CONGRESS

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CONGRESS

I. The “textbook Congress”
II. Policy Agendas
III. Informal Tracking of Bills
IV. House Rules
V. Senate Filibuster
CONSTITUTIONAL PREROGATIVES

- Designed to be the most powerful branch
- Primary lawmaking body
- Article 1, Section 8, lists powers
  - Power to tax and spend
  - Power to raise an army/navy and declare war
  - Power to regulate commerce
  - Power to coin money (regulate the currency)
  - Broadest Power: Power to make all laws “necessary and proper” (elastic clause)
HOW A BILL BECOMES A LAW

https://www.youtube.com/watch?v=Otbml6WIQPo
Don’t come from nowhere

All of this is managed by informal negotiations and leaders

Differences are important

Is anticipated

Bill introduced in House
- Referred to committee
  - Referred to subcommittee
    - Amended and considered in subcommittee
      - Amended and considered in committee
        - Rules committee proposes rule
          - Chamber considers rule
            - House amends and considers bill

Bill introduced in Senate
- Referred to committee
  - Referred to subcommittee
    - Amended and considered in subcommittee
      - Amended and considered in committee
        - Rules committee proposes rule
          - Chamber considers rule
            - Senate amends and considers bill

House and Senate convene a conference committee.
- Conference committee amends and considers bill
- House and Senate consider reconciled version of bill
- President vetoes bill
- President signs bill
- House and Senate consider bill
- Bill becomes public law
- Bill dies
- Bill becomes public law
WHERE BILLS COME FROM

Introduced by members, but come from...
- Interest group agendas
- Party agendas
- President's agenda
- Sometimes members have an idea
- Sometimes just citizens
- **Policy entrepreneurs**

Policy agendas and windows of opportunity
Solutions in search of problems
- e.g. 2009 stimulus
COMMITTEES

Basic formal structure of Congress
- Much of the detailed legislative work in Congress occurs in committees
- Each committee focuses on a particular area of policy (jurisdiction)
  - Allows for specialization and expertise in committees
  - Also allows self-selection for members

But increasingly procedures deviate
- Bills are sent to multiple committees, or no committee at all.
- Informal negotiations
- Formal executive-legislative summits
- Who decides? Leadership
TYPES OF COMMITTEES

- **Standing committees**
  - Exist permanently

- **Special/select committees**
  - Formed for a specific purpose

- **Joint committees**
  - Members of House and Senate, no legislative authority

- **Conference committees**
  - Members of House and Senate for resolving differences over a bill
COMMITTEE MEMBERSHIP

• Determining committee assignments is a highly political process
  – Party leaders determine committee assignments, and therefore more loyal members are rewarded
  – Less loyal are punished by being sent to less interesting/powerful committees

• Chairs of committees and chairs of subcommittees are powerful
  – Especially Appropriations subcommittees
  – "Cardinals"
**HOUSE**

- Representation by population
- 435 members
- Majoritarian

- Strong leadership
- Strong parties
- Committees important

**SENATE**

- Representation by state
- 100 members
- Minority rights
  - Filibuster
  - Holds
- Consensus
- Weaker committees
  - No germaneness
Median Voter Theorem

- **Median voter theorem**: If members of a chamber are lined up according to their ideology, and there is pure majority rule, the preferences of the **median voter (legislator)** would win.

- Discovered by economist Duncan Black (1948)

- Imagine bargaining over minimum wage which is currently $7.25/hr
  - Bernie Sanders wants $20/hr
  - Mitch McConnell wants $8/hr
  - Rand Paul wants $0/hr
MEDIAN PARTY MEMBER

Common Space DW-NOMINATE Scores

Density

0.0 0.5 1.0

Liberal-Conservative

83rd House GOP (orange), 104th House GOP (red), 114th House GOP (dark red)
• Which median matters more?

• Say we array members of the House from most liberal (John Conyers, D-NY15) to most conservative (John Ratcliffe, D-TX4)

• Do Republicans want the preferences of the 218th most conservative member of Congress (a moderate/liberal Republican) or the 312th? (Rs have 247, Ds have 188)

• True for Democrats when they hold the majority
FLOOR DEBATE

- **House** uses special rules to bring bills to the floor
  - Open rules
  - Closed rules
  - Restricted or modified rules
- **Senate** uses unanimous consent agreements to bring bills to floor
  - Empowers individuals
- Senate also has Filibuster
HOUSE: OPEN VS CLOSED

RULE

- Open rule: amendments are allowed on the floor
- Closed rule: amendments are not allowed on the floor
- Rule restrictions: only some are allowed
  - Germaneness rule: Only amendments related to bill topic allowed
- Rules committee determines rules.
- Parties often use restrictive rules to make sure they don't get median results
  - Heavily stacks Rules committee in its favor
A KILLER AMENDMENT?

The case of the Powell Amendment (1956)
Bill for federal school funding.
Each major group in Congress has these preferences:

<table>
<thead>
<tr>
<th>Southern Democrats</th>
<th>Northern Democrats</th>
<th>Republicans</th>
</tr>
</thead>
<tbody>
<tr>
<td>School funding bill</td>
<td>School funding bill</td>
<td>Nothing</td>
</tr>
<tr>
<td>Nothing</td>
<td>Nothing</td>
<td>School funding bill</td>
</tr>
</tbody>
</table>
The case of the Powell Amendment (1956)
Adam Clayton Powell Jr. (D-N.Y.) proposes amendment to deny federal funds to states that do not comply with Supreme Court (*Brown v. Board of Education*)
Now preferences look like this:

<table>
<thead>
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<th>Southern Democrats</th>
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<th>Republicans</th>
</tr>
</thead>
<tbody>
<tr>
<td>School funding bill</td>
<td>School funding bill + anti-discrimination</td>
<td>Nothing</td>
</tr>
<tr>
<td>Nothing</td>
<td>Nothing</td>
<td>School funding bill + anti-discrimination</td>
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A KILLER AMENDMENT: REPUBLICAN CHOICE

- If Republicans vote for the amendment, they tip the balance in favor of an amended bill.
  - They win because they don't want school funding bill and Southern Dems don't want desegregation

- If Republicans vote against, they tip the balance in favor of unamended bill
  - They lose - Northern and Southern Ds vote in favor
WHAT HAPPENED

- Powell amendment vote passes 225 to 192
  - Northern Ds 77 to 42
  - Southern Ds 0 to 104
  - Rs 148 to 46
- School Aid + Powell Amendment fails 194 to 224
  - Northern Ds 116 to 3
  - Southern Ds 3 to 102
  - Rs 75 to 119
INTERPRETATION

• Republicans voted strategically on an amendment to a bill they didn't like

• Northern Ds voted sincerely but lost everything: no school funding, no desegregation

• Southern Ds voted sincerely and at least got the status quo: no desegregation
BUT....

• Strategic voting like this is possible but political scientists despite trying very hard have come up with a literal **handful** of such cases

• In nearly all cases members vote sincerely, not strategically
GATEKEEPING POWERS

• Generally bills can not be considered on the floor unless they are approved in a committee who has jurisdiction.

• This is important because committees might be composed of people who would prefer status quo to what the majority of chamber wants!

  • Example: Civil rights

• Committees with gatekeeping powers are antimajoritarian institutions.
WHY DO WE HAVE THEM THEN?

• They might serve partisan ends: party median not floor median matters (party model)

• Long-term logrolls (distributive model)
  • Farm politicians get on Agriculture, politicians with military bases get on Armed Services

• We might need to incentivize politicians to specialize in acquiring expertise (informational model)
  • Ex: Foreign service
SENATE FILIBUSTER

• Any single senator can stop a bill by **filibustering** -- endlessly arguing against it (in reality, just threatening to do so is enough)

• It takes **60 votes** (67 before 1975) to override a filibuster with a procedure called a **cloture vote** to proceed to a **final passage vote**

• This means that the majority party can't just pass what it wants, even if it has a large majority

• The filibuster is an antimajoritarian institution, empowering the minority
IRAN AGREEMENT VOTE: SEPTEMBER 2015

- Republicans wanted to pass bill to stop the Iran agreement
- Lost 58-42. All Republicans voted in favor, plus 3 Democrats
- Effect: Iran agreement continues
  - Presidential power increases when Congress can't easily overturn
EVERYBODY'S A HYPOCRITE

• When parties are in the majority, they decry the filibuster as anti-democratic. Party in the minority says they are a valuable tool to stop a runaway majority.

• They switch positions when party control of Senate turns over

• Here's the funny thing: Filibuster rule can be changed by a simple majority!

• One important reason why we have filibuster is the fear by the majority party that eventually they will be the minority

• Filibuster as insurance policy
TWO EXCEPTIONS

• Pass bills with majority when it involves budget
  
  • Example: Affordable Care Act 2010 after Kennedy dies

• New: "nuclear option"
  
  • Senate Democrats eliminate filibuster for judicial nominations which Republicans had been blocking

  • Republicans decry as abusive, but keep when they come into office
FUTURE

• Will we always have the filibuster? Maybe not.

• Scenario: if Republicans hold Congress and win White House in 2016, they will have ambitious agenda in 2017
  
  • Eg, overturn ACA
    
    • Why not now? Presidential veto until 2017
  
  • But ... Democratic filibusters

• Possible to imagine full **nuclear option** getting rid of filibuster entirely