



"Five Key Take-Away Points about Congress"

Prof. Anthony Madonna
 POLS 4790H: Congress Process and Procedure
 1/19/2021
 University of Georgia

Outline

1/19/2020

I. Introduction

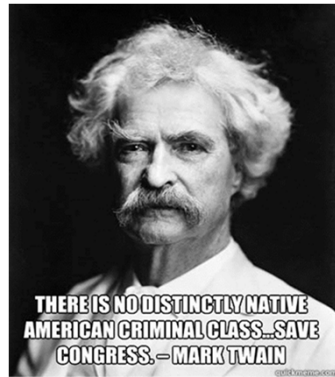
- Logistics
- Who Am I?
- Congress Project
- Jobs

II. Five Key Take-Away Points

- An Unpopular Branch
- Facilitate Conflict
- Necessitates Compromise
- Re-Election: A Proximate Goal
- Rules Matter
- Blindly Transparent
- Conclusion

III. For Thursday

- Rules and the Constitutional Foundations of Congress



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Course Logistics

POLS 4790H: Special Topics: Congressional Process

Room: Baldwin 104

Instructor: Anthony Madonna

Personal Email: ajmadonn@uga.edu

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Website: www.tonymadonna.com

Zoom: <https://zoom.us/j/ajmadonn>

Office: 407 Baldwin Hall

Office Hours: TR 1:00-2:00pm

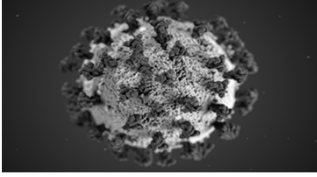
Project Twitter: Congressional Quotes

Syllabus will be e-mailed and on the class website.



Above: Former House Speaker John Boehner (R-OH) AFTER leaving the U.S. House.

Course Logistics



COVID-related Logistics:

This course is being offered as a "hybrid." Broadly speaking, what that means is that you're going to have the option of taking this class in-person or online.

My current plan is to give the standard lectures from the currently assigned classroom, Baldwin 104. The lectures will be simultaneously broadcast via zoom. If you can't attend a live lecture, they will be recorded and posted online (links will be provided).

In order to comply with the University's maximum occupancy rules (11 for Baldwin 104), I will need you to feel out the survey that's been distributed. Should the number of students attending live lectures surpass the room's maximum occupancy, I'll be breaking you into live discussion groups.

I will be as flexible as possible with both office hours and in accommodating students put in difficult situations via COVID. Just contact me if you have questions/issues.

Who Am I?

I've been a professor in the political science department here at UGA since the 2008-2009 academic year.

I'm originally from Michigan and attended Michigan State for undergrad. Prior to coming to UGA I spent some time working on campaigns and in the Michigan State Senate. I then received my PhD from Washington University in St. Louis.

My primary research interests are U.S. congressional politics, American political history and procedural rules. I spent an academic year as a American Political Science Association fellow at the Congressional Research Service.

With Prof. Michael Lynch, I also operate an undergraduate research program I initially titled "The Congress Project" under the assumption I would come up with a better title at a later date.

Today, it's known as "The Congress Project."



Above: An awkward photo of me and my dogs.

Below: My son, expressing a commonly held view of the U.S. Congress.

Who Am I?

A Warning: Prof. Madonna and ZOOM

I am often working from my House. My House has a 7 year old and 4 year old. I have a spouse who is working and two dogs, neither of whom does a good job watching my kids.

As a result, I may have to run off briefly during a Zoom meeting. Rest assured, it wasn't because of something you said.

Probably.

You may notice during a meeting that I am frowning and shaking my head angrily off camera. This is my "dad face" and don't worry, you are not the intended target.

Probably.

It is distinctly possible that at some point during a ZOOM meeting I may abruptly yell "STOP THAT AND PUT SOME PANTS ON!" Again, I am not yelling that at you.

Probably.

Thank you for your patience with all of this.



Above: My 4 year-old is anti-pants.

Legislative History Tips



Look to www.thecongressproject.com for examples! But don't kill yourself trying to match the style.

You have the flexibility to focus on aspects of the law/bill you find the most interesting...

You don't have to know anything about Congress to do this assignment. Just ask questions...

The goals of a legislative history

1. Explain to the reader why the issue matters
2. Explain why Congress acted the way they did
3. If the policy evolved afterwards, provide a brief explanation of how and why
4. Tell the reader where to find more information

Things you should take away

1. How to research federal laws and legislation
2. Greater knowledge of a specific policy and its evolution
3. More incite on the lawmaking process
4. How to use footnotes...

Legislative Histories

This isn't a common assignment in Legislative Politics courses.

I've been using it a number of ways for a few years, though this past fall was the first time I required it in a general class. It's evolved in a few ways and likely will continue to.

The idea here is to try and provide a public resource, produce something useful for students and teach you how Congress works in a way that's more interesting/useful to you substantively.

It's distinctly possible this is a terrible idea (it would not be my first).

This all a long-winded way to say that I welcome any suggestions you might have on this project.

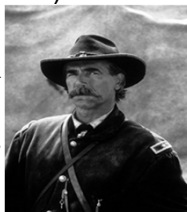


Above: According to my wife making these zoom lectures more entertaining by introducing a sock-puppet sidekick named "Mr. Schlesinger" represented another terrible idea.

POLS 4790: Updates (1/19)



Left: Hulu's "Mrs. America" premiered this week. It tracks the fight for and against the Equal Rights Amendment and is relevant for a number of students working on legislative histories and interested in the broader issue. From what I've seen, Martha Griffiths is not a character in it, which seems criminal.



Right: Sam Elliott as General John Buford in Gettysburg. You can buy the extended edition on amazon for 10 buck rights now (in HD!). It's the tightest four-and-a-half-hours of cinema ever produced.

SURVEY:

Again, please fill this out. The deadline is five pm.

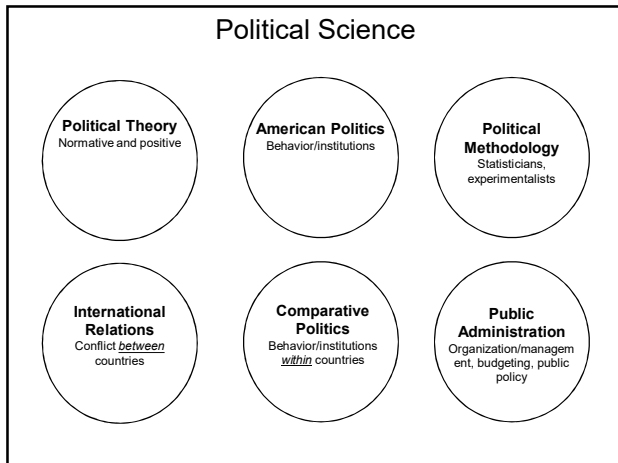
Thanks for all the details you plugged in. You guys have had some great experiences.

IN-PERSON MEETINGS:

Will start Tuesday, 1/26.

VIDEO:

Will have yesterday's lecture up tomorrow afternoon.



What do you do with a Political Science or International Affairs Degree?

I. Broad Points

- ASK when you have questions
- Work on your resumes
- Don't stand pat
- Networking sucks

II. Government employment

- The hill, Atlanta, campaigns, etc...
- Be prepared to start unpaid
- Keep your internship connections
- Grades don't necessarily predict success
- On partisanship
- Be prepared to bang down doors.

III. Lobbying/NGO employment

- Research experience helps here
- Data Management plays everywhere

IV. Law school

- Words of caution
- apply broadly
- Letters of recommendation
- LSAT is a process

V. Graduate school (MPA, MPP)

- Words of caution
- Apply broadly
- GRE is also a process

VI. Data analysis/management

- It helps for all career choices

VII. Don't limit yourself to your undergraduate degree



Engagement and Jobs

Political engagement isn't "all or nothing" and entry political jobs are often tedious.

- Politics is complicated, but accessible. Engage it: volunteer for a campaign, get into a debate/discussion about an issue that's important to you, watch a political program read a useful book, get a political job.
- Networking sucks for everyone, but it's necessary. Keep your internship connection (this takes work). Be prepared for long hours and poor pay early. Also, success comes from playing the long game. Don't get discouraged.
- Do menial tasks well. And don't discount local politics.
- Jobs are great. But—If a superior asks you to do something you don't want to do—GET OUT.



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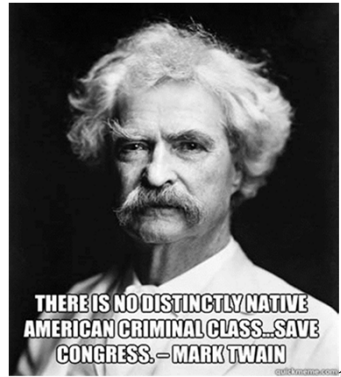
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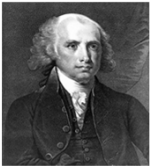
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Congress: An Unpopular Branch



Above: James Madison, who authored Federalist #51.

Below: Abraham Baldwin, UGA founder and critical vote during the Constitutional Convention.



Debate at the Constitutional Convention centered on the powers and structure of the U.S. Congress. If not for "the Great Compromise," the convention would have broken up over it.

In contrast, there was comparably far less debate over the Executive Branch, which was assumed to be weak. Similarly, the delegates essentially "punted" debate over the Judiciary to the first Congress.

This was not surprising, as it was generally assumed that a legislative branch closely tied to the public through regular elections would wield the most power in the nation.

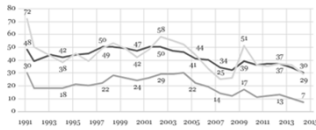
Afterwards, Madison would write in Federalist #51 that: "[I]t is not possible to give to each department an equal power of self-defense. In republican government, the legislative authority necessarily predominates."

Congress: An Unpopular Branch

Americans' Level of Confidence in the Three Branches of Government

% Great deal/Quite a bit

■ The U.S. Supreme Court ■ Congress ■ The presidency



GALLUP

A great deal has changed since then. While Congress still formulates and debates major policies, other branches have played increasingly important roles.

The executive branch has greatly expanded in size and influence. And Americans have increasingly looked towards unelected judges to solve the nation's problems.

While Congress was never popular, it has continued to fall in the eyes of the public.

As former Senator John McCain (R-AZ) liked to say: "We're down to paid staffers and blood relatives."

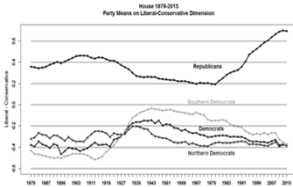
GALLUP

Congress: An Unpopular Branch

There are a number of factors that account for the general public's aversion to Congress. These include it being a collective body, high levels of polarization, and a perceived decrease in effectiveness...

In this (brief) introduction, I'm going to focus on five key, overlapping factors about the U.S. Congress that I hope you take away from this course and likely contribute to the public's attitude towards the U.S. Congress:

1. Designed to facilitate conflict.
2. High transaction costs force compromises.
3. Re-election is a "proximate goal" for members.
4. Rules, procedures and agenda-setting matters.
5. Congress is blindingly transparent.



Above: House polarization via Voteview.com

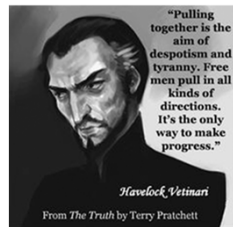
Facilitate Conflict

As Madison noted in Federalist #10, conflict in a political system was expected: "So strong is this propensity of mankind to fall into mutual animosities, that where no substantial occasion presents itself, the most frivolous and fanciful distinctions have been sufficient to kindle their unfriendly passions and excite their most violent conflicts."

His preferred solutions to problems posed by it was to "extend the sphere" of influence to mitigate the possibility of permanent conflict on one issue, as well as providing for a separation of powers system so "ambition [could] counteract ambition."

Regular, open elections and a bicameral legislature were a result of this.

They combined with other factors (geographic districts, first-past-the-post voting systems and open primaries) to create exceptionally weak political parties and provide for a legislative branch that meant for conflict.



Above: Lord Havelock Vetinari on the benefits of conflict. If you haven't read Terry Pratchett, you should.

Facilitate Conflict



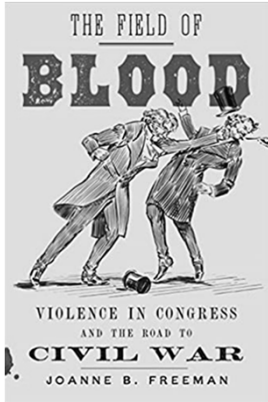
Left: Senator "Pitchfork" Ben Tillman (D-SC), you can probably guess his political positions; Center: Reps. William Graves (W-KY) and Jonathan Cilley (D-ME). The former famously killed the latter in a 1838 duel. Right: Rep. John Bennett Dawson (D-LA) who was quoted by observer Charles Dickens as telling another member during a floor debate: "Damn your eyes, Sir, if you presume to call me to order, I'll cut your damnation throat from ear to ear."

This point is often overlooked by commentators who bemoan the "fall of Congress." Congress often featured strong disagreements and conflict. 20th century congress featured fights, duels and the occasional caning.

It included rough men with names like "Pitchfork" Ben Tillman (D-SC), who earned his nickname when he threatened use one to attack that "bag of beef," President Grover Cleveland; John "Bowie Knife" Potter (R-VI) who when challenged to a duel agreed on these terms--"bowie-knives [in] a dark room, and one of us to die"; and "Cranium" Jack McGraw (D-VA), who kept the skull of a man he killed in a duel in his boarding house.

So I made up the last guy, but it's tough to tell, right? And the point here still holds.

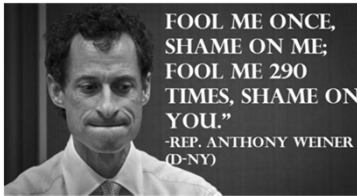
Facilitate Conflict



"Professor Madonna, where can we learn more about 19th Century Congressional Violence?"

"Great question, Billy (assuming your name is Billy). Here's another book recommendation:"

Facilitate Conflict



Left: Former Rep. Anthony Weiner (D-NY) complaining about the 300 bills passed by the House that the Senate has not taken up.

It's important to keep in mind that "the good old days" was rarely that good.

Even when Congress isn't physically fighting with itself, the system forces conflict within political parties, between other chambers and branches.

This internal conflict is not something we see in the Executive branch, which is controlled by one party, or the Courts, which are not responsive to an electorate.

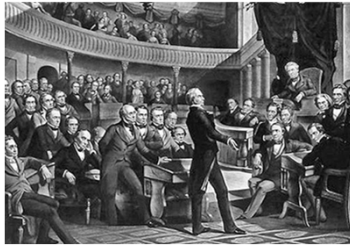
And it differs from other legislatures that frequently feature parliamentary systems that encourage strong political parties.

In this respect, Congress truly is "the people's branch." And "the people" frequently disagree.

Necessitates Compromise

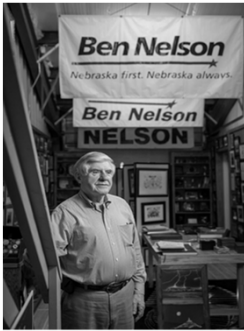
The large number of veto players in the American political system and especially within the U.S. Congress has other, significant effects. It makes policy change in the U.S. slow and also necessitates substantially compromises be made in the legislative process.

While we frequently consider compromising as being a normatively "good" feature of lawmaking, there are significant drawbacks that need consideration.



Above: "The Great Compromiser," Senator Henry Clay (W-KY) and the Compromise of 1850.

Necessitates Compromise



Above: Former U.S. Senator Ben Nelson (D-NE), whose "congressman kickback" during the passage of the Affordable Care Act sparked public backlash.

(1) They are frequently made on "off-dimension" issues. This means an unrelated provision might be inserted into a bill to satisfy a key member or block of members even though it would lack majority support on its own.

(2) Legislative compromises often occur late in the process and can have unanticipated consequences. Often times, the inability to anticipate consequences stems from inadequate resources.

(3) They can often turn off the general public, who view them as sleazy. More commonly, they will confuse the general public who don't recognize a compromise has been made. This may sour them on the entire policy.

(4) Policies, like rules and institutions, often follow path dependent processes.

Necessitates Compromise

The Equal Access Act:

In 1983, conservatives got concerned about restrictions on prayer in schools. Accordingly, members of the House, working with President Reagan, introduced HR 5345. That bill provided protections for only religious groups that wanted to meet on high school premises. Critics asserted it was an "unconstitutional attempt" to bring religion into the classroom. HR 5345 did not receive a special rule for HR 5345 and tried to pass it via suspension in the House, which requires 2/3rds support. They fell 11 votes short.



Above: That probably doesn't need a caption.

However, a version of the bill was proposed as an amendment to S 1285, a bill that provided improvements to math and science education. Faced with a filibuster, the amendments sponsors—Senators Jeremiah Denton (R-AL) and Mark Hatfield (R-OR) opted to modify the measure. This modification was a compromise that provided protections for all "student groups." The Senate then substituted S 1285 for HR 1310—which had already passed the House. The House then adopted Hres 554 (introduced on page 20682, passed on page 20932) via suspension on a voice vote (so no PQ motion on the rule), which made it in order to offer two motions to suspend the rules to concur in Senate amendments to HR 1310. Those motions to concur were agreed to via roll call on pages 20951 and 20956. The bill was then signed into law.

Interestingly, that modification would prove to be particularly important. While the original intent of the bill was to protect religious groups, the Equal Access Act is probably most known for providing protections for LGBT student groups. These groups sued high schools in the 90s and early 2000's when they were barred from meeting on campus under that act.

Re-Election: A "Proximate Goal"



Above: Former Senator Paul Douglas (D-IL). Below: Former Senator Frank Graham (D-NC).



If they don't get re-elected, they can't impact policy, attain higher office, etc. In short, contrary to the view that Congress is out of touch with voters, they annoyingly do the opposite. Members watch polls, fundraise continuously, and listen to constituent and interest group correspondence.

"Former Senator 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.

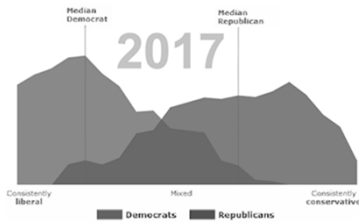
Graham, a liberal appointee to the office, refused to listen. He was a "saint," says Douglas. He lost his primary. There are not many saints...

[Scholars often] assign three primary 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

Re-Election: A "Proximate Goal"

Below: The general public by ideology.



Primary Elections:

Unlike virtually every other nation, members in the U.S. Congress also have to worry about pleasing two distinctly different electoral constituencies. While the Median Voter Theorem predicts ideological convergence to a moderate position in a two-party general election, more extreme voters participate in primaries.

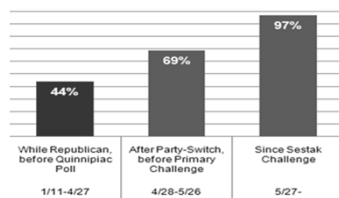
As a result, members are forced to either taken different positions or emphasize different policies to appeal to primary and general election voters.

Re-Election: A "Proximate Goal"



Above: Former Sen. Arlen Specter (D/R/D-PA)

Arlen Specter: Democratic Loyalty Scores on Contentious Votes



An Extreme Example:

"In the first month or so after becoming a Democrat, Specter was voting with his new party about two-thirds of the time on these Contentious Votes. While there are some less loyal Democrats -- say, Ben Nelson of Nebraska -- who only vote with their party about half the time, this was certainly less than what most Democratic observers were hoping for. But since then, indeed, something has changed. Well, a couple of things have changed. On May 27th, Congressman Joe Sestak announced that he intended to challenge Specter for the Democratic nomination. And since that time, Specter has voted with his party on 28 out of 29 Contentious Votes, or 97 percent of the time." -- Fivethirtyeight.com, 7/25/2009

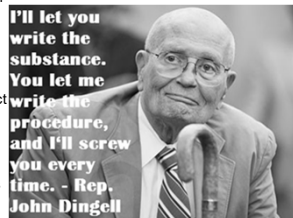
Rules and Agenda-Setting Matter

Congress is governed by often archaic rules of procedure (both endogenous and exogenous) that have followed path dependent processes. They have a massive impact on policy formulation.

See the previously mentioned Equal Rights Act for an example of the impact the filibuster has.

Civil Rights legislation was likely backed by congressional majorities for decades but thwarted by a combination of the House Rules Committee and the Senate filibuster.

Knowledge of rules and formal agenda-setting power has been increasingly centralized towards party leadership.



Above: Former Rep. John Dingell (D-MI), being awesome.

Blindly Transparent

Finally, rules and technological advances have made many levels of Congress blindly transparent.

This does make internal deal-making in Congress and other legislative bodies difficult. Members know they're being watched by voters and interest groups and may not want to compromise to appear weak.

The Framers acknowledged that balance was needed between being able to hold members electorally accountable and allowing them the flexibility to enact compromises.

Indeed, Madison has argued the Constitution would not have been adopted if not for secrecy.

In contemporary Congressional politics, issues stemming from transparency has led to a further centralization of lawmaking. Deals, like those over the recent COVID-19 response legislation, are hammered out informally by a handful of party leaders.



Above: James Madison, who would later declare: "No Constitution would ever have been adopted by the convention if the debates had been public (Hoffman 1981, 21)."

Blindly Transparent

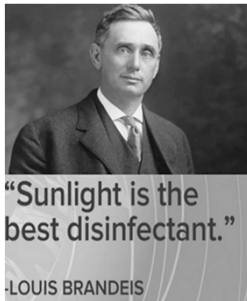
The increase in transparency is a point that can broadly be applied to the entire government (and most Democratic governments).

It's counter-intuitive in a way, as many assume the government is trying to hide or bar information. And as with compromises, we often associate transparency with being normatively "good."

A substantial problem stemming from increased transparency, however, is information overload. Governments produce so much information on rules, policies, floor debates, committee debates, bureaucratic rules, etc., that it's impossible to keep track of all of it.

In short, the "sunlight" former Supreme Court Justice Louis Brandeis called for, can be so bright it blinds.

A primary goal for this course is to learn how to overcome this.



Above: Former Supreme Court Justice Louis Brandeis.

Moving Forward



Above: An 1858 brawl in Congress ended in laughter after a member accidentally ripped a hairpiece off of Rep. William Barksdale (D-Ms) (he didn't realize Barksdale was wearing one).

In this class, we'll be talking about all of these issues in greater detail: why conflict isn't necessarily a bad thing, how compromise impacts policies; how re-election effects lawmaking; the development and impact of rules and agenda-setting and how to overcome "information overload" when it comes to studying Congress.

I won't kid myself into thinking I can get you to ***like*** the U.S. Congress (though I might get some of you). But I do want you to understand why it makes the decisions it does and the difficult position members are in.

I also think I can get you to like parts of it.

Some parts.

Probably the conflict and violence parts.

Questions, Concerns, Angry Rants?



Thursday: Why Rules and the Constitutional Foundations of Congress.

Survey Due



Again, please complete the qualtrics survey I sent out by Thursday at 5 pm. Should be free points, folks.
