



"Overview and Constitutional Foundations"

Prof. Anthony Madonna
 POLS 4790H: Congress Process and Procedure
 1/21/2021
 University of Georgia

Outline

1/21/2020

I. Introduction

- a. Logistics
- b. Who Am I?
- c. Legislative History
- d. Update

II. Help! We're in a Living Hell!

III. Rules

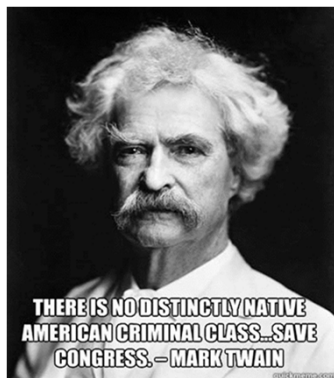
- a. Cox (2000)
- b. Exogenous v. Endogenous
- c. Why Do Rules Matter?
- d. When Do They Matter?
- e. Effect of Them?

IV. Evolution and Overview

- a. Overview
- b. Articles of Confederation
- c. Constitutional Convention
- d. Powers of Congress
- e. Electoral System
- f. Who Serves?
- g. Organizing Congress

V. For Tuesday

- a. How a Bill Becomes a Law



2

Course Logistics

POLS 4790H: Special Topics: Congressional Process

Room: Baldwin 104

Instructor: Anthony Madonna

Personal Email: ajmadonn@uga.edu

Phone: 314-313-9937

Website: www.tonymadonna.com

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

Office: 407 Baldwin Hall

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

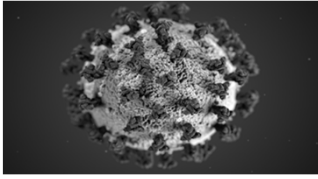
Project Twitter: Congressional Quotes

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 side kick named "Mr. Schlesinger" represented another terrible idea.

Course Updates (1/21)



SURVEY:

Again, please fill this out. [The deadline is five pm.](#)

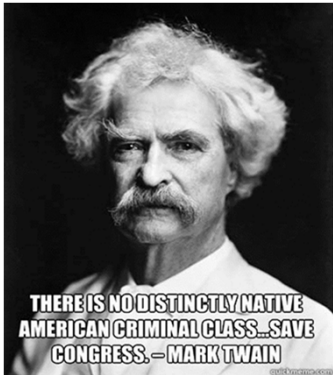
Over the weekend, you'll be receiving a preliminary legislative history group assignment.

IN-PERSON MEETINGS:

Will formally start Tuesday, 1/26.

ELC:

Should have the videos up there shortly.

Outline 1/21/2020	
<p>I. Introduction</p> <ul style="list-style-type: none"> a. Logistics b. Who Am I? c. Legislative History d. Update <p>II. Help! We're in a Living Hell!</p> <p>III. Rules</p> <ul style="list-style-type: none"> a. Cox (2000) b. Exogenous v. Endogenous c. Why Do Rules Matter? d. When Do They Matter? e. Effect of Them? <p>IV. Evolution and Overview</p> <ul style="list-style-type: none"> a. Overview b. Articles of Confederation c. Constitutional Convention d. Powers of Congress e. Electoral System f. Who Serves? g. Organizing Congress <p>V. For Tuesday</p> <ul style="list-style-type: none"> a. How a Bill Becomes a Law 	

Exogenous v. Endogenous Rules


Exogenous Rules – Rules inherited by a legislative body that can not be altered by it. In the U.S. context, these are generally established by the Constitution.

Endogenous Rules – Rules that were established by the legislative body and can be altered by it.

As Cox (2000) notes, political scientists often treat rules as exogenous. From a modeling standpoint, doing so is simpler.

However, Riker (1980) posits that "[w]hen rules can be overturned by the very actors whose behavior is supposedly constrained by them, doubts are legitimately raised about how effective those rules can be."

This point is contested by subsequent scholarship.




Above: In 1960, Senate Majority Leader Mike Mansfield (D-MT) persuaded Democrats supporting civil rights legislation to back off of an effort to decrease the cloture threshold. Unwilling to sacrifice incoming President John F. Kennedy's legislative agenda, he argued "we ought to face up to the realities of the situation and recognize that the Democratic President will have a program he will want to put through."

Why Rules?

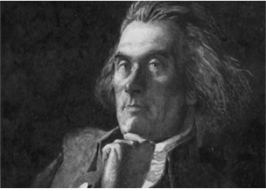
Why Rules?

1. Protect minority rights
2. They can temper passions from factions—people are more likely to engage in violence if they feel cheated
3. Lawmaking is often dependent on continuity
4. Protect majorities from themselves
5. Help maintain faith in institutions

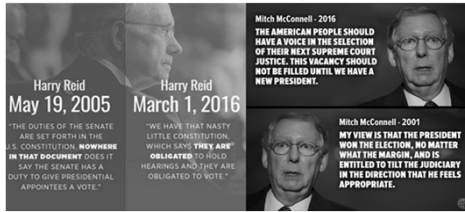


Left: UGA WR Tyler Simmons being incorrectly called off-sides after blocking a punt in the 2018 National Championship Game against Alabama. How did this call make you feel at the time?

Below: "...it is always in the power of the majority, by their numbers, to stop any improper measures proposed on the part of their opponents, the only weapons by which the minority can defend themselves against similar attempts from those in power, are the forms and rules of proceeding..." – Thomas Jefferson Jefferson's Manual of Parliamentary Practice



When are Rules Likely to Matter?



When?

1. Exogenous
2. They benefit majorities
 - a. But how do we define majorities?
3. The costs of changing them are high
 - a. Costs meaning the time and effort required. As well as any transaction costs.
 - b. Electoral costs? No.
4. Benefits of altering the rules are highly salient.

What are the Effects of Rules?

Centralization: In the contemporary U.S. Congress, control over rules and procedural rights has been centralized to party leaders over the past thirty to forty years.

This has led to:

- (1) Proximate effects related to the distribution of staff and other resources.
- (2) Increased agenda control has allowed leadership to restrict policy choices that could be made.
- (3) Framing effects related to voting and omnibus lawmaking. These agenda control powers allow leaders to pack the content of bills so members can explain votes in a variety of different ways.

What impact – if any – has centralization had on accountability?



Outline

1/21/2020

I. Introduction

- a. Logistics
- b. Who Am I?
- c. Legislative History
- d. Update

II. Help! We're in a Living Hell!

III. Rules

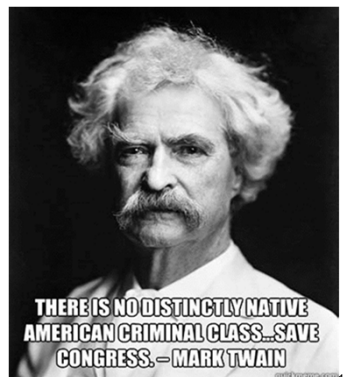
- a. Cox (2000)
- b. Exogenous v. Endogenous
- c. Why Do Rules Matter?
- d. When Do They Matter?
- e. Effect of Them?

IV. Evolution and Overview

- a. Overview
- b. Articles of Confederation
- c. Constitutional Convention
- d. Powers of Congress
- e. Electoral System
- f. Who Serves?
- g. Organizing Congress

V. For Tuesday

- a. How a Bill Becomes a Law



Congress - Overview



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

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



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

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

The Articles of Confederation

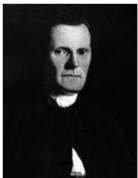
Provisions of the Articles:

- major laws—such as those dealing with taxes and constitutional change—required the endorsement of nine of the thirteen states
- more fundamental change, such as amending the Constitution, required unanimous agreement
- national authority was so circumscribed that the delegates saw little purpose for an executive or a judiciary



Delegates sought to replicate home rule they had lost.

Drafting The Constitution



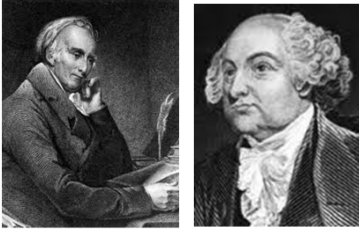
The fifty-five delegates meeting in Philadelphia in 1787 were able to draw from their Revolutionary War experience.

- Most expected limited change
- Youngish (average age of 42), well-educated, white, and male.
- They were also highly conversant in the ideas and theories that abounded during the Age of Reason.



"Few gatherings in the history of this or any other country could boast such a concentration of talent."
— Melvin I. Urofsky

Drafting the Constitution



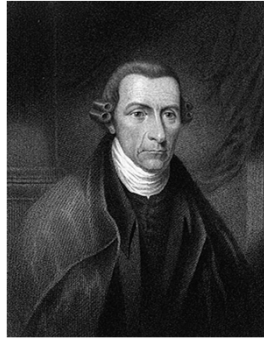
Talented group, but not without limitations and flaws...

"I shall continue to believe that 'great men' are a lie and that there is very little difference in that superstition which leads us to believe in what the world calls 'great men' and in that which leads us to believe in witches and conjurers." – Benjamin Rush, to John Adams

Drafting the Constitution

Most delegates were oblivious to the types of sweeping changes that would be proposed by Madison and his allies.

"I smelled a rat." – Patrick Henry



The Virginia Plan



This plan, introduced by Edmund Randolph, also from Virginia, shifted the focus of deliberation from patching up the confederation to considering what was required to create a national union.

Its centerpiece was a bicameral legislature.

Members of the lower chamber apportioned among the states by population and directly elected.

Lower chamber would elect members of the upper chamber from lists generated by the state legislatures. It would also elect the executive and judiciary.

Also stipulated that the national government could make whatever laws it deemed appropriate and veto any state laws it regarded as unfit.

If a state failed to fulfill its legal obligation the national government could use military force against it.

The Virginia Plan

Opposition grew toward the Virginia Plan from two directions:

- Less-populous states.
- States' rights delegates.

Leads to the creation of the "New Jersey" plan.



The New Jersey Plan



Given its quick creation, it had its own faults: it failed to propose the organization of the executive and judiciary.

It perpetuated the composition and selection of Congress as it functioned under the Articles, but it did give Congress the power to tax.

Debate continued, however, as neither side was happy with the options given by their opponents for the composition of Congress.

Stalemate loomed after weeks of debate and numerous plans were defeated. Finally, a tie vote on a proposal allows the delegates to send the question of Congress to a committee to resolve.

The Great Compromise

Each side got one of the two legislative chambers fashioned to its liking:

- The upper chamber (Senate) would be composed of two delegates sent from each state legislature who would serve a six-year term
- Madison's population-based, elective legislature became the House of Representatives and as an extra compromise to appease Madison's nationalists, House has sole authority to originate revenue legislation
- Unanimity replaced by a rule allowing a majority of the membership to pass legislation

Article 1, Section 8 extended the authority of the national legislature.

- commerce clause (Clause 3)
- necessary and proper clause (Clause 18)



Congress - Constitution

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

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

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

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

The Senate would be more insulated from momentary shifts in the public mood by virtue of a longer term (in addition to their selection by state legislatures).



Qualifications



Qualifications for office also reflected the Framers' concept of the Senate as the more "mature" of the two chambers.

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

Powers of Congress



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

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

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

Other Powers of Congress



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

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

Other Powers of Congress

The Constitution said very little regarding Chamber rules, stating that: "Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member."

It also sought to balance transparency concerns by providing: "the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal"



Achieving Balance

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

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

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



The Electoral System

Two choices made by the Framers of the Constitution have profoundly affected the electoral politics of Congress: Members of Congress and presidents are elected separately.

- *This is unlike parliamentary systems, where authority resides with the legislature, which chooses the chief executive.*

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

- *Some parliamentary systems use a proportional representation. Under a proportional system a party wins a share of seats in the legislature matching the share of votes it wins on election day.*



Congressional Districts

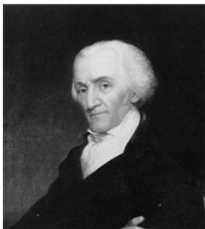


After the first census in 1790, each state was allotted one House seat for every 33,000 inhabitants for a total of 105 seats.

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

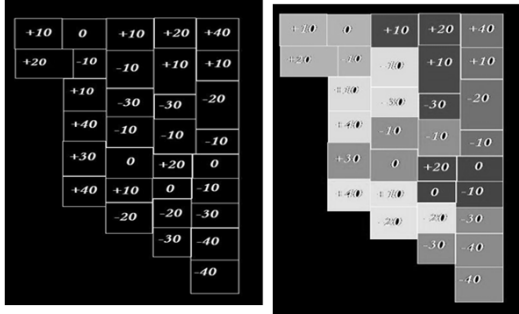
However, the size of each state's delegation may change after each decennial census as state/region populations shift.

Redistricting and the Law



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

Redistricting and the Law



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

Senate Representation



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

Senator Harris of California – 39.25 million people.

Senator Enzi of Wyoming – 585,501 people.

Average U.S. House member represents nearly 700,000 people.

District of Columbia holds 681,170.

Eight largest states are home to 51 percent of total U.S. population. Leads to unequal representation.

The Electoral Connection



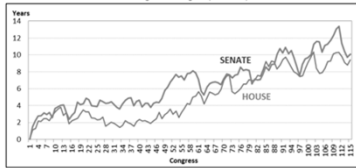
The modern Congress is organized to serve the goals of its members.

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

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

Who Serves in Congress?

Figure 1. Average Service Tenure, Senators and Representatives
1st through 115th Congress (1789-2019)



115th Congress:

Average age: 57.8 years (House); 61.8 years (Senate)

HS Diploma Only: 18 (House); 0 (Senate)

Law Degree: 167, 37.8% (House); 55, 55% (Senate)

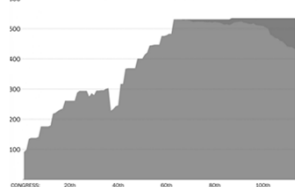
Medical: 18 (House), 3 (Senate)

Average Length of Service: 9.4 years (House); 10.1 years (Senate)

Who Serves in Congress?

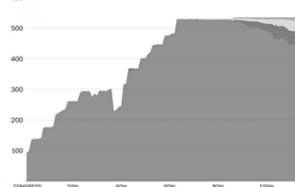
Gender composition of Congress over time

Male Female



Racial composition of Congress over time

White Black Hispanic Asian



The 115th Congress is on nearly 20 percent women and just over 19 percent of which is non-white of the most diverse in American history, comprised of.

The Problems of Legislative Organization



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

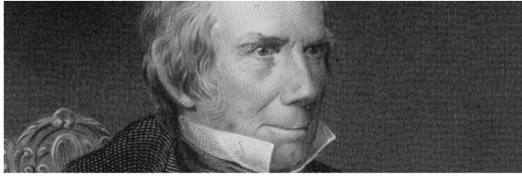
How to acquire information.

How to coordinate action.

How to resolve conflicts.

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

Organizing Congress



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

- The parties.
- The committee system.

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

Questions, Concerns, Angry Rants?



Tuesday: How a Bill Becomes a Law.

Survey Due



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