

2.3

Congressional Behavior

Explain how Congressional behavior is influenced by election processes, partisanship, and divided government.

Popular rights have been called “the first-order tools of democracy.” This involves more than casting votes. Popular rights also mean that collective decisions made by a representative legislative body reflect the will of the people. Measuring our Congress’ effectiveness has proven to be difficult. Approval ratings of our Congress are at historic lows. Yet recent political science can demonstrate that the “proven ability to advance a member’s agenda items through the legislative process” is actually quite positive. Words like gridlock and divided government dominate our national narrative but a closer look at our Congress would show that certain lawmakers are able to effectively represent the interests of their constituents. There are, however, certain trouble spots.

Political differences in Congress today continue to threaten democratic effectiveness. Whereas a “do nothing Congress” was once considered an occasional political barb, it now appears to be the new normal. On this, political scientists agree.

By any measure, the modern Congress is a polarized one. In the past 40 years, more conservative Republicans have replaced retiring Republicans, and incoming Democrats have been more liberal than those that they replaced. The departure of Southern Democrats, once a stronghold of moderate views on issues besides civil rights, has exacerbated this trend. In the 1950s, political scientists complained that it was difficult to differentiate between the two parties. By the 1980s the parties in Congress were mostly differentiated, and today ideological overlap between the parties is essentially gone. Congressional polarization may be the most prominent stylized fact of American political science...

Yet our democratic institutions continue to function. Omnibus appropriation bills get passed. Social services continue without interruption. Our military is staffed and adequately supplied. Appointed judges get confirmed. Our commerce is both encouraged and regulated to assure both prosperity and safety. And most importantly, our Congress is able to react and respond to emergencies that impact our citizens. Our government continues to work. Nevertheless, differences in Congress can undermine democratic effectiveness.

George Wallace, a Southern politician, liked to say, “There’s not a dime’s worth of difference between Democrats and Republicans.” Today there can be no mistaking the partisan divide between our two major political parties. In both legislative chambers, House and Senate, Democrats sit on one side and Republicans on the other. Less obvious but more pronounced is the ideological split between our two ruling parties.

Congress today is characterized by its constant bickering, squabbling and wrangling. Democrats today are more liberal while Republicans are more conservative. Democrats and Republicans block each other at every turn. Ideological polarization, it has been argued, is rooted in the permanent campaign. Members of Congress find themselves all too often seeking to secure votes back home rather than votes in their legislative chamber. Negotiation and compromise in Congress today are an endangered species. Without compromise meaningful change is difficult. Public policy achievements are even more rare. But beyond the permanent campaign, polarization in Congress is also a byproduct of systematic gerrymandering.

Spoiler alert, if Americans knew about gerrymandering the perception of Congress would be even lower. Read on at your own risk.

Gerrymandering is a by-product of a practice mandated by the U.S. Constitution that takes place every ten years. Every ten years the U.S. must take a census to count accurately our population. Population determines the number of representatives each state is allocated in the House of Representatives. Every ten years the House is reapportioned. If one state's population declines relative to another they may lose a seat in Congress. An increase might mean adding a seat in the House. Once reapportioned, each state congressional district must be redrawn to reflect the new population numbers. In *Baker v. Carr* (1962) the Court ruled against mal-apportionment. Each congressional district must have the same population, "one man one vote." Drawing new congressional districts is called redistricting. So far it sounds quite innocent. It is far from it. When State legislatures redistrict they intentionally draw the lines to favor one political party over another. When they redistrict to advantage an incumbent, this is called gerrymandering. To put it plainly, gerrymandering is when elected officials all but rig election outcomes before we the people vote. Gerrymandering gives a tremendous advantage to the political party in power. It almost assures that party will hold on to voting majorities for another ten years. Gerrymandering helps to explain why our Congress has grown more partisan and ideological. Gerrymandering also helps, in part, to explain how our Congress has grown more diverse. In *Shaw v. Reno* (1993) the Supreme Court has ruled that legislative redistricting must be conscious of race and ensure compliance with the Voting Rights Act of 1965. Racial gerrymandering has grown commonplace. Close to one third of all Congressional districts today are majority minority districts.

Incumbency rates in Congress are so high. Close to 90% of members in the House seeking reelection win. Despite low approval ratings of Congress incumbency almost guarantees reelection. Beyond the effects of gerrymandering, incumbents have many advantages. They have name recognition due to free media attention. They have an easier time raising money. They have the franking privilege [free postage]. Most importantly, incumbents engage in constituent service. Legislating takes up less and less of Congress' time. Members spend much of their time helping constituents back home in their districts resolve local issues. Constituents are simply the citizens a member of Congress represents.

Occasionally incumbents lose. Every seat is not a “safe seat.” There are a few marginal districts. Marginal districts are congressional districts where the winner receives less than 55% of the vote. Marginal districts are competitive. Marginal districts are more likely when congressional districts are nationalized. This means a national issue mobilizes voters throughout the country.

Divided government, as well, helps to explain and influence the behavior of the United States Congress. When the majority of Congress is of a different party than the president, there is a tendency to vote against presidential initiatives. Divided governments also experience greater difficulty when confirming presidential appointments. Though political science continues to debate the impact of divided governments versus unified governments, Congressional approval ratings have never been lower. Citizens increasingly believe Congress is not living up to their constitution charge. In the end Congress is called upon to vote on public policy.

There are three types of votes taken in Congress. When members vote as “delegates” they cast votes that best represent their constituents back home in their districts. When members vote as “trustees” they cast votes that best represent their own individual conscience. When members vote as “partisans” they cast votes that best represent the wishes of their party. With the precision of today’s gerrymandering, members often can play all three roles in any given vote. This is called being a “politico.”

Today’s U.S. Congress has a self-image problem. We the people hold it in contempt. These feelings are not new. Throughout our history Congress has been a punch line to a sick joke. Even Franklin Roosevelt joined in on the pile up when he said, “It is the duty of the President to propose and it is the privilege of the Congress to dispose.” Congress was never intended to be an efficient working machine. Rather, its duty has always been to represent a complex, diverse and multifaceted democratic polity.