

# **PART THREE: Institutions of Government**

## **CHAPTER 13**

### **Congress**

#### **OBJECTIVES**

The purpose of this chapter is to describe the roles and organization of Congress. After reading and reviewing the material in this chapter, the student should be able to do each of the following:

1. Explain the differences between a congress and a parliament and delineate the role that the Framers expected the United States Congress to play.
2. Pinpoint the significant eras in the evolution of Congress.
3. Describe the characteristics of members of Congress and outline the process for electing members of Congress.
4. Identify the functions that party affiliation plays in the organization of Congress.
5. Describe the formal process by which a bill becomes a law.
6. Identify the factors that help to explain why a member of Congress votes as he or she does.

#### **OVERVIEW**

Over the last fifty years or so, Congress, especially the House, has evolved through three stages. The Congress is presently an uneasy combination of stages two and three.

During the first stage, which lasted from the end of World War I until the early 1960s, the House was dominated by powerful committee chairs who controlled the agenda, decided which members would get what services for their constituents, and tended to follow the leadership of the Speaker. Newer members were expected to be seen but not heard; power and prominence came only after a long apprenticeship. Congressional staffs were small, and so members dealt with each other face to face. In dealing with other members, it helped to have a southern accent: Half of all committee chairs, in both the House and the Senate, were from the South. Not many laws were passed over their objections.

The second stage emerged in the early 1970s, in part as the result of trends already under way and in part as the result of changes in procedures and organization brought about by younger, especially northern, members. (As an example of continuing trends, consider the steady growth in the number of staffers assigned to each member.) Dissatisfied with southern resistance to civil rights bills and emboldened by a sharp increase in the number of liberals who had been elected in the Johnson landslide of 1964, the House Democratic caucus adopted rules that allowed the caucus to do the following:

- select committee chairs without regard to seniority;
- increase the number and staffs of subcommittees;

- authorize individual committee members (instead of just the committee chair) to choose the subcommittee chairs;
- ended the ability of chairs to refuse to call meetings; and
- made it much harder to close meetings to the public.

Also, the installation of electronic voting made it easier to require recorded votes, and so there was a sharp rise in the number of times each member had to go on record. The Rules Committee was instructed to issue more rules that would allow floor amendments.

At the same time, the number of southern Democrats in leadership positions began to decline, while the conservatism of the remaining ones began to lessen. Moreover, northern and southern Democrats began to vote together a bit more frequently, though the conservative Boll Weevils remained a significant—and often swing—group.

These changes created a House ideally suited to serve the reelection needs of its members. Each representative could be an individual political entrepreneur, seeking publicity, claiming credit, introducing bills, holding subcommittee hearings, and assigning staffers to work on constituents' problems. There was no need to defer to powerful party leaders or committee chairs. But because representatives in each party were becoming more ideologically similar, there was a rise in party voting. Congress became a career attractive to women and men skilled in these techniques. Their skills as members were manifest in the growth of the sophomore surge, the increase in their winning percentage during their first re-election campaign.

Even junior members could now make their mark on legislation. In the House, more floor amendments were offered and passed; in the Senate, filibusters became more commonplace. Owing to multiple referrals and overlapping subcommittee jurisdictions, more members could participate in writing bills and overseeing government agencies.

Lurking within the changes that defined the second stage were others, less noticed at the time, that created the beginnings of a new phase. This third stage was an effort in the House to strengthen and centralize party leadership. The Speaker acquired the power to appoint a majority of the Rules Committee members. That body, worried by the flood of floor amendments, began issuing more restrictive rules. By the mid-1980s, this had reached the point where Republicans were complaining that they were being gagged. The Speaker also got control of the Democratic Steering and Policy Committee (which assigns new members to committees) and was given the power to refer bills to several committees simultaneously.

These opportunities for becoming a powerful Speaker were not noticed while Tip O'Neill (D, Massachusetts) held that post. However, Jim Wright (D, Texas), O'Neill's successor, began to make full use of these powers shortly after he entered office. Perhaps if he had not stumbled over his ethical problems, Wright might have succeeded in becoming the policy leader of the House, setting the agenda and getting much of it adopted. The replacement of Wright by Tom Foley (D, Washington) signaled a return to a more accommodationist leadership style.

The pendulum continued to swing between different leadership styles in the latter half of the 1990s. Foley's replacement, Republican Newt Gingrich (Georgia), was a more assertive policy leader. The first sitting Speaker to be reprimanded by the House for ethics violations, Gingrich resigned from office after the 1998 elections. He was succeeded by a more moderate speaker, J. Dennis Hastert (R, Illinois). The evolution of the House remains an incomplete story. It is not yet clear whether it will remain in stage two or find some way of moving decisively into stage three. For now, it has elements of both. Meanwhile, the Senate remains as individualistic and as decentralized as ever—a place where it has always been difficult to exercise strong leadership.

Congress is a collection of individual representatives from states and districts who play no role in choosing the president. They are therefore free to serve the interests of their constituents, their personal political views, and (to a limited extent) the demands of congressional leaders. In serving those interests, members of necessity rely on investigating, negotiating, and compromise, all of which may annoy voters who want Congress to be “decisive.” The unpopularity of Congress is made worse by the recent tendency of its members to become ideologically more polarized.

One of the most important changes in the profile of Congressional members is the increased ability of incumbents to get re-elected. This reflects the growth of constituent service, name recognition, and the weakening of party loyalties among voters.

Though its members may complain that Congress is collectively weak, to any visitor from abroad it seems extraordinarily powerful. Congress has always been jealous of its constitutional authority and independence. Three compelling events led to Congress reasserting its authority. These were the war in Vietnam, which became progressively more unpopular; the Watergate scandals, which revealed a White House illegally influencing the electoral process; and the continuance of divided government, with one party in control of the presidency and another in control of Congress.

In 1973, Congress passed the War Powers Act over a presidential veto, giving it a greater voice in the use of American forces abroad. The following year, it passed the Congressional Budget and Impoundment Control Act, which denied the president the right to refuse to spend money appropriated by Congress. This act gave Congress a greater role in the budget process. Congress also passed laws to provide a legislative veto over presidential actions, especially with respect to the sale of arms abroad. Not all these steps have withstood the tests of time or of Supreme Court review, but taken together they indicate a resurgence of congressional authority. They also helped set the stage for sharper conflicts between Congress and the presidency.

## CHAPTER OUTLINE WITH KEYED-IN RESOURCES

- I. Congress versus parliament
  - A. Comparison with British Parliament
    1. Parliamentary candidates are selected by their party
      - a) Become a candidate by persuading your party to place your name on ballot
      - b) Voters choose between national parties, not between multiple candidates within a single party
      - c) Members of Parliament select prime minister and other leaders
      - d) Party members vote together on most issues
      - e) Renomination depends on remaining loyal to party
      - f) Principal work is debate over national issues
      - g) Members have very little actual power, very little pay or staff resources
    2. Congressional candidates run in a primary election, with little party control over their nomination
      - a) Vote is for the candidate, not the party
      - b) Result is a body of independent representatives of districts or states.
      - c) Members do not choose the chief executive—voters elect president
      - d) Power is decentralized and members are independent
      - e) Party discipline is limited, not enduring (104th Congress, 1995)
      - f) Members’ principal work is representation and action
      - g) Members have a great deal of power, high pay and significant staff resources
- II. The evolution of Congress
  - A. Intent of the Framers
    1. To oppose the concentration of power in a single institution
    2. To balance large and small states: bicameralism

3. Expected Congress to be the dominant institution
- B. Competing values shape congressional action: centralization vs. decentralization
  1. Centralization
    - a) Would allow Congress to act quickly and decisively
    - b) Requires strong central leadership, restrictions on debate, little committee interference
  2. Decentralization
    - a) Allows for the protection of individual members and their constituencies
    - b) Requires weak leadership, rules allowing for delay, and much committee activity
  3. General trend has been toward decentralization, especially since mid-20<sup>th</sup> century
    - a) Trend may not have been inevitable; decentralization has not occurred in state legislatures
    - b) Changing organization of the House may have facilitated decentralization
- C. Changes in organization of House of Representatives
  1. Phase one: the powerful House
    - a) Congressional leadership supplied by the president or cabinet officers in first three administrations (Washington, J. Adams, Jefferson)
    - b) House of Representatives preeminent, originating legislation
    - c) Party caucus shaped policy questions, selected party candidate for the presidency
  2. Phase two: a divided House (late 1820s)
    - a) Andrew Jackson asserted presidential power through the veto
    - b) Caucus system disappears, replaced with national nominating conventions
    - c) Issue of slavery and Civil War shatter party unity, limiting the Speaker's power
    - d) Radical Republicans impose harsh measures on post-Civil War South
  3. Phase three: the speaker rules
    - a) Thomas B. Reed (R-ME), Speaker, 1889–1899, produced party unity
      - (1) Selected committee chairs and assigned committee members
      - (2) Chaired the Rules Committee
    - b) Joseph G. Cannon (R-IL), Speaker, 1899–1910, more conservative than many House Republicans and he therefore could not sustain his power
  4. Phase four: the House revolts
    - a) Speaker stripped of power to appoint committee chairs and members
    - b) Speaker removed from the Rules Committee
    - c) Other sources of power emerged in the chamber
      - (1) Party caucuses, though their power soon waned
      - (2) Rules Committee
      - (3) Chairs of standing committee, who acquired office on the basis of seniority
  5. Phase five: the members rule
    - a) Defining issue was civil rights during 1960s and 1970s
    - b) Powerful Southern committee chairs blocked legislation until 1965
    - c) Democratic members changed rules to limit chairs' power
      - (1) Committee chairs become elective, not selected just on the basis of seniority
      - (2) Subcommittees strengthened
      - (3) Chairs could not refuse to convene committee meetings and most meetings were to be public
      - (4) Member staff increased
      - (5) Each member could introduce legislation
      - (6) Half of the majority members chaired at least one committee or subcommittee

6. Phase six: the leadership returns
    - a) Efforts began to restore Speaker's power because the individualistic system was not efficient
      - (1) Speaker appointed a majority of the Rules Committee members and of the committee that assigns members to committees
      - (2) Speaker given multiple referral authority
    - b) Sweeping changes with 1994 election of a Republican majority
      - (1) Committee chairs hold positions for only 6 years
      - (2) Reduced the number of committees, subcommittees
      - (3) Speaker dominated the selection of committee chairs
      - (4) Speaker set agenda (Contract with America) and sustained high Republican discipline in 1995—Gingrich's forcefulness had its costs and his successor (Hastert) was much more moderate, but has come to be regarded as a powerful speaker
- D. The evolution of the Senate
1. Escaped many of the tensions encountered by the House
    - a) Smaller chamber
    - b) In 1800s, balanced between slave and free states
    - c) Size precluded need of a Rules Committee
    - d) Previous to 1913, Senators were elected by the state legislature, which caused them to focus on jobs and contributions for their states.
  2. Major struggle in the Senate about how its members should be chosen, 17th amendment (1913)
  3. Filibuster another major issue: restricted by Rule 22 (1917), which allows a vote of cloture
- III. Who is in Congress? (THEME A: WHO GETS TO CONGRESS)
- A. The beliefs and interests of members of Congress can affect policy
  - B. Sex and race
    1. The House has become less male and less white
    2. Senate has been slower to change
    3. Members of color may gain influence more quickly than women because the former often come from safe districts
    4. Republican control has decreased the influence of all minorities
  - C. Incumbency
    1. Membership in Congress became a career: low turnover by 1950s
    2. 1992 and 1994 brought many new members to the House
      - a) Redistricting after 1990 census put incumbents in new districts they couldn't carry
      - b) Anti-incumbency attitude of voters
      - c) Republican victory in 1994, partially due to the South's shift to the Republican party
    3. Incumbents still with great electoral advantage
      - a) Most House districts safe, not marginal
      - b) Senators are less secure as incumbents
    4. Voters may support incumbents for several reasons
      - a) Media coverage is higher for incumbents
      - b) Incumbents have greater name recognition owing to franking, travel to the district, news coverage
      - c) Members secure policies and programs for voters

- D. Party
1. Democrats were beneficiaries of incumbency, 1933–2004: controlled both houses in 25 Congresses, at least one house in 29 Congresses
  2. Gap between votes and seats: Republican vote is higher than number of seats won
    - a) Argument that Democratic state legislatures redraw district lines to favor Democratic candidates
    - b) Republicans run best in high-turnout districts, Democrats in low-turnout ones
    - c) Incumbent advantage increasing (now benefiting both parties)
    - d) Gap closed in 1994: scholars argue that stable pattern of Republican control now in place
  3. Electoral convulsions do periodically alter membership, as in 1994
    - a) Voters opposed incumbents due to budget deficits, various policies, legislative-executive bickering, scandal
    - b) Other factors were 1990 redistricting and southern shift to voting Republican
  4. Conservative coalition of Southern Democrats and Republicans now has less influence
    - a) Many Southern Democrats have now been replaced with Republicans
    - b) Remaining Southern Democrats are as liberal as other Democrats
    - c) Result: Greater partisanship (especially in the House) and greater party unity in voting
- IV. Do members represent their voters? (THEME B: DOES CONGRESS REPRESENT CONSTITUENTS' OPINIONS?)
- A. Member behavior is not obvious
  - B. Members may be devoted to their constituents, their own beliefs, pressure groups, congressional leaders or some other force
  - C. Three primary theories of member behavior
    1. Representational view: members vote to please their constituents, in order to secure re-election
      - a) Applies when constituents have a clear view and the legislator's vote is likely to attract attention
      - b) Correlations found on roll call votes and constituency opinion for civil rights and social welfare legislation, but not foreign policy
      - c) Cannot predict that members from marginal districts will adhere to this philosophy or that members from safe districts will not be independent
      - d) Even if a member votes against constituent preferences, she/he can win election in other ways
    2. Organizational view: where constituency interests are not vitally at stake, members primarily respond to cues from colleagues
      - a) Party is the principal cue, with shared ideological ties causing each member to look to specific members for guidance
      - b) Party members of the Committee sponsoring the legislation are especially influential
    3. Attitudinal view: the member's ideology determines her/his vote
      - a) House members are ideologically more similar to the "average voter" than are Senators
      - b) Senate less in tune with public opinion, more likely to represent different bases of support in each state
        - (1) 1950s–early 1960s: conservative institution dominated by southern senators
        - (2) Mid–1960s–late 1970s: rise of liberal senators and increasing decentralization
        - (3) 1980–present: rise of ideologically-based conservative Republicans

- D. Ideology and civility in Congress
  - 1. Members are increasingly divided by political ideology
    - a) Attitudinal explanation of voting is increasingly important
    - b) Organizational explanation is of decreasing importance
  - 2. Polarization among members has led to many more attacks and to less constructive negotiations of bills and policies
- V. The organization of Congress: parties and caucuses (THEME C: CONGRESSIONAL ORGANIZATION AND PROCEDURES)
  - A. Party organization of the Senate
    - 1. President pro tempore presides; this is the member with most seniority in majority party (a largely honorific office)
    - 2. Leaders are the majority leader and the minority leader, elected by their respective party members
      - a) Majority leader schedules Senate business, usually in consultation with minority leader
      - b) Majority leader who is skilled at political bargaining may acquire substantial influence over the substance of Senate business as well
    - 3. Party whips: keep leaders informed, round up votes, count noses
    - 4. Each party has a policy committee: schedules Senate business, prioritizes bills
    - 5. Committee assignments are handled by a group of Senators, each for their own party
      - a) Democratic Steering Committee
      - b) Republican Committee on Committees
      - c) Assignments are especially important for freshmen
      - d) Assignments emphasize ideological and regional balance
      - e) Other factors: popularity, effectiveness on television, favors owed
  - B. Party structure in the House—House rules give leadership more power
    - 1. Speaker of the House is leader of majority party and presides over House
      - a) Decides who to recognize to speak on the floor
      - b) Rules on germaneness of motions
      - c) Assigns bills to committees, subject to some rules
      - d) Influences which bills are brought up for a vote
      - e) Appoints members of special and select committees
      - f) Has some informal powers
    - 2. Majority leader and minority leader: leaders on the floor
    - 3. Party whip organizations
    - 4. Committee assignments and legislative schedule are set by each party
      - a) Democrats—Steering and Policy Committee
      - b) Republicans divide tasks
        - (1) Committee on Committees for committee assignments
        - (2) Policy Committee to schedule legislation
    - 5. Democratic and Republican congressional campaign committees
  - C. The strength of party structures
    - 1. Loose measure of the strength of party structure is the ability of leaders to get members to vote together to determine party rules and organization
    - 2. Tested in 104th Congress—Gingrich with party support for reforms and controversial committee assignments
    - 3. Senate contrasts with the House
      - a) Senate has changed through changes in norms, rather than change in rules
      - b) Senate now less party-centered and less leader-oriented; more hospitable to freshmen, more heavily staffed, and more subcommittee oriented

- D. Party unity
  - 1. Measure party polarization in voting by votes in which a majority of Democrats and Republicans oppose one another
  - 2. Party voting and cohesion more evident in 1990s than in period from 1960s through 1980s
  - 3. Today, splits often reflect deep ideological differences between parties or party leaders
    - a) In the past, splits were a product of party discipline
    - b) Focus was then on winning elections, dispensing patronage, keeping power
  - 4. Why is there party voting, given party has so little electoral influence?
    - a) Ideological orientation is important to members (and may be becoming increasingly important to voters)
    - b) Cues given by and taken from fellow party members
    - c) Rewards from party leaders go to those who follow the party line
- E. Caucuses
  - 1. An association of members of Congress created to advocate a political ideology or a regional or economic interest
  - 2. Republicans passed legislation making caucus operations more difficult in 1995
  - 3. Types of caucuses
    - a) Intra-party caucuses: members share a similar ideology (ex: Democratic Study Group)
    - b) Personal interest caucuses: members share an interest in an issue (ex: arts, human rights)
    - c) Constituency caucuses: established to represent groups, regions or both (ex: Congressional Black Caucus)
- VI. The organization of Congress: committees
  - A. Legislative committees—most important organizational feature of Congress
    - 1. Consider bills or legislative proposals
    - 2. Maintain oversight of executive agencies
    - 3. Conduct investigations
  - B. Types of committees
    - 1. Standing committees: basically permanent bodies with specified legislative responsibilities
    - 2. Select committees: groups appointed for a limited purpose and limited duration
    - 3. Joint committees: those on which both representatives and senators serve
    - 4. Conference committee: a joint committee appointed to resolve differences in Senate and House versions of the same piece of legislation before final passage
  - C. Committee practices
    - 1. Number of committees has varied; significant cuts in number of House committees in 1995, and in the number of House and Senate subcommittees
    - 2. Majority party has majority of seats on the committees and names the chair
    - 3. Assignments
      - a) House members usually serve on two standing committees or one exclusive committee
      - b) Senators serve on two “major” committees and one “minor” committee
    - 4. Chairs are elected
      - a) Usually the most senior member of the committee is elected by the majority party
      - b) Seniority has been under attack in recent decades, in both parties



5. Subcommittee Bill of Rights of 1970s changed several traditions
  - a) House committee chairs are elected by secret ballot in party caucus
  - b) No House member or Senator may chair more than one committee
  - c) All House committees with more than twenty members are to have at least four subcommittees
  - d) House and Senate committees gained larger staffs, also House members
  - e) House and Senate committee meetings were to be open to the public, unless members voted to close them
6. Decentralizing reforms made the House more inefficient and committee chairs consequently utilized controversial practices to gain control (example: proxy votes).
7. House Republican rule changes of 1995 therefore modified the Subcommittee Bill of Rights (similar changes were made in the Senate)
8. Certain committees tend to attract particular types of legislators
  - a) Policy-oriented members are attracted to finance or foreign policy committees
  - b) Constituency-oriented members are attracted to small business or veterans' affairs committees

VII. The organization of Congress: staffs and specialized offices

A. Tasks of staff members

1. Constituency service is a major task of members' staff
  - a) Approximately one-third of the members' staff work in the district
  - b) Almost all members have at least one full-time district office
2. Legislative functions of staff include devising proposals, negotiating agreements, organizing hearings, meeting with lobbyists and administrators
3. Members' staff consider themselves advocates of their employers—entrepreneurial function (sometimes very independent)
4. Members of Congress can no longer keep up with increased legislative work and so must rely on staff
5. Results of a larger member staff:
  - a) More legislative work in the chamber
  - b) More individualistic Congress—less collegial, less deliberative because members interact through their staff, who become their negotiators

B. Staff agencies

1. Work for Congress as a whole, providing specialized knowledge equivalent to what the President has
2. Major staff agencies
  - a) Congressional Research Service (CRS)
  - b) General Accounting Office (GAO)
  - c) Office of Technology Assessment (OTA), abolished in 1995
  - d) Congressional Budget Office (CBO)

VIII. How a bill becomes law

A. Bills travel through Congress at different speeds

1. Bills to spend money or to tax or regulate businesses move slowly
2. Bills with a clear, appealing idea move fast, especially if they don't require large expenditures
3. Complexity of legislative process helps a bill's opponents

- B. Introducing a bill
1. Bill must be introduced by a member of Congress
    - a) Public bill, pertains to public affairs generally
    - b) Private bill, pertains to a particular individual; now rare—matter usually delegated to administrative agencies or courts
    - c) Pending legislation does not carry over from one Congress to another; it must be reintroduced
  2. Congress initiates most legislation
  3. Resolutions
    - a) Simple resolution: passed by one house and affects that house, not signed by the president; does not have the force of law
    - b) Concurrent resolution: passed by both houses and affects both, not signed by the president; does not have the force of law
    - c) Joint resolution
      - (1) Essentially a law—passed by both houses, signed by president
      - (2) If used to propose constitutional amendment, two-thirds vote required in both houses but the president's signature is unnecessary
- C. Study by committees
1. Bill is referred to a committee for consideration by either Speaker or presiding officer of the Senate
    - a) Chamber rules define each committee's jurisdiction, but sometimes the Speaker has had to make a choice
    - b) Speaker's decisions can be appealed to the full House
  2. Revenue bills must originate in the House
  3. Most bills die in committee
  4. Multiple referrals altered after 1995, when only sequential referrals were allowed under new rule
  5. After hearings and mark-up sessions, the committee reports a bill out to the House or Senate
    - a) If bill is not reported out, the House can use the "discharge petition"
    - b) If bill is not reported out, the Senate can pass a discharge motion (rarely used)
    - c) These are routinely unsuccessful
  6. Bill must be placed on a calendar to come for a vote before either house
  7. House Rules Committee sets the rules for consideration
    - a) Closed rule: sets time limit on debate and restricts amendments
    - b) Open rule: permits amendments from the floor
    - c) Restrictive rule: permits only some amendments
    - d) Use of closed and restrictive rules increased from the 1970s to the 1990s; in 1995, Republicans allowed more debate under open rules.
    - e) Rules can be bypassed in the House—move to suspend rules; discharge petition; Calendar Wednesday (rarely done)
  8. In Senate, unanimous consent agreements require the majority leader to negotiate the interests of individual senators
- D. Floor debate—the House
1. Committee of the Whole—procedural device for expediting House consideration of bills; it cannot pass bills
  2. Committee sponsor of bill organizes the discussion
  3. No riders (non-germane amendments) allowed
  4. House usually passes the sponsoring committee's version of the bill

- E. Floor debate—the Senate
  - 1. No rule limiting germaneness of amendments, so riders are common
  - 2. Committee hearing process can be bypassed by a senator with a rider, or if bill already passed in House
  - 3. Debate can be limited only by a cloture vote
    - a) Three-fifths of Senate must vote in favor of ending filibuster
    - b) Both filibusters and successful cloture votes becoming more common
      - (1) Easier now to stage filibuster
      - (2) Roll calls are replacing long speeches
      - (3) Filibuster can be curtailed by double-tracking: disputed bill is shelved temporarily so Senate can continue other business
  - 4. Effectively, neither party controls the Senate unless it has at least 60 votes; otherwise, the Senate must act as a bipartisan majority
- F. Methods of voting
  - 1. To investigate voting behavior, one must know how a legislator voted on key amendments as well as on the bill itself
  - 2. Procedures for voting in the House—different procedures are used at the members' request
    - a) Voice vote
    - b) Division (standing) vote
    - c) Teller vote
    - d) Roll-call vote, now electronic
  - 3. Senate voting is the same except no teller vote and no electronic counters
  - 4. Differences in Senate and House versions of a bill
    - a) If minor, last house to act merely sends bill to the other house, which accepts the changes
    - b) If major, a conference committee is appointed
      - (1) Decisions are approved by a majority of each delegation
      - (2) Conference report often slightly favors the Senate version of the bill
      - (3) Conference reports back to each house
      - (4) Report can only be accepted or rejected—not amended
      - (5) Report accepted, usually, since the alternative is often to have no bill
  - 5. Bill, in final form, goes to the president
    - a) President may sign it
    - b) If president vetoes it, it returns to house of origin
    - c) Both houses must support the bill, with a two-thirds vote, in order to override the president's veto
- IX. Reducing power and perks (THEME D: ETHICS AND CONGRESS)
  - A. Regulate franking
  - B. Place Congress under the law
    - 1. Congressional Accountability Act of 1995—Congress obliged itself to obey eleven major employment laws
    - 2. Created the independent Office of Compliance to deal with implementation, avoiding excessive executive power over Congress
  - C. Trim pork
    - 1. Bills containing money to provide for local projects such as bridges, dams, etc.
    - 2. May be misallocation of tax dollars for trivial benefits
    - 3. However, the main cause of the deficit is entitlement programs, not pork
    - 4. Most categories of pork have had decreased funding in the past 10 to 15 years
    - 5. Identifying pork is a judgment call, since some district funding is necessary

6. Pork facilitates compromise among members, who are also supposed to be district advocates
- X. The Post 9-11 Congress
- A. Congress created to be more deliberative than active
  - B. 9-11 Commission recommended Congress make fundamental changes in how it oversees agencies involved in intelligence-gathering and counter-terrorism
  - C. President Bush recommended changes in accord with 9-11 Commission recommendations
  - D. Congress passed some of those proposals after some opposition in both parties
  - E. Continuing challenge: appropriate reorganization to ensure that it can continue to function in the case of a terrorist attack

## IMPORTANT TERMS

<b>*bicameral legislature</b>	A lawmaking body made up of two chambers or parts.
<b>*caucus</b>	An association of Congressional members created to advance a political ideology or a regional, ethnic, or economic interest.
<b>*closed rule</b>	An order from the House Rules Committee that sets a time limit on debate and forbids a particular bill from being amended on the floor.
<b>*cloture rule</b>	A rule used by the Senate, providing to end or limit debate.
<b>*concurrent resolution</b>	An expression of opinion without the force of law that requires the approval of both the House and the Senate, but not the president.
<b>*conference committee</b>	A joint committee appointed to resolve differences in House and Senate versions of the same bill.
<b>*conservative coalition</b>	An alliance between conservative Democrats and Republicans.
<b>*discharge petition</b>	A device by which any member of the House, after a committee has had a bill for thirty days, may petition to have it brought to the floor. If a majority of members agree, the bill is discharged for the committee.
<b>*division vote</b>	A congressional voting procedure in which members stand and are counted.
<b>*double-tracking</b>	A procedure to keep the Senate going during a filibuster, whereby a disputed bill is temporarily shelved so that the Senate can go on with other business.
<b>*filibuster</b>	An attempt to defeat a bill in the Senate by talking indefinitely, thus preventing the Senate from taking action on the bill.
<b>*joint committee</b>	Committee on which both representatives and senators serve.
<b>*joint resolution</b>	A formal expression of congressional opinion that must be approved by both houses of Congress and by the president; however, joint resolutions proposing a constitutional amendment need not be signed by the president.
<b>*majority leader</b>	The legislative leader elected by party members holding a majority of seats in the House or the Senate.

<b>*marginal districts</b>	Political districts in which candidates elected to the House of Representatives win in close elections, typically by less than 55 percent of the vote.
<b>*minority leader</b>	The legislative leader elected by party members holding a minority of seats in the House of Representatives or the Senate.
<b>*multiple referral</b>	A congressional process whereby a bill may be referred to several committees that consider it simultaneously in whole or in part.
<b>*open rule</b>	An order from the House Rules Committee that permits a bill to be amended on the floor.
<b>*party polarization</b>	A vote in which a majority of Democratic legislators oppose a majority of Republican legislators.
<b>*pork-barrel legislation</b>	Legislation that gives tangible benefits to constituents in several districts or states in the hopes of winning their votes in return.
<b>*private bill</b>	A legislative bill that deals with specific, private, personal or local matters, like a bill pertaining to an individual becoming a naturalized citizen.
<b>*public bill</b>	A legislative bill that deals with matters of general concern, like defense expenditures.
<b>*quorum</b>	The minimum number of members required to be in attendance for Congress to conduct official business.
<b>*quorum call</b>	A calling of the roll in either house of Congress to see whether the number of representatives in attendance meets the minimum number required to conduct business.
<b>*restrictive rule</b>	An order from the House Rules Committee that permits certain kinds of amendments but not others to be made to a bill on the floor.
<b>*roll-call vote</b>	A congressional procedure that consists of members answering yea or nay when their names are called.
<b>*safe district</b>	A House district in which the winner of the general election carries more than 55 percent of the vote.
<b>*select committees</b>	Permanently established legislative committees that consider and are responsible for legislation within a certain subject area.
<b>*sequential referral</b>	A congressional process by which a Speaker may send a bill to a second committee after the first is finished acting.
<b>*simple resolution</b>	An expression of opinion, without the force of law, either in the House or the Senate, to settle housekeeping or procedural matters in either body.
<b>*standing committees</b>	Permanently established legislative committees that consider and are responsible for legislation within a certain subject area.
<b>*teller vote</b>	A congressional voting procedure in which members pass between two tellers, first the yeas and then the nays. Since 1971, teller votes are recorded at the request of twenty members.

- \*voice vote** A Congressional voting procedure used in both houses in which members vote by shouting yea or nay.
- \*whip** A senator or representative who helps the party leader stay informed about what party members are thinking.

## THEME A: WHO GETS TO CONGRESS?

### Instructor Resources

David W. Brady, John F. Cogan, and Morris P. Fiorina, eds., *Continuity and Change in House Elections*. Palo Alto, CA: Stanford University Press, 2000.

Carl Albert Congressional Research and Studies Center, 630 Parrington Oval, Room 101, University of Oklahoma, Norman OK 73019. This organization publishes a biannual journal, *Extensions*; it also conducts a Visiting Scholars program for graduate students and professors.

<http://www.ou.edu/special/albertctr/>

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Barbara Mikulski et al., *Nine and Counting: The Women of the Senate*. William Morrow & Co., 2000.

Karen O'Connor, *Women and Congress: Running, Winning and Ruling*. Binghamton, NY: Haworth Press, 2002.

Bernie Sanders, *Outsider in the House*. New York: Verso, 1997.

James A. Thurber, ed., *The Battle for Congress: Consultants, Candidates, and Voters*. Washington, D.C.: Brookings Institution, 2000.

### Summary

Members of the House and Senate are predominantly middle-aged, white, Protestant, male lawyers. If people with these characteristics all held similar opinions, Congress would be radically unrepresentative on policy matters, but they do not. Of late, the number of Blacks and women in the House has been slowly increasing.

Of particular importance is the proportions of representatives serving several terms and occupying safe rather than *marginal* districts. In 1869 the average representative had served only one term in Congress; by the 1950s over half the representatives had served four or more terms. In the nineteenth century the federal government was not very important, Washington was not a pleasant place in which to live, and being a member of Congress did not pay well. Because the job is more attractive today, one would expect more serious challenges; by 1970, however, over three-fourths of running incumbents won with 60 percent or more of the vote. A degree of competition re-emerged in House elections during the 1990s. This development has been attributed to re-districting changes and to voters' anti-incumbency

attitudes. Still, the vast majority of House incumbents seeking reelection are successful. Senators are somewhat less secure; in fewer than half of their races does the winner get 60 percent or more of the vote.

Why this is the case is a subject of controversy among scholars. One theory stresses that voters are voting their party identification less and less and may therefore be voting for the candidate whose name they recognize. Incumbents have extensive means of getting their names known. Also, incumbents can use their powers to get (or may simply take credit for) federal grants, projects, and protection for local interest groups.

Representatives are more likely to be not merely white, male, and senior in terms of years of service. For many years, Representatives were also more likely to be Democrats. This is because more voters considered themselves Democrats than Republicans (though this began to change with the election of Ronald Reagan in 1980) and because the advantages of incumbency began to take effect after the Democrats gained control of Congress. In only eight Congresses between the New Deal and the beginning of the 21<sup>st</sup> century did the Democrats fail to control both houses (1947–1948, 1953–1954, 1981–1982, 1983–1984, 1985–1986, 1995–1996, 1997–1998, and 1998–2000). This seems to have changed, however: the Republicans sustained their narrow majorities in the House and the Senate during the midterm elections of 1998 and 2002. As a rule, the president's party loses congressional seats during the midterm elections, but the Democrats actually succeeded in gaining House seats in 1998. (Republicans were left with the thinnest margin held by a majority party in 46 years.) The 2002 midterm elections actually saw the President's party gain seats in the Senate, and maintain the margin in the House that the Republicans had gained in 2000. Only time will tell if the Republicans will be able to maintain these majorities, though their prospects look brighter with victories in each successive election.

### Discussion Questions

1. Members of Congress tend to have a particular demographic profile—most members are middle-aged, male, white, well-educated attorneys. Is this a matter of concern? Does the preponderance of a particular demographic and professional group compromise the quality of representation provided by the U.S. Congress? In 1992, feminist organizations encouraged women to vote for women congressional candidates by noting that every member of the Senate Judiciary Committee, which had confirmed Clarence Thomas for the Supreme Court, had just this profile. How important is descriptive representation? (Note that immediately following the 1992 election, two women were appointed to this committee—Dianne Feinstein, a white Democrat from California; and Carol Moseley-Braun, an African-American Democrat from Illinois. Moseley-Braun was defeated in her bid for re-election in 1998, but Feinstein continues to serve on the Judiciary Committee.)
2. Why have Senate races been more competitive historically than House races? What factors would constrain the incumbency advantage of senators? If senators have a six-year term to prepare for reelection and House members have only a two-year term, shouldn't senators experience greater success in their campaigns?
3. What factors combined to make House races more competitive in the 1990s? Which of these developments has surfaced in your local elections? On the basis of the electoral outcomes since 2000, which party do you expect will control the legislative and executive branches in the future?
4. Should the number of terms served by members of Congress be limited, as they are for the president? If not, what justification exists for imposing a term requirement on the president but not on Congress? Wouldn't corruption be less likely if members of Congress were regularly rotated in office?

## THEME B: DOES CONGRESS REPRESENT CONSTITUENTS' OPINIONS?

### Instructor Resources

Sarah A. Binder and Steven S. Smith, *Politics or Principle? Filibustering in the United States Senate*. Washington, D.C.: The Brookings Institution, 1996.

Tom Daschle and Michael D'Orso, *Like No Other Time: The 107<sup>th</sup> Congress and the Two Years That Changed America Forever*. New York: Crown, 2003.

Elizabeth Drew, *Showdown, The Struggle Between the Gingrich Congress and the White House*. New York: Simon and Schuster, 1996.

Newt Gingrich, *To Renew America*. New York: HarperCollins, 1995.

John R. Hibbing and Elizabeth Theiss-Morse, *Congress as Public Enemy, Public Attitudes Toward American Political Institutions*. Cambridge: Cambridge University Press, 1995.

Eric Redman and Richard E. Neustadt, *The Dance of Legislation*. University of Washington Press, 2000.

Beth Reingold, *Representing Women: Sex, Gender, and Legislative Behavior in Arizona and California*. Chapel Hill, NC: University of North Carolina Press, 2000.

Wendy Schiller, *Partners and Rivals*. Princeton, NJ: Princeton University Press, 2000.

Philip G. Schrag, *A Well-Founded Fear: The Congressional Battle to Save Political Asylum in America*. New York: Routledge, 2000.

James Thurber, *Rivals for Power: Presidential-Congressional Relations*. Washington, D.C.: CQ Press, 1996.

### Summary

There are at least three theories on why members of Congress vote the way they do:

1. *Representational*. This view holds that members want to get reelected and therefore vote to please their constituents. It seems to be true when the issue is highly visible and the constituency is fairly united in its stance, as was the case on civil rights bills in the 1950s and 1960s.
2. *Organizational*. This view holds that members of Congress respond to cues provided by their fellow members. Party is the single most important of these cues, but ideological and intra-party caucuses, such as the Democratic Study Group, may also be important. Members also tend to go along with their party's representatives on the sponsoring committee and their state delegations.
3. *Attitudinal*. Members of Congress, like other political elites, are more ideological in their thinking than the public at large. Democratic members tend to be strongly liberal, and Republicans conservative. Moreover, because there are so many conflicting pressures, members are left free to vote their ideologies.

### Discussion Questions

1. Which of the theories listed above do you believe is practiced by most members of Congress during campaign season? Would you expect the longer term of Senators (6 years) compared to Representatives (2 years) to result in their practicing a different theory of representation?



2. Which of the three theories listed above do you endorse as a citizen? Which would you endorse as a member of Congress? Explain why your perspective did or did not change, depending on your political role.
3. Suppose you want your representative in Congress to vote for the policies you prefer—the representational theory of congressional voting. How could you make this happen?
4. What is *party unity voting*? If representatives vote with their party, does that necessarily mean they are less likely to be representing constituents' attitudes?

## THEME C: CONGRESSIONAL ORGANIZATION AND PROCEDURES

### Instructor Resources

Roger H. Davidson and Walter J. Oleszek, *Congress and Its Members*, 8th ed. Washington, D.C.: CQ Press, 2002.

Christopher J. Deering and Steven S. Smith, *Committees in Congress*, 3d ed. Washington, D.C.: CQ Press, 1997.

David Mayhew, *America's Congress: Actions in the Public Sphere, James Madison Through Newt Gingrich*. New Haven, CT: Yale University Press, 2000.

Walter Oleszek, *Congressional Procedures and the Policy Process*. Washington, D.C.: CQ Press, 2004.

Cindy Simon Rosenthal and Lucinda S. Rosenthal, *When Women Lead: Integrative Leadership in State Legislatures*. New York: Oxford University Press, 1998.

Allan Schick, *The Federal Budget; Politics, Policy, Process*. Washington, D.C.: The Brookings Institution, 1995.

Barbara Sinclair, *Unorthodox Lawmaking, New Legislative Processes in the U.S. Congress*. Washington, D.C.: CQ Press, 1997.

Herbert F. Weisberg, Eric S. Herberlig, and Lisa M. Campoli, eds., *Classics in Congressional Politics*. Boston, MA: Addison Wesley Press, 2000.

United States Congress home page, <http://www.thomas.loc.gov/>

### Summary

Congress is not a single organization but a vast collection of organizations.

1. *Party organization*. In the Senate, real leadership is in the hands of a *majority leader*, chosen from among the majority party, and a *minority leader*, chosen from the other party. The *whip* takes a nose count of how votes are lining up on controversial issues, keeps the party leader informed, and rounds up members for important votes. The Democratic Steering Committee and the Republican Committee on Committees assign senators to standing committees. Such assignments are extremely important to a senator's career prospects.

The party structure is essentially the same in the House as in the Senate, with two important exceptions. The leadership in general has more power in the House, because the House is a very large body that must restrict debate and schedule its business with great care. In the House, the position of *Speaker* carries considerable power. The Speaker may decide whom to recognize in debate, whether a motion is relevant and germane, and (within certain guidelines) to which committees new bills are assigned. The Speaker also influences which bills are brought up for a

vote, appoints members of special and select committees, and nominates majority-party members of the Rules Committee.

The effect of this party machinery can be seen in the *party vote* in Congress. Party is a very important determinant of a member's vote—more important than any other single thing. However, party voting in Congress does not approach the levels that prevail in a parliamentary system. As parties in Congress have weakened over the last century, party voting has generally been declining, although it resurged under Speaker Newt Gingrich. Much party voting is probably actually ideological voting: Republicans in both houses are predominantly conservative and Democrats liberal.

2. *Caucuses.* These associations of congressional members advocate an ideology or act on behalf of constituency concerns. As of January 1996, there were 129 caucuses in the Congress. They are of six types. Two types of caucuses are ideologically or interest based: (a) intraparty caucuses have members which share a common ideology (e.g., the Democratic Study Group); and (b) personal interest caucuses form around a shared interest in a particular issue (e.g., Congressional Family Caucus). The four remaining types of caucuses are constituency based: (c) national constituency concerns (e.g., Congressional Black Caucus), (d) regional constituency concerns (e.g., Western Caucus), (e) state or district constituency concerns (e.g., Rural Caucus), and (f) industrial constituency concerns (e.g., Steel Caucus).
3. *Committees.* Here is where the real work of Congress is done and where most of the power is found. *Standing committees* are the most important, because they are (with a few exceptions) the only ones that can propose legislation by reporting a bill out to the full House or Senate. *Select committees* are expected to last for only a few Congresses and have a specific purpose. *Joint committees* are those on which both senators and representatives serve. A *conference committee*, which tries to resolve differences between House and Senate versions of the same legislation, is a special kind of joint committee.  
  
Traditionally, committees have been dominated by their chairs, who (throughout most of this century) were chosen by seniority. In the early 1970s a series of reforms, voted by the Democratic Caucus, decentralized and democratized committee operations. The election of committee chairs by secret ballot allowed the seniority system to be breached, meetings were opened to the public, and the prerogatives of subcommittees and individual members were enhanced at the expense of committee chairs. Many of these reforms have been reversed by the 104th and 105th Congresses.  
  
Different committees attract different kinds of Congressional members. Some, such as the House Ways and Means Committee and the Senate Foreign Relations Committee, attract policy-oriented members; others, such as the House Post Office and Civil Service Committees, provide means of servicing a constituency and bolstering reelection prospects.
4. *Staff.* Congress has produced the most rapidly growing bureaucracy in Washington. In 1935 the typical representative had two aides; by 1979 the average had increased to sixteen but has held fairly steady since then. Some staff members (increasingly located in district offices) service requests from constituents. Other staff members do legislative work, helping the Congressional members keep abreast of a vast workload. The vast increase in staff has reduced contact among members of Congress, making the institution less collegial, more individualistic, and less of a deliberative body.
5. *Staff agencies.* These provide specialized knowledge and expertise and are an important Congressional counter to the resources the president can muster as chief of the executive branch. Examples include the CRS, GAO, and CBO.

Crucial to the process of how a bill becomes a law is the number of points at which it may be blocked. A majority coalition must be assembled slowly and painstakingly.

1. *Introduction.* In the House, a bill is introduced by dropping it into the hopper or handing it to a clerk; in the Senate, by announcing the bill's introduction on the floor. Bills may be *public* (pertaining to affairs generally) or *private* (pertaining to a particular individual). It is often said that legislation is initiated by the president and enacted by Congress. Actually Congress often initiates legislation; the consumer and environmental legislation of the 1960s and 1970s are good examples. Even presidential proposals are often based on legislation already being considered in Congress.
2. *Study by committee.* The bill is referred to a committee by either the Speaker of the House or the presiding officer of the Senate. There are rules that govern which bills go to which committees, but sometimes a choice is possible and the bill can be sent to a receptive (or unreceptive) committee. Most bills die in committee. Important bills are generally referred to a subcommittee for hearings. Then the subcommittee (and/or committee) will *mark up* the bill—make revisions and additions. If a majority of the committee votes to report out the bill, it goes to the full House or Senate. Otherwise the bill dies, unless a *discharge petition* (a maneuver that is rarely successful) brings it to the full House. In the Senate any bill can be proposed on the floor as an amendment to another measure, so discharge petitions are not needed.

At this point the bill goes on a calendar, a fact that still does not guarantee consideration. In the Senate the majority leader, in consultation with the minority leader, schedules bills for consideration. In the House, the *Rules Committee* reviews major bills and may block action or send them to the floor under a *closed rule*, which limits debate and forbids amendments, or under a less favorable *open rule*, which permits amendments from the floor.

3. *Floor debate.* In the House, major bills are discussed by the *Committee of the Whole* under rather tight restrictions. The committee sponsoring the bill guides the debate, amendments (if they are allowed at all) must be germane, and the time allowed for debate is limited. The sponsoring committee usually gets its version passed by the House. Four voting procedures in the House are the voice, division, teller, and roll-call votes.

In the Senate, there is no limit on debate (except for *cloture*). Nongermane amendments may be offered, producing a *Christmas tree bill* (with goodies for lots of groups) or forcing the Senate to deal with an important policy issue in connection with a trivial bill. In general, the guidelines for Senate debate are negotiated by the majority leader and listed in a unanimous consent agreement.

4. *Conference committee.* If a bill passes the House and Senate in different forms, the differences must be reconciled before the bill can become law. If the differences are minor, one house may simply accede to the changes made by the other. If differences are major, a conference committee must iron them out. In most cases, conference votes tend to favor, slightly, the Senate version of the bill.
5. *The president's signature.* If both houses accept the conference report, the bill goes to the president for signature or veto. If the president vetoes the bill, the veto can be overridden by a two-thirds vote of those present in each of the two houses.

## Discussion Questions

1. Look at the chart “How a Bill Becomes Law” in the text, and list the hurdles a bill must surmount if it is to become law. Is the legislative process too inefficient?
2. There are two especially significant facts about the legislative process. First, almost all legislation is considered in subcommittees composed of from six to ten members. Second, much legislation enacted into law passes with few changes in the way the bill is reported from committee. To be successful, therefore, wouldn't interest groups have to influence only a few members of Congress? Does Congress so strongly support the work of its committees?

3. Consider each of the following features of Congress (including some that no longer apply), and discuss the policy implications of each. Does each (a) lead to more or less logical and coherent policies? (b) lead to more or less representation of various local and parochial interests? (c) make it easier or harder to pass legislation?
- Party voting in Congress
  - A powerful Speaker of the House
  - A highly specialized committee structure
  - Committee reforms that have taken power away from chairs
  - Ideological caucuses
  - Open meetings of committees
  - Large staffs, including those of Congressional members, committees, and staff agencies
  - Powerful support for the president in Congress
  - The filibuster
  - The closed rule

## THEME D: ETHICS AND CONGRESS

### Instructor Resources

William Dudley, ed., *Political Scandals*. Greenhaven Press, 2000.

Barbara Ann Holmes, *A Private Woman in Public Spaces: Barbara Jordan's Speeches on Ethics, Public Religion, and Law*. Trinity Press International, 2000.

Joseph I. Lieberman and Michael D'Orso, *In Praise of Public Life*. New York: Simon & Schuster, 2000.

Andrew Stark, *Conflict of Interest in American Public Life*. Cambridge, MA: Harvard University Press, 2000.

Dennis F. Thompson, *Ethics in Congress, From Individual to Institutional Corruption*. Washington, D.C.: The Brookings Institution, 1995.

Gregory S. Walden, *On Best Behavior, The Clinton Administration and Ethics in Government*. Washington, D.C.: The Brookings Institution, 1996.

### Summary

The system of checks and balances is designed to fragment political power and thus prevent any single branch from becoming tyrannical. The problem is that this system also provides multiple points of access to influence government officials and in the process enhances the potential for corruption. Congress has been especially prone to instances of corruption and the abuse of power in recent years. This fact has contributed to the public's low opinion of Congress. The series of scandals can be lumped into three categories: financial, sexual, and political.

The financial improprieties of members of Congress generally involve use of their political office to obtain some monetary benefit they would ordinarily not receive. Representative Tony Coelho, for example, took a loan from a political fund-raiser and resigned over the apparent conflict of interest; Senator David Durenburger was "denounced" by the Senate for requiring groups to purchase numerous

copies of his book as payment for speaking. In 1989, the powerful Speaker of the House, Jim Wright of Texas, was compelled to resign; and in 1997, Newt Gingrich became the first Speaker in House history to be reprimanded.

The sexual escapades of members of Congress have resulted in much media coverage. The problems have ranged from Representative Barney Frank's homosexual relationship with a male prostitute to Representative Donald Luken's 1989 conviction for a sexual encounter with a sixteen-year-old female. Recently attention has focused on sexual harassment on Capitol Hill; Senator Robert Packwood was forced to resign in 1995, after the Ethics Committee recommended that he be expelled for having sexually harassed several women and for refusing to be completely cooperative with the ethics investigation. The incidence of such harassment is probably more widespread than this isolated case. A 1993 poll by the *Washington Post* discovered that one of every nine female staffers reports having been a victim of sexual harassment by a member of Congress.

The political abuse of power is usually difficult to prove. The Keating Five illustrates the complexity of this issue. Charles Keating, head of Lincoln Savings and Loan (S&L), contributed an estimated \$1.3 million to the campaigns of five senators. These senators in turn intervened on Keating's behalf during a government investigation into the mismanagement of his S&L, an intervention that delayed government action and eventually cost taxpayers \$2 billion to bail out the institution when it failed. The senators responded that they were acting only to represent a constituent, a key function of their job. Only one senator, Alan Cranston (who was about to retire), received a formal censure for his activities in this episode.

Both houses have enacted codes of ethics which suffer from the same defect—they assume that corruption is mainly a monetary concern. But money is only one way in which an official can be improperly influenced. Even the monetary controls imposed by the codes are problematic because they inherently favor wealthy members of Congress who have no need to supplement their incomes. It is quite clear that political corruption in Congress has no easy resolution.

### Discussion Questions

1. Congressional scandals are classified as financial, sexual, and political. Which do you consider more or less serious? Why? What information should be provided in media coverage of candidates and officeholders? Is it more important that the voters learn about politicians' characters or issue stances?
2. Numerous congressional members have established their own PACs, which are known as leadership PACs. Although these political action committees are kept to the same limitations placed on other PACs, the leadership PACs are sometimes viewed as contributing to the abuse of power. Why? What advantages can a congressional member gain by establishing a leadership PAC? Should the formation of leadership PACs be discouraged?
3. More than one author has noted how difficult it is for Congress to police its own members for ethics violations. Why? As a congressional member, would you be willing to serve on the ethics committee of your chamber? Note that these committee rosters now list the same number of Democratic and Republican members. Why?

## Abstract for Theme D

### The Reprimand of Speaker Newt Gingrich

A concise review of the Gingrich ethics investigations is provided by two *Congressional Quarterly Weekly Report* articles: “Chronology of Gingrich Ethics Case” (January 4, 1997, pages 18–21) and “Republicans Struggle to Leave Ethics Probe Behind Them” (Jackie Koszczuk, January 25, 1997, pages 226–229). This abstract focuses on major events occurring during the more than two years of investigations.

Throughout the 104th Congress, House Democrats claimed that the new Speaker, Newt Gingrich (R, Georgia), had previously engaged in questionable activities. On December 6, 1995, the House Ethics Committee announced the results of its investigations of those charges. The committee found Gingrich guilty of violating House rules in publicizing his college course and a GOPAC seminar in his floor speeches, and in allowing one of his political consultants to interview candidates for congressional staff positions. The committee dismissed two other charges: It concluded that free cable broadcasting of the college course did not have to be reported as a financial donation from the cable company, and it only criticized the acceptance of a book advance from HarperCollins, saying that the action had created the impression of “exploiting one’s office for personal gain.” (The deal had originally involved a \$4.5 million advance, which Gingrich returned after a week of intense controversy in December 1994. Instead, he agreed to write one book and edit another, for a \$1 advance and a share of sales royalties. HarperCollins was owned by Rupert Murdoch, whose media interests stood to be affected by pending legislation.) The committee then announced that it had decided to employ independent counsel to investigate whether fund-raising for the college course, which had been conducted through GOPAC and tax-exempt foundations, had violated federal tax law. An investigator was duly appointed by the Department of Justice.

Almost immediately after this ruling, House Democrats filed a new set of ethics complaints. Basing their allegations on a Federal Election Commission investigation of GOPAC, Gingrich’s leadership PAC, these charges alleged numerous improprieties in fund-raising and finances. Charges continued to be filed throughout 1996. In March 1996, the committee scolded Gingrich for violating House rules in allowing a telecommunications executive to volunteer in the Speaker’s office but recommended no punishment.

The special investigator submitted his report (over 100 pages long) to the Ethics Committee in August. On September 26, the Ethics Committee surprised observers by announcing that it was expanding its investigation to consider whether Gingrich gave “accurate, reliable and complete information” concerning his college course. At the same time, the committee gave the special counsel greater authority to investigate Gingrich’s finances, expanding the list of organizations and activities to be reviewed.

On December 21, with publicity and concern over the investigations having grown, the Speaker signed a formal admission that he had violated House rules. In an additional statement, Gingrich acknowledged that he had forwarded “inaccurate, incomplete, and unreliable statements” to the committee, but insisted that his actions had not been intentionally misleading. At the same time, a twenty-two page “Statement of Alleged Violations” was issued by the committee.

Following these admissions, House Republicans rallied behind the Speaker. Several pressed for a conclusion to the investigations before the January 7, 1997, vote for the Speaker. On December 31, however, the Ethics Committee announced that its disciplinary hearing would begin on January 8, 1997.

Gingrich was returned to the Speaker’s office on January 7. Ten days later, the special counsel’s report was made public. Many House Republicans, whose leaders had insisted that the report would be

comparatively mild, felt betrayed. On January 21, the House voted in favor of the disciplinary actions recommended by the Ethics Committee. Newt Gingrich became the first Speaker to be reprimanded by the House of Representatives.

The vote to reprimand was 395–28, with five members voting present. Additionally, the Speaker was fined \$300,000 to reimburse costs associated with correcting his misleading information. Among Republicans, 196 voted in favor of the reprimand, 26 voted against; among Democrats, 198 voted in favor, 2 voted against. The Independent member voted for the reprimand. Even after this vote, there were pending investigations of the financial arrangements for the college course and for several televised town meetings. Gingrich was also awaiting investigations of his financial management of GOPAC and of several tax-exempt foundations.

As almost every political commentator observed, no one knew whether the Speaker would be able to recover his credibility and leadership strength following the reprimand. At the very least, the time consumed by the ethics investigation was time not devoted to setting the legislative agenda. And Senate majority leader Trent Lott (R, Mississippi) was well positioned to become the legislative leader of the Republican party.

### Discussion Questions

1. Review the rulings of the House Ethics Committee. Which do you consider most serious? Why? As committee members, how would you have voted? The effects of partisanship on the committee's judgments should be weighed, and you should consider whether Congress can reasonably be expected to police its own members.
2. Which of Gingrich's actions point to the need for a reform or strengthening of the House rules governing member behavior? For example, as a result of the charges brought against Gingrich, the House voted on December 22, 1995, "to ban House members and staff from accepting book advances." The vote was 259–128. Are there other changes which should be implemented? Alternatively, are there rules that should be revoked? For example, why is it improper for a political consultant to interview prospective staff members?
3. Should Gingrich not have been reprimanded? Or should Gingrich have received a more stringent punishment? The alternatives to a reprimand are a censure or expulsion. A censure, like a reprimand, requires the affirmative vote of a majority of the House; unlike a reprimand, it requires that the member be present in the chamber to listen to the charges and to be censured. Expulsion requires a two-thirds majority vote.
4. In 1988, Gingrich joined with Common Cause (a public-interest group) to urge an investigation of then-Speaker Jim Wright (D, Texas). Gingrich's allegations included claims that the Speaker had lobbied on behalf of oil companies in return for investment opportunities, and he also challenged financial arrangements surrounding the publication and sale of Wright's memoirs. After a ten-month investigation of these and other charges, the Ethics Committee identified sixty-nine instances where Wright might have violated House rules; it announced, however, that over half of these violations would not receive further investigation. After enduring great criticism in the press and lack of success in his negotiations with the committee, Wright resigned the speakership (June 6, 1989) and resigned from the House (June 30, 1989). How does this background information affect your evaluations of Gingrich's behavior? Were the charges brought by Democrats against Gingrich the "cannibalism" that one House Republican claimed? Does this background revise your original assessments of the House's ability to conduct adequate and unbiased investigations of its members?

5. On April 18, 1997, a front-page *New York Times* article announced that Robert Dole had offered to lend Newt Gingrich the funds to pay the \$300,000 fine. The offer, which was accepted by the Speaker, was presented as a gesture of party unity. Should Dole have made this offer? Remember that Dole was retired from the Senate at this time and was therefore a private citizen.
6. On November 7, 1998, immediately following elections in which the House Republicans lost seats, Newt Gingrich resigned from the House speakership. The subsequent nomination and selection process was highly contentious. Robert Livingston (R, Louisiana) was selected by the party members on November 18. Barely a month later, On December 19, Livingston announced that he would not stand for formal election and that he would be resigning from the Congress; the congressman acknowledged that he had “on occasion” had extramarital affairs. (It is important to note that Livingston was criticized for his behavior by Republicans, as well as Democrats.) The Republican Party eventually selected, and the House elected, J. Dennis Hastert (R, Illinois) as speaker. (*CQ Almanac, 1998*. Washington, D.C.: CQ Press, 1999. Pages 7–4 to 7–12.) What do these events suggest about the organizational climate in which the House is conducting business? What do they suggest about the challenges that confront House leaders?
7. Research the extent of influence currently wielded by the Speaker and by the Senate majority leader. What are the lasting effects of the Gingrich investigations, the Livingston resignation, and the Hastert speakership?