



Congress and law-making in the US

Alex Wadden

Congress is divided into two chambers: the Senate and the House of Representatives. The two have broadly similar powers and any bill, in order to become law, must pass through both in the same form. Unfortunately, they by no means always work in harmony. One reason for this is that the two bodies are elected by, and therefore represent, different voter constituencies. The Senate has 100 members, two from each state. There are 435 members of the House of Representatives, each state represented in proportion to the size of its population. They are also subject to different electoral cycles, which enhances the possibility that each will be controlled by a different political party (Box 1 and Box 2).

Organisation

The House of Representatives

Despite its greater size, the House is in fact the more tightly organised of the two chambers. The senior position is that of speaker. The speaker is the leader of the majority party in the House, currently the Republican J. Dennis Hastert from Illinois. Hastert has tended not to adopt too high a profile, but at times the speaker can be an important voice on the national political stage. This was seen most recently when the Republican Newt Gingrich became speaker in 1995 and used the position to try to challenge the authority of Democrat President Bill Clinton. The next most important figures are the majority leader, currently Richard Arney from Texas, and the majority chief whip, currently Tom Delay, who is also from Texas and is known as 'the Hammer'. The current minority leader, head of the Democrats, is Dick Gephardt of Missouri.

The Senate

According to the constitution, the presiding officer in Senate is the vice-president, but in reality the key figures are the leaders of the respective party caucuses (the vice-president, though, does have the casting vote in the event of a tied vote in Senate).

After the November 2000 elections, the Senate was split exactly 50-50 between the Democrats and Republicans, but the Republicans kept the trappings

of the majority. In June 2001, however, Democrat Tom Daschle from South Dakota became the majority leader, with Trent Lott from Mississippi relegated to minority leader after the defection of Vermont Republican Jim Jeffords (Box 3).

The key task of these congressional leaders is to oversee the passage of legislation. This can be a tortuous process.

Getting a law passed

Ideas for legislation come from a number of sources. In the twentieth century the president became an increasingly important figure in determining the legislative agenda, but major proposals can still be developed by members of Congress. In any case, whatever the origin of a potential piece of legislation, all bills must be submitted to the Senate and the House by a member of each chamber, after which they are usually picked apart by the other members.

Context

- The separation of powers is an underlying principle of the US Constitution.
- Power was divided within the government by distinguishing between the different functions of government.
- Three different institutional structures were established: the *executive* branch, headed by the president; the *judiciary*, designed to carry out and uphold laws; the *legislative* branch, Congress, the law-making part of government.
- The British media tend to focus on the president as the key player in American politics, but without the cooperation of Congress the president can achieve little.
- However, this cooperation is not guaranteed and the relationship between president and Congress has been as much marked by conflict as by collaboration.



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Box 1 Elections and representation

The question of representation in Congress caused one of the biggest arguments amongst the framers of the constitution. The populous states wanted a system giving weight to their greater numbers, but the smaller states called for an arrangement based on statehood, not population. In the end, a compromise was reached: a bicameral legislature using two methods of representation. Thus, each state returns two members to Senate, while the number of representatives in the House is based on its population and is revalued after a 10-yearly census. California currently has 52 members of the House and two Senators, while seven other states return only one member to the House – but two to Senate.

There are significant differences in the electoral rules for the two chambers. Senators are elected for 6 years by the whole state, but the electoral cycle is staggered so that every 2 years one third of the chamber is re-elected. Those, like Hillary Clinton, who were elected in November 2000, do not have to worry again until 2006. Their colleagues who were elected in 1996 will now be getting anxious about their chances in November 2002. In contrast, members of the House are elected by and represent constituencies (or districts) in a similar manner to British MPs. Each state is divided up into the relevant number of districts and holds elections in all seats every 2 years.

For nearly every bill there is a long road to travel before it has even a chance of becoming law; most bills fall by the wayside quite early in the process.

Committee stage

The first stage in both the Senate and the House is that the bill will be allocated to committee for consideration. There are committees covering most policy areas, and bills are sent to whichever are appropriate; for example, bills concerning the military will be deliberated by the Armed Services committees. Typically, a committee will allocate aspects of a bill to a subcommittee. The problem for most bills is that they never emerge from these committees and so make no progress through the legislative chain. Often a bill receives little serious consideration and will 'die in

Box 2 The make-up of the US Congress

Like the British Parliament, the US Congress remains a bastion of white men. When Congress met in January 2001, of its 535 full members 36 were African-Americans, 19 Hispanics, 2 American-Indians and 59 women – hardly a reflection of the tapestry of the population at large.

Box 3 Changing parties

Jeffords's defection should not, perhaps, have been too much of a surprise. He was one of a dwindling number of moderate Republicans and in his time in Congress had voted with the Democrats more often than the Republicans on party line votes. When he formally announced his departure he noted that he disagreed with large chunks of President Bush's agenda, including the size of the tax cut and the administration's position on environmental issues. His mood was not helped when he was not invited to a White House ceremony presenting a prestigious award to a Vermont teacher. This was widely interpreted as a presidential rebuke to Jeffords, well known for his interest in education issues, after the Senator had publicly criticised the tax cut plan.

Jeffords's decision sparked a series of rumours about the possibility of Democrats moving in the opposite direction. None has done so, but figures such as Senator Zell Miller from Georgia and John Breaux from Louisiana are a constant worry to the Democratic leadership as they schmooze with the Republicans.

committee' without much notice being taken of its contents. Other bills will have more prolonged and public death throes, but die just as certainly.

The power of committees to kill legislative proposals is especially problematic for complex efforts at law-making, which might be sent to different committees. Matters are further complicated as, even should a bill emerge intact from committee, it is unlikely to exit in the same form that it entered, as committee members are likely to make amendments to the proposal.



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The Rules Committee of the House

If a bill survives the initial committee stage in the House, it then moves to the Rules Committee, which decides how the bill will be presented for debate to the House floor. The decision of the Rules Committee can be crucial in determining the ultimate fate of a bill as it can dictate how much further debate and amendment is allowed.

Sponsors of a bill will press for a 'closed rule', which limits extra changes, while opponents will call for an 'open rule', which allows them maximum opportunity to sabotage the bill.

Filibuster in the Senate

There is no Rules Committee in the Senate and, overall, the leadership there has less control over what happens to a bill once it has reached the floor of the chamber. Indeed, a unique feature of the Senate is the 'filibuster', whereby a small group can force major changes or talk a bill to death by refusing to give up the Senate floor and thereby holding up all other business. A filibuster can be brought to a close by a vote of three fifths (60) of the members.

The final hurdle

There are, therefore, many barriers to be cleared before a bill passes in House and Senate. Should it do so, however, it is unlikely that this will be the end of the matter. The problem is that House and Senate will probably have made different amendments to the original bill. In such cases, the alternative versions are discussed by a conference committee comprising those members from each chamber most involved in the passage of the bill.

At this point, compromises, which can significantly impact on the bill's content, need to be thrashed out. If this is achieved, the final package is sent back to the floor of each chamber for a final vote. It is, of course, possible that, after all this, the president will veto the bill — a decision which can only be reversed by two-thirds majorities in both chambers of Congress.

Party discipline

The congressional maze might not be so troublesome if the party leadership were able to exercise the degree of party discipline which is normally found in British politics. In the UK, party whips have great authority over MPs, and a government with a majority in Parliament will nearly always force its preferred legislation through.

In the US, however, while there has been an increase in partisanship in recent years, members of Congress are more resistant to pressure from party leaders. Thus, even when the president and majorities in both House and Senate are from the same party, there is scope for serious disagreement.

The first 2 years of Bill Clinton's presidency saw the Democrats hold modest, but comfortable, majorities in both chambers, yet, one of the Clinton administration's flagship proposals, a major overhaul of America's health care system, ended up dying in committee rooms. Republican opposition was to be expected, but the disappointment for Clinton was that the Democratic leadership in Congress simply could not apply enough pressure on its own party members to force the issue through.

The 107th Congress

The question of party discipline was highlighted during the early months of the Bush administration. Bush came to office with his fellow Republicans holding the narrowest of majorities in both chambers of the 107th Congress. The November 2000 elections gave the Republicans a 221 to 212 margin (with two independents) in the House, with a 50-50 tie in Senate. In these circumstances there was considerable doubt as to how responsive Congress would be to Bush's agenda.

An immediate test came when Bush nominated the right-winger, John Ashcroft, as his new attorney-general. Cabinet appointments, along with Supreme Court justices, are proposed by the president but need to be ratified by Senate (but not the House). In the end, Ashcroft was approved, but it set the Bush presidency off on a slightly jarring note. More substantively, a key element of Bush's campaign had been his promise of a big tax cut, but there was little agreement on the wisdom of such a move. Nevertheless, soon after coming to office, Bush put forward a plan for a \$1.6 trillion tax cut over 10 years. The House divided largely along party lines in its response, but the real worry for the president was how Senate would react. Several Senate Democrats proved willing to enter a bargaining process and, while there were changes to the original proposal, which was scaled down to a figure of \$1.35 trillion, the administration prevailed.

Almost simultaneously, however, came the setback of Jeffords's decision to quit the Republicans and become an independent, effectively caucusing with the Democrats. This made Daschle majority leader and put Democrats in charge of the critical Senate committees.



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Congress and President Bush

Overall, the early signs suggest that the current Congress is willing to deal with Bush, but not simply on his terms. The labyrinthine legislative structure certainly ensures that opponents have plenty of opportunities to delay and block proposals they dislike. Perhaps most significantly, however, the actions of Congress until November 2002 will be framed by the mid-term elections, in which party control of both chambers is up for grabs.

Further reading

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At the time of writing, Alex Waddan taught at the University of Sunderland.