewhat vague policies that obscure the areas of disagreement rather than get themselves bogged down in endless debate over particular details that highlight their areas of disagreement. To refer to the Clean Water Act again, everyone wants clean water,

but as a Congressmember, if I vote for rules that are so stringent they shut down businesses in my district or state, I may take a hit come next election.

The Judicial Role

The judiciary plays no direct role in legislation. The legislative process is solely a debate, negotiation, or battle between and within the two chambers of Congress and the President. Not only do bills not need to be pre-cleared for constitutionality by the judiciary, but the Supreme Court decided in the very early days of the republic that it was improper for them to give such "advisory opinions." The judiciary can only be brought into play after a bill has become a law, and they do not have the authority to bring themselves into play, but can only be brought into play by some person or organization that is harmed by a law to an extent that they decide it is worthwhile to try to challenge its constitutionality.

However the judiciary plays an indirect role in two ways, both of which can be presumed to happen, although neither can be directly observed. First, because Congressmembers can predict that controversial laws will be challenged by one or more angry citizens, they know that the federal judiciary is likely to eventually have a say in the laws they pass. Presumably they take this into account when drafting laws and try to write them in such a way that—they hope—the judiciary will decide that they are constitutionally legitimate. (This is different than Congressmembers trying to write laws that are constitutionally legitimate—while we hope they do that as well, this is more about trying to predict what the federal judges will think is constitutionally ok.)

The second indirect role of the judiciary is to provide cover for Congressmembers voting for unconstitutional legislation in order to please their constituents. For example, in 1996 the Communications Decency Act was passed, in an effort to ban internet pornography. The law was so quite obviously a violation of the First Amendment right to free speech that organized interest groups had written their legal challenges even before the bill was passed and filed them in the courts as soon as President Clinton signed it into law, and the Supreme Court struck down the unconstitutional parts of the law in a unanimous decision. So surely many Congressmembers both believed the law was unconstitutional and expected the Supreme Court to strike it down, but voted for it anyway because they didn't want to be called a pro-

pornography candidate when running for re-election. So we can assume that at least some voted for the law knowing and even hoping it would be struck down, but they could reassure anti-pornography constituents that they tried, and put the blame on the Supreme Court.

Budgeting

> No money shall be drawn from the treasury, but in consequence of appropriations made by law (U.S. Constitution, Article 1, §9).

The most important legislative task of Congress is to pass a budget that allocates federal money for different purposes. There is an old saying that if you want to know any organization's real priorities, you should look at where it spends its money. But also in every organization people have different priorities, so it is normal to fight over where money gets spent. In the U.S. Congress, this fighting breaks down along three lines, first, the different priorities of the Democratic and Republican parties, and second, conflicts with the president's budget priorities, and third, the different local interests of each member of Congress. Because each Representative gets elected from a particular district, and each Senator gets elected from a particular state, each one wants to ensure a good flow of federal money to their district or state, to create jobs and to create public amenities — bridges, swimming pools, dams, schools, etc. — for which they can take credit, and hope their constituents will take notice.

The conflicts between the parties make it difficult to get budgets passed in a timely manner. Because the *fiscal* year (the government's budgetary year) begins on October 1, the deadline for completing a budget and getting the president to sign it (or to override his veto) is September 30. But Congress frequently misses the deadline as it battles within itself and with the president over where to spend money. At these times the government would theoretically shut down, but normally Congress passes "continuing resolutions" that authorize funding to continue at the same rate as the previous year until they come to agreement on a budget. Since 1994 the budgeting process has become even more difficult. Several times Congress has been unable to agree even on a continuing resolution, and non-critical portions of the government have shut down, angering much of the public. At the time this chapter was written, the federal government has gone for several years without agreeing on an actual

budget. Instead they have been operating off continuing resolutions and some ad hoc spending agreements.

The difficulties of budgeting will be discussed in a later chapter.

7.2 Oversight

Congress exercises oversight as one part of the system of checks and balances to make sure that the executive branch stays within its proper constitutional boundaries and faithfully administers the laws. The duplication of labor we saw in legislation also occurs in oversight. That is, both chambers of Congress exercise oversight authority. However, as we will see, the Senate has some specialized oversight powers that the House does not have.

Principals and Agents

A more general political concept tracks well with this constitutional checks and balances idea: *principal-agent theory* (also called just "agency theory"). The basic concept in principal-agent theory is that someone who needs to get something done (the principal) will often hire or appoint someone else (the agent) to complete the task for them. This is normally more efficient for the principal, or else she would have just completed the task herself, but comes with the problem of how to ensure the agent is really seeking to fulfill the principal's goals instead of his own.

The fundamental problem is that agents have goals of their own. For example, suppose you hire someone to mow your lawn, and you promise to pay them $20. Your goal, as the principal, is to have the lawn mowed well. The goal of the person you hire as your agent may be to put in as little time as possible to earn the $20, which may result in a poorly mowed lawn. Whether your agent is buying a car for you, choosing stocks to invest in, or babysitting your kids, how do you ensure that they are not putting their goals ahead of yours?

But the principal-agent problem occurs even when agents aren't trying to put their own goals ahead of the principal's goals. Sometimes the directions given to the agents aren't clear, so the agent has to use their own judgment—even when they're trying their best, their judgment may end up conflicting with the principal's judgment.

For these reasons, Congress *must* exercise oversight over the executive branch agencies. Congress is the principal, and the agencies are the agents (notice that "agency" and "agent" have the same root). Congress has

authority to set federal policy, but sometimes the executive branch agencies attempt to substitute their own policy preferences, not usually by direct refusal to comply, but through creative—and sometimes successful—interpretations of the rules. At other times Congress makes policies that are vaguely written, so the executive agencies have to make their own interpretation, at least until Congress clarifies the policy.

The Role of Committees in Oversight

The primary arena of congressional oversight over the executive branch occurs in congressional committees. Remember that committees each have a subject matter jurisdiction, such as agriculture, or the armed services. For each of these jurisdictions there are one or more executive branch agencies tasked with carrying out the policies set by Congress, such as the Department of Agriculture or the Department of Defense. A part of the authority and responsibility of both the House Agricultural Committee and the Senate Agricultural Committees is to oversee the Department of Agriculture. Likewise, both chambers' Armed Services Committees oversee the Department of Defense. As with legislation, there is a duplication of labor in this process: *both* chambers exercise oversight.

Overwhelmingly oversight is exercised by committees. It is a rare thing for an entire chamber to be actively engaged in a particular oversight issue. An example would be the Senate conducting an impeachment trial of a president. The same specialization that leads to the creation of separate committees, each with a particular jurisdiction, leads to the specialization of oversight. So while most committees do engage in oversight, they are generally all exercising oversight over different parts of the executive branch.

Police-patrol Oversight and Fire-alarm Oversight

Related, but cutting across the formal-informal distinction, are police-patrol and fire-alarm oversight.[1] Police-patrol oversight is oversight activities initiated by members of Congress and conducted by committees acting on their own initiative, like police choosing which areas of a city to patrol. There are several forms which this can take,

> such as reading documents, commissioning scientific studies, conducting field observations, and holding hearings to question officials and citizens.[2]

Police-patrol oversight can be either formal or informal. Formal oversight activities are those for which oversight is the "principal and official purpose,"[3] while informal oversight activities are those that occur as a part of legislative activities who main purpose is other than oversight, such as legislation and budgeting. Reading documents could occur in either a formal review of an agency, or informally as part of a process of legislation or budgeting. Commissioning studies and holding hearings are more explicitly formal oversight activities. The key for understanding the nature of police-patrol oversight is that it is congressionally-centered, and requires members of Congress to take notice and take action.

Fire-alarm oversight is a process Congress sets up to allow people *outside* Congress to call attention to problems in executive branch agencies. For example, Congress can create whistleblower laws that protect employees within those agencies who want to bring attention to violations of law or other forms of bad performance. Or it can explicitly authorize citizen lawsuits to challenge agency actions. In all cases, when issues are brought to Congress's attention, it can engage in formal oversight of its own to investigate the criticisms of an executive branch agency.

Police-patrol oversight more closely matches the traditional conception of Congress's constitutional check on the executive, but the creators of the police-patrol/fire-alarm model—political scientists Matthew McCubbins and Thomas Schwartz—argue that fire-alarm oversight is more effective. Because there are only several hundred members of Congress, they can only look at a small set of all the executive agency actions, even with specialized committees. And without some pre-existing awareness of potential problems, they are effectively searching randomly, so that many of the agency actions they examine will not be ones that are problematic. But with the millions of eyes of average citizens, agency employees, and organized interest groups observing executive agency actions, more problems are likely to be caught, and Congress can use that awareness to better focus its own efforts on likely problems.

Impeachment

Impeachment is the "nuclear option" of oversight, in which a president's actions are considered so egregious as to meet the constitutional standard of high crimes and misdemeanors. Both chambers play a role in impeachment, but their roles are separate and distinct. The House has the power of impeachment, which is equivalent to an

indictment; they file charges against a president alleging he has committed high crimes and misdemeanors. The Senate has the power of holding the trial, and of declaring the impeached president either guilty or not guilty. The judiciary even has a role here, as the Chief Justice of the Supreme Court presides over the Senate's trial.

It's not clear what constitutes high crimes and misdemeanors. While legal and presidential scholars have an extensive debate on the issue, the Constitution does not provide us any real guidance, so as a practical matter, as an issue of real-politik, the definition of high crimes and misdemeanors is whatever the House (in impeaching) and the Senate (in convicting) agree it is.

It is not at all clear that impeachment is an effective deterrent against presidential misbehavior. Only two presidents have been impeached, because it is seen as such a drastic step that Congress is reluctant to use it often. But ironically, both of those impeachments—of Andrew Johnson in 1868 and Bill Clinton in 1998—were more a product of spiteful political opponents than of great abuses of power, and so neither was convicted. No president has ever been convicted of high crimes and misdemeanors and removed from office.

However the threat of impeachment, and the great likelihood of conviction, did drive one president from office: Richard Nixon, who resigned at the recommendation of Congressmembers from his own party rather than face impeachment. So impeachment is not an entirely toothless constitutional provision. However the effective use of (impending) impeachment against Nixon did not constrain Ronald Reagan from allowing officials in his administration to violate multiple laws in the Iran-Contra scandal. And while the back-to-back Lyndon Johnson and Richard Nixon presidencies gave rise to the term "imperial presidency," the forced resignation of Nixon did nothing to check the continued growth of executive power, as we will see in a later chapter, and no president since has been impeached for abuse of executive power. So it remains unclear that impeachment has served as an effective check on the executive.

Special Oversight Powers of the Senate

The Senate has two specialized oversight powers that fall under the general term of "advice and consent." This language comes from Article II, §2, paragraph 2 of the Constitution, which specifies these special Senate oversight powers.

> [The President] shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States…

So the Senate has the power of "advice and consent" over treaties and appointments of executive branch officials (ambassadors and other public ministers—meaning a great number of officials in the executive branch agencies) and members of the federal judiciary (not only Supreme Court justices, but all other federal judges as well).

"Consent" — and the ability to withhold consent — matters much more than "advice." Whatever the Framers of the Constitution may have expected, Presidents do not seek advice from the Senate. They do, however, have to seek its consent, so they do pay attention to whether particular treaties or appointments are likely to receive Senate approval. For example, President Clinton never bothered to submit the Kyoto Protocols to the Senate for ratification because he knew they would not consent to it—that he could not get two-thirds of the Senators to vote in favor of it.

The concept of "advice" suggests a politics of coordination, of president and Senate collaborating to enact treaties and choose appointed officials, but because the advice role is rare, and the consent (or withholding of) role dominates, this is more often a politics of conflict. Politics being a matter of "who gets what, when, and how," if presidents can't get what they want in one way, they'll often try to find another way to win their battles with the Senate. One way is to make "recess appointments." This is authorized in Article II, §2, paragraph 3.

> The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

This does not refer to judicial appointments, because they have appointments for life, so they cannot be given temporary appointments, but it does apply to all executive branch officials, and often serves presidents as an effective end-run around the Senate's refusal to give

consent. A president who cannot get Senate approval of one of his appointments can wait until Congress is in recess (not meeting for a designated period of time) and appoint his nominee — for example, to be Secretary of the Treasury, or Ambassador to China — who can then serve without Senate approval until the end of that session of Congress. (Each session of Congress is the two years between congressional elections—running from January of an odd-numbered year to the end of the following even-numbered year.) At that point, the appointment ends, and the President must re-appoint, and once again play the game of trying to get the Senate's consent.

The recess appointment rule was created at a time when people expected Congress to meet for only a few months each year, and travel time to get to the capital could be days or even a week or more. If an executive branch official resigned or died, getting all the Senators to the capital to vote on a replacement would be not worth the effort, so the Framers gave the President authority to act on his own, but only as a temporary measure. Today, Congress meets almost year-round—with breaks in August, at holidays, and for time to run for re-election—and even the most distant senators in Hawai'i can get to the capital in less than a day. Consequently, the recess appointment power has become less of a tool for maintaining effective governance and a tool for bypassing Congressional control.

Presidents have an end-run around Congress in regard to treaties, also: executive agreements. These are agreements made directly with the heads of states of other countries, and because the Constitution makes no mention of such things—the Framers never anticipated them—they do not need Senate approval. To some extent they can be said to receive *tacit* approval of the Senate, because if enough Senators strongly disapproved of an executive agreement they could potentially force a change through the legislative process.

But as much as we might expect Senators to disapprove of presidents using executive agreements instead of treaties, so that they can cut the Senate out of the process, the Senate generally approves of President's use of executive agreements because of their efficiency. They can usually be negotiated more quickly than treaties (in part because they can be more easily changed or terminated, so it's not as necessary to get all the terms precisely right), they can promote the country's international interests without getting bogged down in legislative politics, and the Senate does

not have to devote time to considering whether or not to approve them. So although the innovation of executive agreements as a substitute for treaties is in effect a shift of power from the legislative to the executive branch, the Senate is happy to give away that power.

Ending the Filibuster on (Most) Presidential Nominations, or The Democrats Go Nuclear

From the 1980s through the early 2010s, the Senate experienced a proliferation of the use of filibusters to block presidential nominees. A filibuster — as will be explained more fully in the chapter on the legislative process — is when senators block a vote by refusing to vote to end debate. It takes 60 votes end a filibuster and bring an issue to a vote. This is a long-standing tradition in the Senate, but filibustering presidential nominees is more controversial than filibustering legislation, because it's no longer just an internal Senate affair; it now affects another branch of government. And one line of argument says that the Advice and Consent function of the Senate imposes a duty on the Senate to hold — and gives Presidents a right to expect — an up-or-down vote on nominees, rather than letting them remain in limbo indefinitely, neither approving nor rejecting them. Senators often make this claim as well, although they do so more vocally when they are in the majority, and it is their party's president whose vote is being blocked by a majority. In practice, over the past 20 years both parties have become more likely to filibuster presidential appointments when in the minority.

In 2013, Democratic Senate Majority Leader exercised what has been called "the nuclear option" to eliminate filibusters on most presidential nominees (with the exception of Supreme Court nominees). This was done via a simple, but momentous, parliamentary maneuver. Senate rules require that changes to rules require a 2/3 majority, or 67 senators — an impossible number to reach, given that Democrats had only 55 members in the Senate and could not even reach the 60 to end a filibuster. Majority Leader Reid raised a point of order — a parliamentary procedure that allows a person to ask a question about procedure or to argue that procedure is being used incorrectly—suggesting that the next cloture vote should require only a simple majority, instead of 3/5. The presiding officer of the Senate, a member of Reid's party, who was in on the plan, ruled the motion out of order, as not consistent with Senate rules. Reid then appealed the presiding officer's ruling, and the ruling was overturned by

a vote of 52-48 (with all Republicans voting to uphold the ruling, and all but 3 Democrats voting to overrule it). A direct effort to change the rule would have required 67 votes, but this indirect method — simply overruling the presiding officer when he tried to enforce the rule — could be done with a simple majority.

This may sound like an obscure "inside baseball" procedure, and it is. It may sound like something that was very simple to do, and it was. But it was also highly controversial, and the Republicans in the minority were infuriated by what they perceived as a dirty trick, and end-run around the rules. They also threatened the Democrats that this would come back to haunt them in the future when they were in the minority once again and the Republicans had the majority and a Republican president (which will, inevitably, happen someday), because then the Republicans would enforce the same rule, limiting Democrats' ability to block Republican presidential nominations, just as they had limited Republicans' ability to block Democratic presidential nominations. Harry Reid and his party members who voted for this rule change are fully aware of that. They know that the change is a two-way street, but presumably they decided that they would prefer to limit their own future influence than to allow Republicans the current influence they were, in the Democrats' view, abusing.

The rule change will not help presidents who face a Senate where the other party has a majority, because the majority can still refuse to hold a vote on a president's nominees (another example of negative agenda control). But in those cases where a president faces a Senate with a large minority (more than 40) of the other party, it should make getting their appointees approved much easier than it has been since the 1970s.

7.3 Constituent Service (Casework)

> Casework — or Constituent Service, as it is often called — is one of the most valuable functions of a Congressional office. It fills an important humanitarian need and gives the Member of Congress a direct line to the needs and concerns of his or her constituents.
>
> You might think of it as the Customer Service Department for the federal government.[4]

Further explanation comes from Representative Marlin Stutzman's casework guide.

> Casework in a congressional office typically involves a personal issue from a constituent. The words that come up most frequently include need help, claim, response time, application, can't get an answer, and don't know where to turn.[5]

Stutzman's casework manual also explains how the amount of casework can be surprising to rookie Congressmembers.

> When candidates run for office, they usually concentrate on the important policy matters which affect their constituents. Taxes, budgets, education, homeland security, and a myriad of other issues are often at the forefront.
>
> =Although shaping policy is certainly the most important function of public services in legislative offices, many elected officials are surprised at the number of requests they receive to help constituents overcome problems with the government. It is not uncommon for a Congressional office to receive thousands of requests for help each year, and casework can quickly become overwhelming if the staff is not prepared for it. Elected officials who handle casework quickly and effectively have become an important part of our system of government. Also, efficient handling of requests can build much goodwill with the constituents.[6]

But constituent service does have a link to policymaking and oversight. A Congressional Research Service report notes that

> casework is seen by some as an evaluative stage of the legislative process. Some observers suggest that casework inquiries can provide Members of Congress with a micro-level view of executive branch agencies, affording Members the opportunity to evaluate whether a program is functioning as Congress intended. Constituent inquiries about specific policies, program, or benefits may also suggest areas in which programmatic or policy changes require additional oversight, or further legislative consideration.[7]

Constituent service can take a number of different forms, from helping military veterans get the Veterans' Administration (VA) benefits to which they are entitled by law when they are struggling to navigate the obstacles of the VA bureaucracy, to helping farmers get temporary work visas for immigrant agricultural workers, to helping citizens or legal residents speed up the process of getting permission for spouses who are citizens of another country to immigrate to the U.S.

Here are some other examples of constituent service.

1. An Air Force Sergeant, the mother of three small children, was less than a year from the end of her enlistment, and planning to leave the service, when she received word that she would be transferred from Texas to Florida as part of her routine rotation. In Florida she would receive about 6 weeks of training, then begin a 2 year assignment, that she would be leaving at the end of her enlistment only about 2 months after she had completed training for it. She did not want to transfer, and leave her husband and children for several months when her primary reason for deciding to leave the service was so that she wouldn't be transferred far away from them, and she thought it was silly to spend so much time training her for a job she would be leaving so soon. All her efforts at working through the Air Force chain of command led nowhere, so as a last resort she called her Representative, and through his office her difficulty was resolved, and the Air Force agreed to let her stay where she was until the end of her enlistment.[8]

Sometimes Congressmembers reach out to their constituents to provide service, rather than wait for them to come to him.

2. A Representative hosted financial aid workshops each year, bringing U.S. Department of Education officials to his district to help parents of college-bound students figure out the federal financial aid forms.

3. During an outbreak of avian flu, a Representative hosted several meetings in his district for poultry farmers, bringing in officials from the U.S. Department of Agriculture, the Centers for Disease

Control, and the U.S. Fish and Wildlife service to provide information critical to the protection of their livestock.

Of course Congressmembers do not do all this work themselves — doing so would leave them no time for lawmaking, oversight, or running for re-election. But each office has a staff tasked specifically with doing casework, helping direct constituents in need to the correct bureaucratic agency, or contacting the agency directly on their behalf.

They are not always successful, though. Sometimes people ask for help that their Congressmember cannot provide, and sometimes the best efforts of casework staff are not enough to move the bureaucracy. Bureaucracies have rules for a reason, and one of those reasons is to constraint the possibility that government services will be provided on the basis of political favoritism. That inevitably means bureaucracies cannot always respond favorably a Congressmember's efforts to help a constituent.

Constituent service is arguably more important for members of the House (Representatives) than for Senators. First, House members serve 2 year terms, while Senators have a 6 year terms, and voters are more likely to remember help—or a lack of it—for two years than for 6. Second, because most House districts are smaller, both geographically and in population, than most states, a happy or angry constituent can probably influence a larger number of voters in a re-election race for the House than for the Senate. This does not mean, though, that Senators can afford to ignore constituent service. Every member of Congress, House or Senate, has a link on their website through which constituents can request assistance, and they will all respond to letters and phone calls as well.

7.4 The Structure of Congress

The structure of Congress has two dimensions. The first dimension is the constitutionally structured division of Congress into two separate chambers — House and Senate — which is partly a division of labor, but mostly a duplication of labor, as we will see soon. The second dimension is the internal functional structure of each chamber, which is in a small part constitutionally required, but which mostly is a matter of rules created by the chambers themselves for functional convenience. As we'll

see, because of the duplication of labor, the two chambers have similar functional structures.

The Constitutional Division of Legislative Power into Two Chambers

Legislatures come in three styles.

1. *Unicameralis*m: Only one house in the legislature (*uni* = "one," as in unicycle, *camera* = "chamber"). About half the world's countries use unicameral governments. Examples include the Japanese Diet and the New Zealand Parliament, as well as the Nebraska state legislature (the only unicameral state legislature in the U.S.).

2. *Asymmetrical Bicameralism*: Two houses in the legislature (*bi* = "two" as in bicycle), which are asymmetrical because one has substantially more legislative authority than the other. Usually the lower house (such as Britain's House of Commons) has legislative authority, and the upper house (such as Britain's House of Lords) has very little authority. Another country with an asymmetric bicameral legislature is Canada.

3. *Symmetric bicameralism*: Two houses, each with roughly equal legislative authority.

These different structures have different effects on legislative efficiency. The unicameral structure allows legislation to pass quickly, as only one chamber's agreement is necessary. The asymmetric bicameral structure also usually allows legislation to pass quickly, because the upper house generally has little authority to block legislation. But the symmetric bicameral system, of the U.S. is a design that intentionally complicates the legislative process by requiring two chambers to agree on laws, not just in general, but in every detail. This bicameral structure is specified in Article 1 §1 of the Constitution,

And the symmetric part, the rough equality of power, is specified in Article 1, §7,

> Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States.

The key here is not the role of the president, but that to become law a bill must pass both the House and the Senate. Each chamber's concurrent to law is necessary, and each has power to stop the other from making law.

Beyond ensuring each state at the Constitutional Convention had sufficient representation, a major purpose of this structure was to prevent congressional tyranny, by making it harder to act swiftly, without sufficient thought or without being effectively challenged. Just as the Framers fragmented political power by first dividing it between the states and the federal government, and second by dividing the federal government into three branches, the *bicameral* structure of the U.S. Congress is a third fragmentation of political power. Because the two chambers have equal legislative authority, they are symmetrical in power, and we call the structure *symmetrical bicameralism*.

James Madison explains this purpose in Federalist 51. (http://avalon.law.yale.edu/18th_century/fed51.asp)

> A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions… In republican government, the legislative authority necessarily predominates. The remedy for this inconveniency is to divide the legislature into different branches; and to render them, by different modes of election and different principles of action, as little connected with each other as the nature of their common functions and their common dependence on the society will admit.

Americans often complain about "gridlock" in government, but gridlock is the cost the Framers purposely accepted in order to ensure the benefit of non-tyrannical government. As software engineers say, it's a feature, not a bug. The Framers were not certain that having to face regular elections ("a dependence on the people") was a sufficient protection against a tyrannical legislature, so they purposely divided it in order to obstruct its efficiency.

This obstruction lies in the constitutional requirement that each Chamber has to approve a bill before it can be sent to the President to either become law or be vetoed. This—both chambers having authority to write laws, but only with the other chamber's agreement—is where the chambers have a duplication of labor. Instead of requiring only a single

majority, in one of the chambers, to approve of bills, two separate majorities must be achieved, and both must approve of precisely the same wording in the bill—any difference in wording means they must resolve the difference and each chamber must once again muster a majority in support of the bill. The purpose of this is that if one chamber proposes a law that is beyond its authority, or abusive of the rights of the people, the other chamber will, or at least should, refuse to agree to the bill.

Americans have a complicated view of Congress. In part they tend to revere the Constitution, and the intent of the Framers to prevent tyranny, so most people do not question the Constitutional design of the Congress. At the same time public frustration with congressional gridlock is an on-going complaint. In 2013 public approval of Congress dropped to a low of 9%.[9] This confusion of liking the system, but disliking the results it produces reveals confusion in Americans' understanding of their own political system. First, people tend to think the system works well when it obstructs legislation they don't like, while disliking the system when it obstructs legislation they do like. But the system was not designed to only create roadblocks for one group's proposals, but as a way for *any* proposal to undergo extensive scrutiny and possibly be blocked—even when a policy you fervently support is blocked, the system is working as intended.

Second, when people object to gridlock their overall belief in the American political system leads them to blame the actors within the system—Congressmembers—instead of the system itself. To some extent this is legitimate, but the type of people who get into the system, who become Congressmembers, is still a consequence of the American system, the electoral part. Change our electoral system and we will get, to some extent, a different type of person in office. But even a different type of people will be operating within the same system. Politics will still be in part a conflict over what type of policies we should enact, and the actors will still use the same means available within the system to block policies they don't like.

In short, if we really like the American political system of symmetric bicameralism, we need to recognize that gridlock is part of the designed intent of the system. But if we think gridlock is a problem, the problem is in the system, not in the people working within it.

The Necessity of Compromise

A second effect of the requirement that both branches agree to all the specific details of laws is that lawmakers are usually forced to compromise. Most often, supporters of a policy do not get everything they want, but have to accept some compromises in order to build a majority in support of legislation and overcome opposition. This is true whether we focus on the individual Congressmembers who support a particular policy or whether we consider the party that is in power. It is particularly true in the Senate, in which the rules allow the minority greater ability to obstruct legislation through the use of the filibuster, as we will see in the chapter on the legislative process.

This compromise means American public policy tends to take much longer to enact, to be more centrist, often more muddled and less coherent, and not fully satisfying to anyone, but it does tend to prevent radical policy changes. The history of the effort to create a national health care system provides a good example.

1. 1945: Just months after the end of WWII President Truman becomes the first U.S. President to propose a national health care system, but is unsuccessful.
2. 1965: 20 years later President Johnson signs into law Medicare and Medicaid. Although Johnson declared that the idea "all started with the man from Independence," Missouri (Truman), these programs do not cover all Americans, just those over 65 (Medicare) and those who are poor and/or disabled (Medicaid), and they are not fully government-run, but work in coordination with private insurers.
3. 1976: A decade later President Carter proposes a national health care system with universal coverage for all Americans, but the legislation never passes Congress, although his party has a majority in both chambers.
4. 1993: Two decades later, President Clinton proposes a national health care system, but as with Carter, despite his party having a majority in both chambers of Congress, the legislation does not pass.
5. 2010: Almost another two decades later, 65 years after Truman's first proposal, Congress passes "Obamacare" (more properly, PPACA, the Patient Protection and Affordable Care Act, often called just ACA). For the first time, all Americans are guaranteed health insurance, but the law still does not create a true national

health care program, because instead of health care coverage being granted to all Americans through a government-run insurance plan, all Americans are mandated by law to buy insurance through private companies.

The point of this story is the same, regardless of whether or not one supports nationalized health care. The effort to create national health care in the U.S. has taken more than half a century, as opponents have consistently been able to use the structure of Congress to block it, and even today with the Affordable Care Act extending health insurance coverage to all Americans, the law is a compromise product, working through private health insurers rather than replacing them with a government program.

Politics has been called "the art of compromise," and the American political system effectively has that definition build into it (the Constitution itself is imbued with a great number of compromises). While some people praise compromise as a noble act of statesmanship, as often as not it is just pragmatic political strategy. Others denounce compromise as selling out, failing to recognize that the American system was purposely designed to prevent any one group's policy preferences from completely dominating everyone else's preferences, as emphasized by James Madison in Federalist 10.

> Among the numerous advantages promised by a well-constructed Union, none deserves to be more accurately developed than its tendency to break and control the violence of faction… [of] a number of citizens, whether amounting to a majority or minority of the whole, who are actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens…

Gridlock, compromise, and preventing anyone from getting their way entirely, are the characteristics—the *intended* characteristics—of the American political system.

7.5 The Internal Functional Structure of the Two Chambers

Internally, both the House and the Senate have three sets of structures that shape how they function. Two of these are formal structures: the

leadership structure and the committee structure. The third is an informal structure: logrolling and vote-trading.

The Leadership Structure

The first of the formal internal structures of the House and Senate (and by formal we mean official and defined by written rules) are the chambers' leadership structures. The House and Senate both have leadership structures that are based on party lines, although the Constitution makes no mention of parties, and the Framers did not anticipate or intend for the chambers to have party divisions. We will first discuss the House, then the Senate.

	HOUSE		SENATE	
Constitutionally required offices	– Speaker		– President (V.P. of the U.S.) – President Pro Tempore	
	MAJORITY PARTY	MINORITY PARTY	MAJORITY PARTY	MINORITY PARTY
Additional offices	– Majority Leader – Lesser offices – Committee Chairs	– Minority Leader – Lesser offices – Ranking Member of Committees	– Majority Leader – Lesser offices – Committee Chairs	– Minority Leader – Lesser offices – Ranking Member of Committees

Figure 7.1

The House of Representatives Leadership Structure

> "The House of Representatives shall choose their speaker and other officers" (U.S. Constitution, Article 1, §2, paragraph 5).

Speaker of the House

The only constitutionally required leadership position in the House is the Speaker of the House, who is officially the presiding officer of the House of Representatives. Because the Framers did not anticipate the rise of political parties, the Speaker is theoretically the head of the whole House, and in fact does operate that way to a certain extent, being the chief organizer of the House's legislative process. But in practice, both parties nominate candidates to be Speaker, and of course the candidate for the majority party wins, so the Speaker primarily represents his/her own party. (The real battle for Speaker may occur *within* the majority party, as rivals contend for their party's nomination.)

The Speaker has extensive power, which includes.

1. Influence in committee assignments and committee chairmanships for his party's Congressmembers. Congressmembers care deeply about which committees they sit on, both because they wants to deal with legislation they care about and because they want to sit on committees that matter to their constituents. A Representative from a rural area, for example, may want to sit on the Agricultural Committee, while a veteran may want to sit on the Armed Services Committee. Within limits, the Speaker has the opportunity to wield power by rewarding or punishing members of his party. The Speaker also appoints a majority of the members of the all-important House Rules Committee, which sets the rules for final debate on all legislation, and members of special "Select" committees (that deal with topics of special significance) and *conference committees*, the ones that meet with members of the Senate to resolve differences in legislation passed by both chambers.

2. Assigning bills to committee. As we will see below, committees are of fundamental importance in Congress, and some bills could be assigned to either one committee or another. Since one committee may be more favorable toward the bill, while the other may decide to bury the bill, the Speaker can influence the fate of legislation, possibly killing it, simply by her choice of which committee to assign it to. This effective power to stop legislation in its tracks is called *veto power*, and the Speaker is a *veto player*, one who has the ability to wield veto power. Such power can also be thought of as gatekeeping power — the Speaker can open the gate and help a bill go through, or she can shut the gate and keep the bill from going any further.

3. Scheduling bills for a vote on final passage. Nearly all bills get voted on multiple times throughout the legislative passage, but the vote on final passage is the vote that determines whether the chamber as a whole passes the bill or not. The Speaker is the one who determines when this vote occurs, which allows them to 1) delay a vote indefinitely, so that perhaps it never passes (which can only occur if there is not very strong demand in his party to

pass the bill); 2) delay a vote temporarily while he rounds up enough votes in his party to get it passed; or 3) to rush a vote through quickly before others can organize effective opposition to it.

Speakers rarely schedule a bill for a vote on final passage until they are confident they have enough votes to pass it. Occasionally, however, they fail, as happened several times to Republican Speaker of the House John Boehner, who has had trouble controlling hard-line conservative "Tea Party" Republicans. In June 2013, for example, he lost a vote on a farm bill because of cuts to the Food Stamps welfare program: some Democrats voted against it because of the cuts, which Boehner expected, but some Tea Party Republicans also voted against it because they thought the cuts did not go far enough.

Above all else, Speakers try to ensure *party discipline*, having all members of the party following the party leadership's lead. While party discipline is normally much stronger in the House than the Senate, it cannot always be achieved. While Speakers are supposed to coordinate the legislative activities of their party, that can be difficult when they are in conflict with their own party's members, because they have few real means of control over those members. In the end, each Representative is accountable not to their party's leadership, but to their own constituency. Party leadership can determine a Representatives' committee assignments, they can provide assistance or obstruction to a Representative's legislative efforts, and they can provide assistance (or not) in their re-election efforts, but they cannot directly command them and order them to vote a particular way. And sometimes party leadership can only lead by rushing to get in front of wherever the members of their party have already decided they are going.

4. Leader of the Loyal Opposition. When the Speaker and the President are of different parties (a situation we call *divided government*), the Speaker is the highest ranking official of the party in opposition to the President. When the Speaker and President are of the same party, the Speaker may see her duty as helping to successfully shepherd the President's legislative agenda through

the House. But when they are of opposite parties, the Speaker may see her role as obstructing the President's legislative goals.

The concept of a "loyal opposition" is an important one, as it emphasizes that the opponents of the President are not disloyal, because their proper loyalty is to the country, rather than to its chief executive. Although the concept is used more often in parliamentary systems, it is also appropriate to the U.S.

5. Finally, the Speaker of the House is second in line of the succession for the presidency (behind the Vice President). That is, if both the President and the Vice President resign, are removed, or die (or some combination thereof), the Speaker will become the President. This position comes from Article 2, §1, paragraph 6 of the Constitution, which authorizes Congress to "by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President." Congress has done so in the Presidential Succession Act of 1947, and various amendments to the Act since then.

The House Majority (and Minority) Leader and the Majority (and Minority) Whips

Although the Constitution only requires a Speaker of the House, it allows the House to "choose…their other officers, whichever ones they decide they need. And they do need other officers, because their business is complex, and it requires a tremendous amount of work to coordinate their own party so that it can be effective when it comes into conflict with the other party. And as previously noted, although the Speaker is always the leader of the majority party, constitutionally the position is the leader of the whole House. The rest of the leadership structure is explicitly along party lines, and both the majority and minority parties have identical leadership structures.

Each party has an official leader. The leader of the party that holds more seats in the House is the Majority Leader, and the leader of the party with fewer seats is the Minority Leader. There is a difference between the two, though, because the Minority Leader is the top official of his party, and is the one who is in line to become Speaker if his party gains a majority. In this sense, the Minority Leader can be understood as a

"shadow Speaker," the minority party's counterpart to the Speaker of the House. The Majority Leader is actually her party's second most important leader, because her party also holds the House Speakership.

The role of the party leader is to manage the party's legislative business and try to ensure support among the party's members in the House for proposals supported by the party leaders. In this, the Majority Leader can be understood as assisting the Speaker of the House.

Both parties also have a "Whip," who helps the party leaders round up votes for their party's positions, whether in support of a bill or in opposition to it. In other words, their job is to ensure *party discipline*. The term comes from fox hunting, where the job of the "whipper in" is to keep the dogs together in a pack, and keep them from wandering off. That is, the job of party Whip is to keep your party's legislators in a unified pack, and keep them from wandering off to cast votes against the party leaders, or to fail to vote when their vote is needed to pass, or block, a bill.

<u>The Senate Leadership Structure</u>

> "The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.
>
> The Senate shall choose their other officers, and also a President pro tempore, in the absence of the Vice President, or when he shall exercise the office of President of the United States" (U.S. Constitution, Article 1, §3, paragraphs 4-5).

As with the House, the Senate's constitutionally required leadership positions are theoretically not party-based, but in reality all the leadership authority is based on the party structure. Unlike the Speaker of the House, though, these constitutionally required leadership positions wield little real power.

President of the Senate

We can cover the Senate Leadership structure much more quickly, because so much of it is just like the House leadership structure. But there are a few important differences. First, the Senate has no Speaker, nor any constitutionally required role that is the equivalent of the Speaker. The Vice President of the United States is designated as the President of the Senate, but the only authority given is to cast tie-breaking votes, which

happens only rarely. So Vice Presidents rarely bother to preside over the Senate unless a tie-vote on important legislation seems likely or on ceremonial occasions.

President Pro Tempore

The Constitution also requires a President Pro Tempore, to preside over the Senate when the Vice President is not in attendance (which is most of the time). The President Pro Tempore is normally the longest serving senator in the majority, but the position is largely ceremonial, and majority party Senators take turns serving as the presiding officer on a daily basis.

In brief, the two constitutionally required officers of the Senate rarely play a significant role in the Senate's legislative activities.

The House Majority (and Minority) Leader and the Assistant Majority (and Assistant Minority) Leaders

Just as with the House, the parties in the Senate have Leader and Whip positions, although in the Senate the Whips are technically known as the Assistant Part Leader. The real leader of the Senate—to the extent the Senate can be said to have leadership—is the Senate Majority Leader. Like the Speaker of the House, the Senate Majority Leader manages the flow of legislation, and tries to ensure that his party's bills come to a vote on final passage only when there are sufficient votes to pass it. The Senate Majority Leader also plays similar roles in influencing committee assignments and determining to which committee bills are submitted, with similar (although weaker, veto power).

Senators are more elite than Representatives, though, and do not care to be led. Consequently, party discipline in the Senate is normally much weaker than in the House, and Party Leaders may be chosen by their parties as much for their lack of ability to command as for any actual leadership qualities. This does not mean Senate Majority Leader is not an important position, just that it is a position in which it is difficult to exercise strong leadership over one's own party members.

7.6 The Committee System

> Each House may determine the rules of its proceedings (U.S. Constitution, Article 1, §5, paragraph 2)

The second of the formal internal structures of the House and Senate are the chambers' committee systems. The day to day legislative work in both chambers occurs not on the floor of the chamber with all members in attendance, but in smaller rooms where an individual committee is considering a bill. Nothing in the Constitution requires committees, but neither chamber could operate effectively without them.

Each committee has a specific jurisdiction. The House Finance Committee, for example, has jurisdiction over banks, economic stabilization, insurance, international financial and monetary organizations, and securities and exchanges, among a variety of other issues. By contrast, the House Agricultural Committee has jurisdiction over agriculture in general, agricultural and industrial chemistry, stabilization of prices of agricultural products, crop insurance, soil conservation, forestry, rural electrification, and livestock inspection, among other issues. This specialization allows the House to work on multiple issues simultaneously.

As noted above when discussing the Speaker of the House, every bill submitted by a member of the House is assigned to a committee, as determined by the Speaker. The different jurisdictions of the committees provide some guidance to the Speaker's choice, but because many political issues are complex, there are issues on which multiple committees have overlapping and competing jurisdiction. The war and foreign policy blog "War on the Rocks" provides an example.

> Examples of the jurisdictional overlap: the House Committee on Homeland Security and Senate Homeland Security and Government Affairs Committee have jurisdiction over the physical aspects of border security; the Judiciary committees oversee enforcement of immigration law; the House Committee on Homeland Security and Senate Homeland Security and Government Affairs Committee are responsible for transportation security, but the Transportation committees have jurisdiction over transportation safety.[10]

It is this jurisdictional overlap that gives the Speaker of the House some freedom of choice in determining where to assign a bill, with the expectations of being able to count on a committee chairman to shepherd through a bill the Speaker likes or to go slow on a bill the Speaker doesn't

like. It doesn't always work, but the Representative who proposes a bill doesn't even have that much control over it once submitted.

Every committee includes a set of subcommittees, each of which is also jurisdictionally specialized, focusing only on a subset of the committee's jurisdiction. For example, the Senate Committee on Environment and Public Works has the following subcommittees:

- Clean Air and Nuclear Safety
- Green Jobs and the New Economy
- Oversight
- Superfund, Toxics and Environmental Health
- Transportation and Infrastructure
- Water and Wildlife

Everything that we have said of committees applies to subcommittees as well. Bills that are assigned to a committee are normally then assigned to a subcommittee. And just as the Speaker has some freedom of action in determining to which committee to assign a bill, the committee Chair has some freedom of action in determining to which committee to assign a bill, and to some extent the subcommittee chair has agenda control power, the capacity to put bills near the top of the agenda or to bury them down at the bottom. Because thousands of bills are submitted in each session of Congress, while each committee and subcommittee can only work on a few bills at a time, most bills end up dying in committee without ever having been seriously addressed.

Because the House and Senate have a duplication of labor on legislative responsibilities, their committee systems are very similar. However because there are fewer Senators than Representatives, each Senator normally serves on more committees than does each Representative. Most committees' jurisdiction also includes oversight over specific executive branch agencies, as discussed below in the section on the functions of Congress.

<u>The Importance of Committee Chairs</u>

The chairmanship is a powerful position, because the chair controls the process of legislation within the committee, and nearly all bills must go through a committee, and be approved by them, before they have an opportunity to be voted on for final passage. The most important power of the committee chair is *agenda control*, the ability to move a bill forward on the agenda or

push it to the back of the agenda. Imagine yourself as a committee chair, and two people make proposals, one of which you like a lot, and the other which you think is awful. As committee chair, you have the power to determine which one of these will get placed near the front of the committee's agenda, and which will get buried so far to the back of the agenda that your committee will likely never deal with it. Agenda control is another example of *veto*, or *gatekeeping*, power, and committee chairs are important veto players in the legislative process.

The minority party has a "shadow chair," who is called the "ranking member." If the party gains a majority in the House, this person normally becomes the chair. This person is responsible for organizing opposition—to the extent possible when the other party has an absolute majority—to committee bills that are opposed by his party.

Committee chair positions are vitally sought after by Congressmembers. In addition to the desire to be powerful and influential, committee chairmanships are a matter of prestige (particularly the committees seen as especially important, such as the Committee on Intelligence, which oversees the executive branch intelligence agencies), and they can put the member in a position to provide great benefit to their constituents, whether by ensuring bills are designed in ways that promote their constituents interests or by ensuring federal money flows to their district for various projects. The position also enables the chair to build support from other members by doing the same for their districts.

7.7 The Informal Structure of Vote Trading

Not all structures are formal. Some are informal, which means they are not written down and officially enforced. This does not mean they are any less important, as anyone who breaks a social norm and suffers social retribution in response finds out. In both chambers of Congress, there is an important informal system of vote trading, exchanging votes on other members' important items of legislation.

In Congress, this system is often called "logrolling." The idea is that no-one can roll a large log by himself, but if several work together they

can easily do so. Of course once I help you roll your log, you owe me help with my log. Or, if I vote for your bill, you owe me a vote on my bill.

This can work in two ways. One is to explicitly trade votes on different items of legislation, as explained by economist William Shughart.

> The logic of collective action explains why farmers have secured government subsidies at the expense of millions of unorganized consumers, who pay higher prices for food, and why textile manufacturers have benefited significantly from trade barriers at the expense of clothing buyers. Voted on separately, neither of those legislatively enacted special-interest measures would pass. But by means of logrolling bargains, in which the representatives of farm states agree to trade their votes on behalf of trade protectionism in exchange for pledges of support for agricultural subsidies from the representatives of textile-manufacturing states, both bills can secure a majority.[11]

Another way is to implicitly trade votes on a single item of legislation, by allowing various members to attach amendments that provide particular benefits to their constituents, what is called *legislative pork*. Allowing you to do so buys your vote on the bill, and allowing me to do so buys my vote on the bill. And even if I do not like your pork I'm willing to vote for it by voting "yes" on the whole bill because it includes my pork. And even if you don't like my pork, you vote yes for exactly the same reason.

The public generally does not like to hear that Congress operates this way, thinking that Congressmembers ought to vote based on the merits of a bill. But in the big picture of U.S. government spending, the pork that is produced by such logrolling is minor, and it is the grease that keeps the system operating smoothly.

Summary

A number of distinct structural elements define the nature and character of the U.S. Congress. At the top level, Congress is divided into two chambers of roughly equal legislative authority (symmetrical bicameralism), and the necessity of getting both chambers to agree to the details of legislation tend to produce a slow and contentious political process that often bogs down in gridlock. Within each chamber the

important structural elements are 1) the party leadership structure; 2) the committee structure, with each committee have its own subject matter jurisdiction; and 3) the structure of log rolling, in which legislators trade votes to help build support for various items of legislation.

Congress's important functions are lawmaking, which creates the public policies for the United States, including the all-important task of budgeting; oversight of the executive branch, fulfilling their check-and-balance role in the constitutional system; and constituent service, motivated by their need to keep constituents' happy in order to win re-election.

What to Take Away from this Chapter
(or to be honest, what might you get tested on)

1. What are the three functions of Congress?
2. Why does Congress delegate authority to the President?
3. What is the filibuster, and why does it matter?
4. What is the principal-agent problem?
5. What is police patrol oversight?
6. What is fire alarm oversight?
7. Why does oversight matter?
8. Why does constituent service matter?
9. What do symmetric bicameralism, asymmetric bicameralism, anc unicameralism mean?
10. Which of the above does the U.S. have?
11. What office is the leader of the House of Representatives?
12. What office is the leader of the Senate?
13. What are whips?
14. Why do committees matter?
15. What does it mean to say that each committee has jurisdiction?
16. Why are committee chairs important?
17. Why do legislators trade votes?

Questions to Discuss and Ponder

1. Potentially, Donald Trump may become only the third President to be impeached (and the fourth to be threatened with it). Is this a legitimate exercise of Congress's authority?

2. Asymmetric bicameralism makes it harder to pass legislation, leading to gridlock. Is this a good thing or a bad thing? Should the U.S. shift to symmetric bicameralism? Unicameralism? Why or why not?

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