Introduction to American Government

“Congress”

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Congress – An Unpopular Institution

August 5, 2014 (Rasmussen Reports) – 6% of likely voters think Congress is doing a good or excellent job.

Compares to 27% approval of the Supreme Court and 44% approval for the President.

August 3, 2014 (ABC News) – 51% disapprove of the way their individual representative is doing his or her job.
Congress – An Unpopular Institution

Why does the public dislike Congress?

• General aversion to politics
• Polarized political parties
• Ineffective at legislating
• Negative in substance and tone
• Members and campaigns have played into this dislike and sought to “run against Congress.”

Other explanations?

• We have done a poor job explaining how the legislative process works.
• Failing to understand the complex trade-offs necessary in the American legislative process breeds cynicism and disinterest.
• This is important, as campaigns and interest groups have seemingly gotten better and better at exploiting this lack of understanding during elections.
• Roll call votes, member effectiveness at passing legislation, partial statements, campaign contributions, member and staff salary information, etc., are frequently used in attack ads with no additional context or background.
• This “talk”: A walk-through the modern legislative process.
Esquire: Not long ago, animated by the public mood about Congress and its current historic ineptitude and extremism, we decided to talk to members of Congress, from both houses and both parties, to find out what their problem was. And they started talking, often at length and in surprisingly thoughtful ways, about their jobs. I ended up talking to ninety members—a third of the Senate, more than a tenth of the House. They have all been eager to talk, as if they wanted to get something off their chest. They represent the full ideological spectrum, and the full florid bouquet of American accents, and an almost astonishing variety of biography.

But who really cares about the sad plight of members of Congress? "I had $42 million dropped into my 2012 race by outside groups—$42 million—a record that will likely be exceeded this year in North Carolina, now that the Supreme Court has become almost an arm of corporate America. I'm not whining about this," says Sherrod Brown, Democratic senator from Ohio, "because nobody cares about the problems of people in our position. No whining on the yacht!"

Esquire: Except, of course, that their dilemma is our disaster. I had initially planned to ask for no more than ten minutes of their time, basically just to ask them why they were so bad at their job, but fairly quickly it became obvious that these were going to be richer and deeper conversations than I had bargained for. And along the way, something unexpected happened: I became less angry and more sympathetic to the thresher that all of these people find themselves caught in. They are not whining. They are crying for help. After only a few interviews, I stopped asking, "Why are you so bad at your job?" because it occurred to me that it was a cheap question, the kind of question that's not interested in an answer, which is just the sort of cultural deformity that got us into this mess. It's a terrible job, being in Congress in 2014.

"It's become shirts versus skins far too often," says Republican senator Jeff Flake of Arizona. "A couple of years ago, I got invited to play basketball with the president, myself and nine other House members. And I was in the White House in the basement lacing up my shoes, and I got a call on my cell phone. Somehow somebody patched it through, and it was a woman from Arizona, a constituent, crying hysterically. 'Don't play basketball with that man!' she said. It's become terrible. It really has."
Congress - Overview

The House and Senate occupy the center stage in national policymaking.

Electoral politics influences almost everything members of Congress do, collectively and individually. Reelection has to be a proximate goal.

The majority party, through party leaders, directs and dominates the action in the House and, to a lesser degree, the Senate.

It is always easier to stop things from happening in Congress than to make things happen.

Congress - Historical

The institutional structure resolved the conflict of large versus small states.

Also solved the debate over the appropriate degree of popular influence on government.

A two-year term for the House was a compromise between the annual elections advocated by many delegates and the three-year term proposed by James Madison.

A short tenure would keep this chamber close to the people.

The Senate would be more insulated from momentary shifts in the public mood by virtue of a longer term (in addition to their selection by state legislatures).
Qualifications for office also reflected the Framers’ concept of the Senate as the more “mature” of the two chambers.

- The minimum age for the House members was set at twenty-five years, whereas it was set at thirty for the Senate.
- House members were required to be citizens for at least seven years, whereas for senators it was nine years.
- Both were required to reside in the state they represented.

The Constitution established a truly national government by giving Congress broad powers over crucial economic matters.

Article I, Section 8, of the Constitution sets out the enumerated powers of Congress (examples: impose taxes, regulate interstate and foreign commerce).

At the end of this list a clause authorizes Congress “to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers....” We refer to this as the necessary and proper (or elastic) clause.
Other Powers of Congress

The Senate also approves presidential appointments to the Supreme Court and top executive branch positions.

To a degree, the Framers envisioned the Senate acting as an advisory council to the president.

Achieving Balance

In distributing power between the House and Senate, the delegates sought a proper balance of authority.

Much debate was given to which chamber would have the authority to raise and spend money.

The final compromise required that bills raising revenue originate in the House, with the Senate having an unrestricted right to amend them.
Achieving Balance

Finally, the president was used as a means to further the balance of power by giving the executive branch the authority to:

- Recommend new laws.
- Call Congress into special session.
- Most important, the power to veto laws passed by Congress, killing them unless two-thirds of each chamber votes to override the veto.

The Electoral System

Two choices made by the Framers of the Constitution have profoundly affected the electoral politics of Congress:

- Members of Congress and presidents are elected separately.
  -This is unlike parliamentary systems, where authority resides with the legislature, which chooses the chief executive.
- Members of Congress are elected from states and congressional districts by plurality vote -- that is, whoever gets the most votes wins.
  -Some parliamentary systems use a proportional representation.
**Single Member Districts/Plurality Winners**

Under a proportional system a party wins a share of seats in the legislature matching the share of votes it wins on election day.

Voters choose among parties, not individual candidates, and candidates need not have a local connection.

Members of Congress are elected from states and congressional districts by plurality vote -- that is, whoever gets the most votes wins.

Congressional candidates get their party’s nomination directly from voters, not from party activists or leaders.

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**Congressional Districts**

After the first census in 1790, each state was allotted one House seat for every 33,000 inhabitants for a total of 105 seats.

Total membership was finally fixed at its current ceiling of 435 in 1911 when House leaders concluded that further growth would impede the House’s work.

However, the size of each state’s delegation may change after each decennial census as state/region populations shift.
Redistricting and the Law

In 1964 the Supreme Court ruled in *Wesberry v. Sanders* that districts must have equal populations.

In *Thornburg v. Gingles* (1986) the Court ruled that district lines may not dilute minority representation, but neither may they be drawn with race as the predominant consideration.
  - This raises the issue of majority-minority districts

In *Davis v. Bandemer* (1986), the Court held that a gerrymander would be unconstitutional if it were too unfair to one of the parties.
  - As yet no districting scheme has run afoul of this vague standard.

Redistricting and the Law

Gerrymandering – Drawing a district so as to concentrate the oppositions party’s voters in a small number of districts that the party wins by large margins, thus “wasting” many of the its votes, while creating as many districts as possible where one’s own party has a secure, though not overwhelming, majority.
Redistricting and the Law

- 40,000 voters. Accordingly, if there are 8 congressional seats in the state, your party should hold 3-4 of them. The redistricting plan drawn on the right gives your party 7 of them. It’s a gerrymander.

Senate Representation

The fifty Senate constituencies -- entire states -- may not change boundaries with each census, though they vary greatly in size of population.

Senator Feinstein of California -- 35 million people.
Senator Enzi of Wyoming -- 494,000 people.
Average U.S. House member represents 669,000 people.

Nine largest states are home to 51 percent of total U.S. population.
Leads to unequal representation.
The Electoral Connection

The modern Congress is organized to serve the goals of its members.

Primary goal: keep their jobs! (Or at least their “proximate” goal)

Thus a career in Congress depends on getting elected and reelected again and again.

A “Proximate Goal”

“Former Senate Paul Douglas (D., Ill) tells of how he tried to persuade Senator Frank Graham (D – NC) to tailor his issue positions in order to survive a 1950 primary. Graham, a liberal appointee to the office, refused to listen. He was a “saint,” says Douglas. He lost his primary. There are not many saints…

Fenno assigns three prime goals to congressmen – getting reelected but also achieving influence within Congress and making “good public policy…” [The electoral goal] has to be the proximate goal of everyone, the goal that must be achieved over and over if other ends are to be entertained.” – David Mayhew, 1974
Candidate and Party Centered Politics

Party-Centered Electoral Politics:

Nominations: Parties controlled who was nominated.

Political Organization: Parties monopolized political organization through a system of precinct and block captains held together with the rewards of patronage.

Mass Media: And parties controlled the flow of information to the voter through daily and weekly newspapers with clear party affiliation.

Results: The old system was truly party centered. Parties chose the candidates, determined the issues, disseminated the information, organized and ran the campaigns.

Candidate: To be successful a candidate had to bend his will to that of the party -- typically serving a long apprenticeship, working one’s way up in the party apparatus.

Candidate and Party Centered Politics

Candidate-Centered Electoral Politics:

An encouragement of electoral politics in which candidates operated largely as independent political entrepreneurs (favored by Democrats throughout the second half of the 20th century).

Nominations: We see a party that has lost its power to control who is nominated to primary election voters.

Political Organization: We see a party whose monopoly of political organization has been destroyed by the rise of countless special interest groups and mass media.

Mass Media: We see a party whose control of the media has vanished under a blizzard of competition. We see voters who get most of their information from the electronic mass media in 8-second sound bites on the network news and in 30-second spot commercials during campaigns.
Candidate and Party Centered Politics

Results: Today parties appear to be at the mercy of candidates rather than candidates being at the mercy of parties. The candidate's views are what counts, and they may change from day to day in response to the perceived needs of the campaign. Modern campaigns are candidate centered, and each candidate must rely on her own resources. It is the candidate who assembles organization. It is the candidate who invents a platform. It is the candidate who produces media and buys broadcast time. It is the candidate who raises the money. It is the candidate who hires the experts who have displaced party functionaries in all these areas. It is the candidate who pays the bills. Money is the first primary. Regardless of party, the voters are allowed to chose only among the candidates who have been approved by the wealthy.

Incumbency Advantage

The decline in party loyalty among voters offered incumbents a chance to win votes that once would have gone routinely to the other party's candidate.

• When they realized their advantage, they sought to increase it by voting to give themselves greater resources for servicing their districts.
• More money for staff, travel, local offices, and communications.
• Constituent services; e.g. mix-up with Veteran’s benefits, change your PoliSci course grade (!), etc.
Incumbency Advantage

Their service orientation has been one of the reasons for their high return rate to office.

But incumbents tend to act as though they are going to lose reelection. Incumbents win reelection because they work so hard at it.

- They work to discourage opponents.
- They are highly responsive to their constituencies. Most members spend time at home, keeping in touch and staying visible.
- They solicit and process casework.

The Electoral Logic of Members

Electoral logic induces members to promote narrowly targeted programs, projects, or tax breaks for constituents without worrying about the impacts of such measures on spending or revenues.

Pork-barrel legislation.

We see the manifestation of this logic in behavior such as logrolling.

The legislative practice in which members of Congress agree to reciprocally support each other's vote-gaining projects or tax breaks.

1994 revolt by voters against collective irresponsibility.
Who Serves in Congress?

Congressional members are not "representative" of the public at large.

- Most are college graduates (41 percent have law degrees).
- Many have business backgrounds, but most come from professional fields in general.
- Only a few have blue-collar backgrounds.
- Most held prior elected office.

Women and racial minorities continue to be underrepresented. Numbers are increasing.

Who Serves in Congress?

The 114th Congress is one of the most diverse in American history, comprised of nearly 20 percent women and just over 17 percent of which is non-white.
Michele Swers -- Dismayed by the gridlock in Congress, some have suggested that electing more women might ease the politics of polarization because women have a more consensus-oriented leadership style. Indeed, when Diane Sawyer interviewed the women of the Senate about a year ago, many of them asserted that if women were in charge they would resolve our fiscal crises because they are more inclined to compromise. But while some individual female legislators may be more prone to compromise, the story is almost exactly the opposite: it is polarization that affects the presence and participation of women in Congress…

My research shows that women do bring a different perspective to legislating. First, based on their life experiences as women and often as mothers, female legislators are more likely to prioritize issues related to women, children, and families. They are more likely to advocate for these interests in committee deliberations and in their floor speeches. For example, women were key players in the Affordable Care Act, with Rep. Nancy Pelosi (D-Calif.) urging President Obama to pass a more comprehensive bill and Democratic women pressing to eliminate discrimination against women in health insurance and to include a comprehensive package of preventive benefits.

Second, women bring a distinctive perspective to policy domains beyond women’s issues. In defense policy, for example, Democratic and Republican women in the Senate are more likely to support bills expanding social welfare benefits such as health and education for the troops. And the seven women on the Senate Armed Services committee have led sustained effort to reform how the military deals with sexual assault.

However, the distinctive priorities of women in Congress do not make them less partisan. In the polarized Congress, women pursue these priorities as members of partisan teams who want to enhance their party’s reputation with voters and secure the majority in the next election. Many Democratic women legislators in particular hold key positions of leadership within the party, such as minority leader Pelosi and Senate Budget Chair (and former Democratic Senate Campaign Committee chair) Patty Murray (D-Wash.). These women have significant influence over party priorities and electoral strategy, as well as significant responsibilities to promote the party electorally.

Who Serves in Congress?

NPR-1/10/14: For the first time in history, more than half the members of Congress are millionaires, according to a new analysis of financial disclosure reports conducted by the non-partisan Center for Responsive Politics.

Of the 534 current members of the House and Senate, 268 had an average net worth of $1 million or more in 2012 – up from 257 members in 2011. The median net worth for members of the House and Senate was $1,008,767.

The wealthiest member of Congress? That's Rep. Darrell Issa, a California Republican, who had a net worth between $330 and $598 million.

The reports found that there wasn't much distinction between the two parties – congressional Democrats had a median net worth of $1.04 million as compared to about $1 million for Republicans. In both cases, the averages are up from last year, when the numbers were $990,000 and $907,000, respectively.
Nicholas Carnes: If millionaires in the United States formed their own political party, that party would make up just 3 percent of the country, but it would have a majority in the House of Representatives, a filibuster-proof super-majority in the Senate, a 5 to 4 majority on the Supreme Court and a man in the White House…The economic gulf between ordinary Americans and the people who represent them in the halls of power raises serious questions about our democratic process. Should we care that so many politicians are drawn from the top economic strata and so few come from the working class? Do lawmakers from different classes actually behave differently in office? In my new book, I explore how the virtual absence of an entire class of people from our political institutions affects economic policy.

What I found is squarely at odds with the rosy notion that class doesn’t matter in our political institutions. Pollsters have known for decades that Americans from different classes have different views about economic issues, that working-class Americans tend to be more progressive and that the wealthy tend to want government to play a smaller role in economic affairs. *White-Collar Government* shows that politicians are no exception.

When I examined data on roll-call voting in Congress, for instance, I found clear differences between legislators from the working class and those from white-collar backgrounds. The graphic below plots the average scores that members of the 106th through 110th Congresses (1999 to 2008) received on the Chamber of Commerce’s annual Legislative Report Card. Like ordinary Americans, legislators who worked primarily in white-collar jobs before getting elected to Congress — especially profit-oriented jobs in the private sector — tend to vote with business interests far more often than legislators who worked primarily in blue-collar jobs.

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**GA General Assembly**

Bicameral Legislature with a House and a Senate.

56 State Senators elected for two-year terms.

180 State House members elected for two-year terms.

Meets the second Monday in January for a maximum of 40 legislative days.
The Problems of Legislative Organization

To exercise the powers conferred on them by the Constitution, the House and Senate had to solve some basic problems:

How to acquire information.

How to coordinate action.

How to resolve conflicts.

How to get members to work for common as well as personal goals.

Organizing Congress

The two most crucial institutional structures created to exercise Congress’s constitutional powers are:

• The parties.

• The committee system.

Without them it would be difficult to overcome the barriers to effective collective action.
Party Organization

The majority party in the House is led by the Speaker of the House, whose chief assistants are the majority leader and the majority whip.

The minority party has a minority leader and party whips to lead them.

Speaker of the House

Exercised unlimited power of recognition (who could speak on the floor).

Imposed a new set of rules that made it much more difficult for a minority to prevent action through endless procedural delays.

- Denounced as a tyrant.

But was supported by his party.

Service in House had not yet become a career. Once these conditions no longer held, there was a revolt.
Party Organization

The Rules Committee is, in effect, also a tool of the majority party. Party members give House party leaders resources for inducing members to cooperate when they are tempted to go their own way as free riders. These resources take the form of favors they may grant or withhold (committee assignments, direction of the legislative agenda).

Party Organization in the Senate

Party leadership in the Senate is more collegial and less formal than in the House. The minority party has greater influence in the Senate because so much of that body’s business is conducted under unanimous consent agreements negotiated by party leaders. These agreements, which can be killed by a single objection, might govern the order in which bills are considered and the length of debate allotted to them.

In general, party leaders in both chambers can lead only to the degree that their members allow them.
The Committee Systems

Assignments to committees are made by party committees under the firm control of senior party leaders and are ratified by the party membership.

Members pursue committee assignments that allow them to serve special constituent interests as well as their own policy and power goals.

Least desirable committee assignment: any dealing with the internal administration of Congress – particularly members’ ethics.

Committee Power

When Speaker Cannon lost power in 1910, power was basically transferred to committee chairs.

- Owed positions to seniority, not party leaders.
- By the 1950s, both chambers were run by a handful of powerful committee chairs.
- Conservative southern Democrats, continually reelected from one-party strongholds, chaired the most powerful committees.
**Jurisdiction**

In the House, does international trade policy fall within the jurisdiction of the Commerce Committee or International Relations Committee?

- Committees and subcommittees compete for jurisdiction over important policy areas.

Committees and subcommittees compete for jurisdiction over important policy areas.

Within Congress, the constant pressure to multiply standing committees and subcommittees arises out of:

- The increasing complexity, volume, and scope of legislation.
- Members’ desires to serve as chairs for their own political reasons.
- **Multiple referrals** — sending bills, in whole or piece by piece, to several committees at the same time or in a sequence.

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**Making Laws**

- **HOUSE**
  - Introduce Bill
  - Committee
  - Rules Committee
  - House Floor
  - Conference Committee
  - President
  - LAW

- **SENATE**
  - Introduce Bill
  - Committee
  - Sub-committee
  - Senate Floor
  - Conference Committee
  - President
  - LAW
Making Laws

Congress’s rules and structures -- the parties and committee systems -- are designed to enable majorities to make laws.

The lawmaking process, however, presents opponents of a bill with many opportunities to sidetrack or kill legislation.

Making Laws

Draft Proposal: Only members may submit legislation to the House or Senate.

Assignment to Committee: After a bill is introduced, it is assigned a number and referred to a committee, HR in the House and S in the Senate.

Once a bill has been referred by the Speaker to a committee (complex bills often get referred to several committees), the most common thing that happens next is NOTHING.

Most bills die of neglect.

If a committee decides on further action, the bill may be taken up directly by the full committee, but more commonly it is referred to the appropriate subcommittee.
Making Laws

Hearings: Once the subcommittee decides to act, it (or the full committee) may hold hearings, inviting interested people to testify in person or in writing about the issue at stake and proposals to deal with it.

The full committee then accepts, rejects, or amends the bill (usually in deference to the subcommittee).

If accepted, it is reported out of committee. The written report that accompanies it is the most important source of information on legislation for members of Congress not on the committee as well as other people interested in the legislation.

These reports summarize the bill’s purposes, major provisions, and changes from existing law.

Making Laws

Scheduling debate: When a committee agrees to report a bill to the floor, the bill is put on the House or Senate calendar.

In the House controversial or important bills are placed on the Union Calendar (money bills) or the House Calendar (other public bills).

Then the bill goes to the Rules Committee to receive a resolution that specifies when and how long a bill will be debated and under what procedures.

Why a Rule? Priority. 9 to 4 majority party advantage on Rules…Rules can block germane amendments, provide time limits. Types of rules: closed, open, structured.
The Senate lacks a comparably powerful Rules Committee. There is no limit on how long senators can talk or how many amendments they can offer. Individuals or small groups can even *filibuster*.

Thus, the leaders of both parties routinely negotiate unanimous consent agreements (UCAs) to arrange for the orderly consideration of legislation.

The Senate requires three-fifths of the Senate (sixty votes) to invoke cloture, which allows an additional thirty hours of debate on a bill before a vote is finally taken.

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In the House the time for debate is divided equally between the proponents and opponents of a bill. Each side’s time is controlled by a floor manager.

If amendments to a bill are allowed under the rule, they must be germane (pertinent) to the bill.

*Riders* (extraneous matters) are not allowed.

Floor debates do not change many minds because politicians are rarely swayed by words.

In the Senate, floor action does more to shape legislation. And bills can change on the Senate floor more than they can in the House.

Here amendments need not be germane

"I've said it before and I'll say it again: Democracy simply doesn't work." – Kent Brockman
Voting

The fate of legislation is decided by a series of votes rather than a single one.

The process is complex, as strategic members attempt to introduce “killer” amendments or move to recommit before the final vote.

What influence member votes? Reelection, policy goals, reelection, party loyalty, reelection. Priorities are often as important as policy goals.

In the both chambers unrecorded voice votes may be cast, but at the request of one-fifth of a quorum a recorded roll-call vote is taken.

Conference Committee

Once passed, a bill is sent to the other chamber for consideration (if some version has not already been passed there).

Often, the chambers pass differing versions of a bill. Sometimes one chamber will drop its own and accept the other chamber’s version.

But if neither chamber is willing, then reconciliation of these differing bills is the job of the conference committee.

• Each chamber appoints a conference delegation that includes members of both parties, usually from among the standing committee members most actively involved for and against the legislation.
• The size of the delegation depends on the complexity of the legislation.
• They are supposed to reconcile differences in the two versions of the bill without adding or subtracting from the legislation. In practice they sometimes do both.
The President

Upon receiving a bill from Congress, the president has the choice of signing the bill into law; ignoring the bill, with the result that it becomes law in ten days (not counting Sundays); or vetoing the bill.

If Congress adjourns before the ten days are up, the bill fails (“pocket veto”).

When presidents veto a bill, they usually send a message to Congress, and therefore to all Americans, that explains why they took such action.

Congressional override of a presidential veto requires a two-thirds vote in each chamber. If the override succeeds, the bill becomes law. This rarely occurs.

Bias Against Action

System was designed to make action difficult. It has evolved in a way that makes action even more challenging. Opponents need only to win at one stage in a process that is more complex than I’ve presented.

Policy status quos have shifted in such a way that this is problematic for both liberals and conservatives.

Electoral concerns present challenges for even the most well-intentioned members. This also diverts dwindling staff resources from policy formulation. Recent poll found that almost “two-thirds of DC staff” stated they were likely to look for another job in the next year.

While polarization is a problem, institutions that provide expansive minority party rights further exacerbate it and reform should be considered.
Conclusion

Questions?

Enjoy the rest of your day!