

cause they cannot always do what is politically best for themselves rather than their party.

### *Collective Action*

Everyone who wins a seat in the House or Senate wants to belong to a well-informed, effective legislature capable of fulfilling its constitutional mandate. Moreover, senators and representatives run under party labels and so have a stake in their party's reputation. But all of them have personal interests as well: winning reelection or advancing to higher office by pleasing constituents, enacting pet policies, attaining influence and respect in Washington. The problem is that what members do to pursue individual goals—tax breaks for local firms, special projects for their constituents—may undermine the reputation of their party or of Congress as a whole. In 1990, for example, Sen. Quentin Burdick, a Democrat from North Dakota, sought to appropriate \$500,000 to restore bandleader Lawrence Welk's birthplace in Strasburg, North Dakota. Critics in the news media used the project to ridicule Congress for wasting taxpayers' money on "pork."

The tension between individual and collective political welfare—the standard prisoners' dilemma—pervades congressional life. The electoral process is the fundamental source of this dilemma. Congress has responded to the problem by developing devices such as the committee system that give members individual incentives to work for collectively beneficial ends. As noted, members who contribute to Congress's performance by becoming well informed about issues in their subcommittee's jurisdiction are rewarded with preeminent influence over policy in that area. Others listen to them, and they are given a chance to take personal credit for particular pieces of legislation.<sup>27</sup>

In trying to meet its many challenges, Congress must cope with another pressing problem: high transaction costs. These costs, as noted in Chapter 1, are the costs of doing politics—the time, effort, and bargaining resources (favors to be exchanged) that go into negotiating agree-

ments on action in the absence of agreement on the purposes of the action. Because many of the transaction costs involved in building legislative coalitions are unavoidable—such as the conflicts to be ironed out, compromises to be arranged, favors to be traded—Congress has organized itself to reduce other transaction costs. One way is the use of fixed rules to automate decisions. For example, the **seniority rule**, by routinely allocating first choice in committee chairs, offices, and committee assignments to majority party members who have served longest, reduces the time and energy members would otherwise put into competing for these valued things. Another way is to follow precedent; battles over legislative turf, for example, are minimized by strict adherence to precedent in assigning bills to House committees. The pressing need to reduce transaction costs explains, then, why Congress does its work within an elaborate structure of rules and precedents. Absent these devices, transaction costs can be high. A recent example was the Senate's struggle to reach agreement on procedures for Bill Clinton's impeachment trial. Presidential impeachment trials (fortunately) occur so rarely that few usable rules or precedents were available.

The pressure to avoid unnecessary transaction costs is intensified by the ticking clock—both within the one-year session of Congress and over the two-year tenure of each Congress. The chief source of Congress's authority is its power of the purse over government spending and revenue raising. But if it fails to enact a federal budget in some form each year (or session), large portions of the federal government have to shut down, as happened in late 1995 when the Republican Congress and Democratic president played a high-stakes game of chicken over the budget. As budgets have grown larger, broader in scope, and, in recent years, more hotly contested, Congress often has found it difficult to enact them on schedule. Thus it has continued to tinker with the budgetary process. Other legislation has to pass through all the hurdles (outlined later in this chapter) within the two-year life of a

Congress. Bills in the pipeline but not enacted by the end of the second session of one Congress must be reintroduced in the next Congress.

The organization and rules of the House and Senate have evolved over two centuries through the accumulation of solutions deliberately chosen to overcome the pressing challenges just described. Because its membership substantially exceeds that of the Senate, the House experiences organizational problems more acutely than the Senate. Senators can get away with looser organization and retain more individual autonomy and equality simply because there are fewer of them. Their counterparts in the House, to solve their coordination problems, have to follow stricter rules of procedure and tolerate greater control by leaders.

## Organizing Congress

To preserve the House and Senate as the powerful legislative bodies envisioned in the Constitution, members of Congress have had to devise means to overcome the formidable barriers to effective collective action discussed in the previous section. The crucial institutional structures they have created to exercise, and therefore preserve, Congress's power in the federal system are the party and committee systems.

### *The Parties*

Decisions in the House and Senate are made (with a few important exceptions) by majority vote. Majorities not only enact bills, but also set rules, establish procedures, choose leaders, and decide how to organize their respective houses. This reality creates powerful incentives for members of Congress to both join and maintain durable coalitions—that is, political parties (for a broader analysis of the logic of party formation, see Chapter 12). What individual members give up in freedom to go their own way is more than made up by what they can gain by cooperating with one another.

Parties do not arise through spontaneous, voluntary cooperation, however. Like other coalitions, political parties arise when people recognize it is in their best interests to cooperate despite their disagreements. Party coalitions are assembled and maintained by party leaders. But leaders cannot lead without effective means to resolve conflicts, coordinate action, and induce members to cooperate when they are tempted to do otherwise. Members, in turn, must sacrifice independence by conceding some authority to party leaders. Yet as we noted in Chapter 1, when a group delegates authority to a leader to achieve coordination and reduce transaction costs, it risks incurring conformity costs and agency losses.

Members of Congress, aware of the risks, relinquish autonomy only so far as necessary, which accounts for the notable differences in the evolution of party leadership between the House and Senate as well as the changes over time in the power of House and Senate leaders.<sup>28</sup>

*Development of Congressional Parties.* Parties began to form in the very first session of the First Congress. A majority of members in the House favored the program for national economic development proposed by Alexander Hamilton, President George Washington's secretary of the Treasury, and worked together under his leadership to enact it. James Madison, a member of the House, and Thomas Jefferson, secretary of state, led the opposition to what they saw as an unwarranted expansion of federal activity. Recognizing the obvious—that, to prevail, they needed more votes in Congress—Madison's followers sought to increase their numbers by recruiting and electing like-minded men to the House.

These "factions" soon had names—the Federalists, led by Hamilton, and the Republicans (later called Democratic-Republicans and then Democrats), led by Jefferson—and party competition was under way. (See Chapter 12 for a fuller account of these developments.)

When the House and Senate divided into parties, congressional and party leadership merged. Formal leadership was established more quickly and more powerfully



*Joseph Cannon was the last of a generation of powerful Speakers of the House of Representatives. During his tenure as Speaker of the House, "Uncle Joe" swatted many an opponent. Too many of his victims were fellow Republicans, however, and in 1910 thirty-six of them joined with Democrats in the historic revolt that dismantled the strong Speaker system and decentralized House administration.*

in the House because, as the larger and busier body (the Senate's legislative role was decidedly secondary in the early Congresses), its collective action problems were more acute. Elected by the reigning majority, the Speaker of the House became the majority's leader and agent. Speakers were given the authority to appoint committees, make rules, and manage the legislative process on the majority party's behalf.

Centralized authority reached its peak under Thomas Brackett "Czar" Reed, a Republican from Maine, who

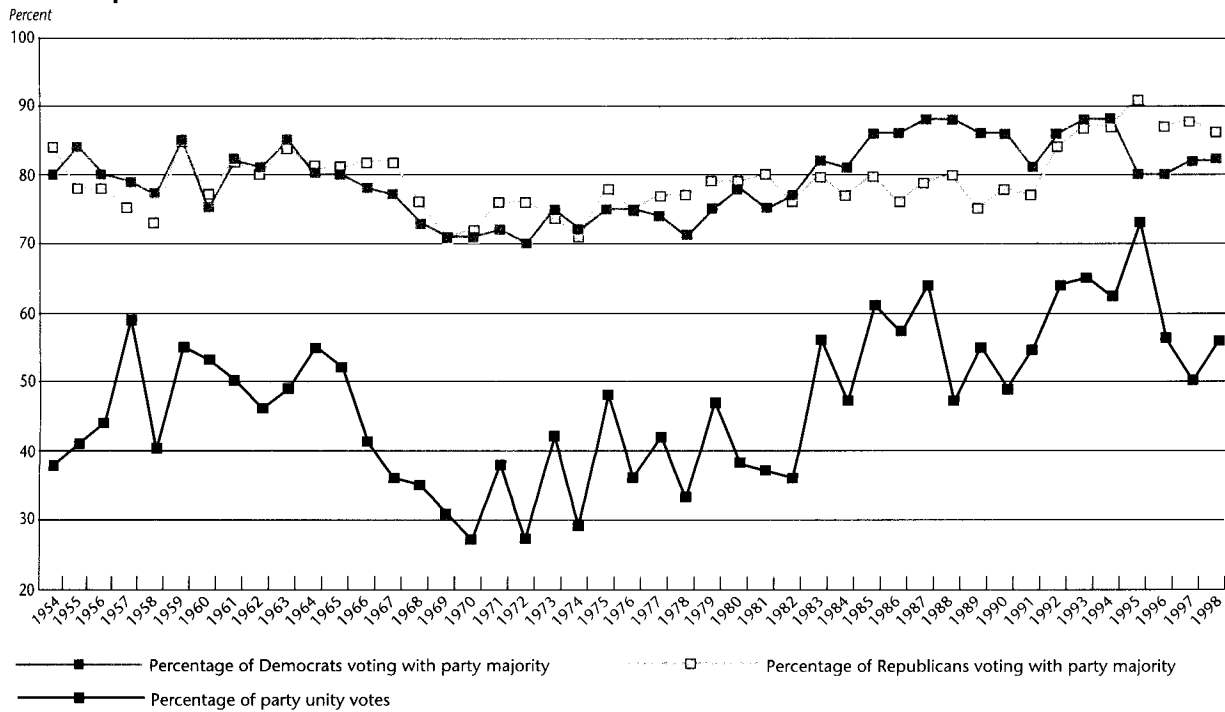
served as Speaker in the Fifty-first (1889–1890), Fifty-fourth (1895–1896), and Fifty-fifth (1897–1898) Congresses. Reed appointed all committees and committee chairs, exercised unlimited power of recognition (that is, decided who would speak on the floor of the House), and imposed a new set of rules that made it much more difficult for a minority to prevent action through endless procedural delays. He also chaired the Rules Committee, which controlled the flow of legislation from the other committees to the floor of the House.

Although denounced by his opponents as a tyrant, Reed could not have amassed so much power without the full support of the Republican House majority. They were willing to delegate so much authority for two reasons. First, disagreements within the Republican Party were, at the time, muted; no important faction thought its interests could be threatened by a powerful leader allied with a competing faction. Second, service in the House had not yet become a career. The average member served only two terms. Indeed, in many places the local party organizations that controlled nominations enforced a two-term limit so that more of the party's stalwarts could enjoy the honor of serving in Congress. Without long-term career prospects and accustomed to party discipline, most members had little reason to object to strong leadership.

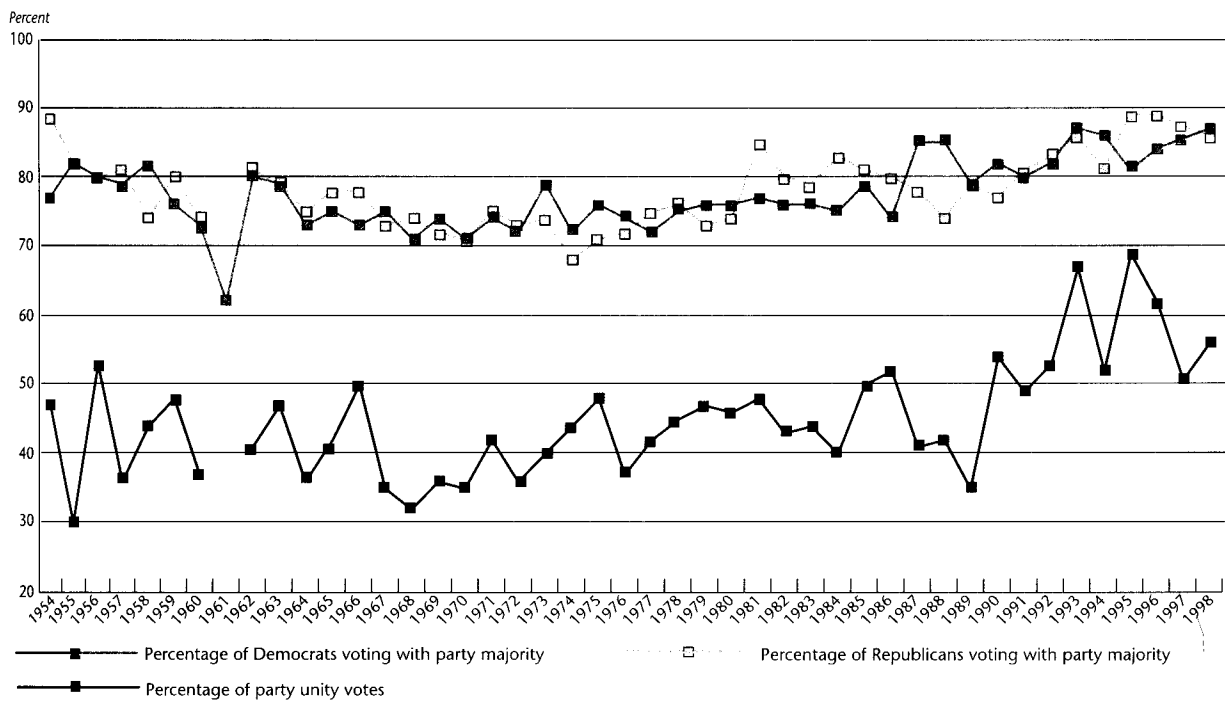
But once these conditions no longer held, the House revolted. Republican Speaker Joseph Cannon of Illinois (served 1903–1911) made the mistake of offending the progressive faction of the Republican Party that had emerged since Reed's day; he denied its members committee chairs and opposed the policies of the progressive Republican president, Theodore Roosevelt. In response, the Republican insurgents, with their Democratic allies, voted in 1910 to strip the Speaker of his power to appoint committees and chairs, forced him off the powerful Rules Committee, and limited his power of recognition. The increasingly career-oriented membership filled the power vacuum with a more decentralized and impersonal leadership structure, making seniority the criterion for selecting committee chairs. By weakening the Speaker, House members in

**Figure 6-6** Congressional Party Unity, 1954-1998

**House of Representatives**



**Senate**



Source: Norman J. Ornstein, Thomas E. Mann, and Michael J. Malbin, *Vital Statistics on Congress, 1997-1998* (Washington, D.C.: Congressional Quarterly, 1998), 210-213.

effect chose to tolerate higher transaction costs in order to reduce their conformity costs.

The degree of consensus within a party continues to affect how much authority party members are willing to delegate to party leaders. In the 1970s, for example, the Democrats strengthened the hand of their leaders in a variety of ways. The Speaker was given the authority to nominate all the Democratic members of the Rules Committee. He also was authorized to appoint temporary committees and special legislative task forces to deal with complex or controversial bills. At the same time, the Democratic Caucus (the organization of all House Democrats) reasserted its authority over committee organization, appointments, rules, and chairs. Once committee chairs became subject to election by secret ballot in the caucus, they lost much of the autonomy they had enjoyed since the New Deal.

Democrats could afford to strengthen their party's capacity to act collectively because the division between northern liberals and southern conservatives that had threatened from the beginning to split the New Deal coalition had faded. The ideological distinctiveness of southern Democrats had been undermined by the immigration of northerners, industrial development, the movement of conservative whites from the Democratic into the Republican camp, and the Voting Rights Act of 1965, which brought African American voters into southern Democratic electorates. Thus there were fewer southerners, and among them fewer conservatives, in a more cohesive Democratic Party that saw smaller potential conformity costs in centralizing authority. House Democrats also tolerated stronger leadership after 1980 because they faced a hostile Republican president, Ronald Reagan, and from 1981 through 1987 a Republican-controlled Senate. By the 1990s congressional Democrats were more unified than they had been in decades.<sup>29</sup>

Republicans granted even more authority to their leaders when they took over the House in 1995. Unified by the party's Contract with America as well as by their shared conservative ideology, House Republicans made Newt

Gingrich the most powerful Speaker since Cannon. At his behest, the Republican Conference (the Republican counterpart of the Democratic Caucus) ignored seniority in appointing committee chairs, ratifying without dissent the slate proposed by Gingrich. The Speaker also had a strong say in all the committee assignments, which he used to reward loyal junior members, and was given control of the House Administration Committee, which supervises management of the nonlegislative business of the House. The new majority party also adopted a rule limiting committee chairs to three two-year terms, reducing anyone's opportunity to build an independent committee domain.

House Republicans gave their leader an unusually strong hand to overcome their coordination and other collective action problems because they believed that keeping their promise to act on every item in the Contract with America within one hundred days of taking office was crucial to their and their party's future electoral fates. After accomplishing this feat, however, the party faltered in the 1995 showdown with Clinton over the budget, Gingrich's popularity plummeted, and during the 1996 election campaigns many Republicans sought to distance themselves from their leader.

By 1997 House Republicans' unity had frayed badly, and one faction mounted an attempt, soon aborted, to depose the Speaker. Gingrich hung on until Republican members, angry at the party's losses in the 1998 midterm election, forced him to resign—a pointed reminder that party leaders, as the majority's agents, are subject to dismissal if they do not satisfy their principals. Gingrich's eventual replacement, Dennis Hastert of Illinois, reflected the Republicans' need for a patient consensus builder to lead a divided party with only a narrow (223–211) majority. In Congress, strong party leadership is a consequence, not a cause, of party unity.

The decline and resurgence of congressional partisanship since the 1950s is evident in Figure 6–6. In both the House and Senate the proportion of “party unity” votes—those on which the party majorities took opposite posi-

**Table 6-2** Party Committees and Leaders in the 106th Congress (1999–2000)

<i>Republicans</i>	<i>Democrats</i>
<b>House of Representatives</b>	
Speaker	
Majority Leader	Minority Leader
Majority Whip	Minority Whip
Conference (all Republicans)	Caucus (all Democrats)
Steering Committee	Steering Committee
Policy Committee	Policy Committee
National Republican Congressional Committee	Democratic Congressional Campaign Committee
<b>Senate</b>	
President Pro Tempore	
Majority Leader	Minority Leader
Assistant Majority Leader	Minority Whip
Conference (all Republicans)	Conference (all Democrats)
Policy Committee	Policy Committee
Committee on Committees	Steering and Coordination Committee
National Republican Senatorial Committee	Democratic Senatorial Campaign Committee
	Technology and Communications Committee



*The success of House Minority Leader Richard Gephardt of Missouri rests on the trust of his Democratic colleagues that he will serve their individual reelection goals and the party's collective goal of restoring its majority in the House of Representatives. In 1996 and 1998 Gephardt helped Democrat Loretta Sanchez of California to prevail in her runs against former member of Congress Robert Dornan. In doing so, he appears to have won her enthusiastic support.*

tions—fell off in the late 1960s and early 1970s when the parties were beset by internal divisions, then increased as the party coalitions become more homogeneous. The proportion of representatives and senators of both parties who voted with their party's *majority on these party unity* votes also dipped before rebounding to high levels in the 1990s. At the end of the decade, politics in both houses displayed the sharpest partisan divisions and highest levels of party unity in more than half a century. The House vote on the impeachment of Bill Clinton in December 1998 epitomized this trend; 98 percent of House Republicans voted for at least one article of impeachment, while 98 percent of House Democrats voted against all four articles.

**Party Organization.** The majority party in the House is led by the **Speaker of the House**, whose chief assistants are the **majority leader** and the majority whip (see Table

6-2 for a list of major party offices and organizations in the House and Senate). The structure of the minority party, the Democrats in the 106th Congress (1999–2000), is similar to that of the majority party but without the **Speaker**; the **minority leader** is its head. The party whips head up the whip organization—party members who form the communication network connecting leaders with other members. (The term **whip** comes from Great Britain, where the “whipper-in” keeps the hounds together in a pack during a foxhunt.) In addition to these official party committees, the Rules Committee is, in effect, an instrument of the majority party.

Party members give House party leaders resources for inducing members to cooperate when they are tempted to go their own way as free riders. These resources mainly take the form of favors the leaders may grant or withhold. For example, party leaders have a strong voice in all

committee assignments (officially the province of the Steering Committees or, among Senate Republicans, the Committee on Committees), and they set the legislative agenda. Because a place on the agenda is a scarce resource, scheduling decisions determine the fate of many bills. Leaders also choose how much of their own time, energy, and organizational resources to devote to each legislative proposal. And they can help with reelection campaigns. Party leaders are therefore in a position to make it easier (or more difficult) for members to attain positions of influence, shape policy, and win reelection.

House party leaders are members' agents, however—not their bosses. They do not hire and fire party members; voters do, and so voters come first. Members, then, choose the style of leadership they believe will best serve their goals. Party leaders, who are elected or reelected to their position at the beginning of every Congress, are thoroughly, if informally, screened. They are members who have been around for a long time and whose styles, abilities, and flaws are well known. In the pre-Gingrich decades when Democrats held a majority of seats, they chose leaders, such as Thomas "Tip" O'Neill of Massachusetts (majority leader from 1973 to 1977), who were experts on procedure rather than policy and who cared more about building successful coalitions than about achieving specific legislative goals. But when the Republicans took over the majority in 1995, Speaker Newt Gingrich, as we saw earlier, pursued—with the full support of Republican members—a legislative agenda much more focused than the ones pursued by the Democratic Speakers before him.

For the minority party in the House, legislative leadership is less important because the party's legislative role is modest. Rather, leaders strive to keep up morale and establish a public record for the next election. They face an unhappy choice between cooperating with the majority, thus exerting some influence but getting little credit, and opposing and attacking the majority to position their party for future electoral battles. Their dilemma is sharpened

when a president of their own party sits in the White House because the president has to cut deals with the majority to accomplish anything at all. As former minority whip, Gingrich managed to lead Republicans to majority status by abandoning a strategy of accommodation in favor of harsh partisan confrontation. After 1994 it was House Democrats who faced the daily choice of cooperation or confrontation.

Over the years the Senate has been slower than the House to develop formal leadership positions, and senators have never delegated as much authority to their leaders as have representatives. Senators initially saw themselves as ambassadors from sovereign states, and, as such, they could accept no less than equal rights with one another. In the years since, they have retained wide freedom of individual action because, with its smaller size, the Senate is able to get by without elaborate procedural shackles. (The Senate began with twenty-six members and did not reach one hundred until 1959; the House already had exceeded one hundred members by 1793.)

Under the Constitution, the vice president is the presiding officer of the Senate. The designated **president pro tempore** presides when the vice president is absent. But neither office has a real leadership role—after all, the vice president, who seldom presides, is not chosen by the Senate, and the president pro tempore, as the Latin suggests, is formally a temporary position. In fact, in the first few Congresses a new president pro tempore was elected every time the vice president was away.<sup>30</sup> In practice, no one led the Senate during the pre-Civil War period.

Parties formed in the Senate almost from the start, but party members were little inclined to delegate authority. The party caucuses did not take full control of committee appointments until 1846, after which they avoided intra-party conflicts over committee control by resorting to a strict seniority rule. Not until the end of the nineteenth century did senators concede the means to enforce party discipline—on procedural matters only—to party leaders.

*Senate Minority Leader Thomas Daschle, Democrat from South Dakota, and Senate Majority Leader Trent Lott, Republican from Mississippi, appear to enjoy each other's company, which is fortunate since they spend much of their time conferring over the Senate calendar and resolving politically charged procedural disagreements between their political parties.*



The positions of majority leader and minority leader were not formalized until 1913.

The power and influence exerted by Senate leaders have depended largely on their personal political skills and the extent of intra-party divisions. Lyndon Johnson, who led the Senate Democrats from 1953 until resigning to become vice president in 1961, exercised extraordinary influence over the Senate through skillful persuasion and manipulation. The resources at his disposal were no greater than those of other Senate leaders, but he used them to greater effect. Although no majority leader has since matched Johnson's fire or authority, others, such as Bob Dole, a Kansas Republican (served 1985–1986, 1995–1996), and George Mitchell, a Maine Democrat (served 1989–1994), have been skillful and effective majority leaders.

Party leadership in the Senate is more collegial and less formal than in the House. The minority party has greater influence in the Senate because so much of that body's business is conducted under **unanimous consent agreements** negotiated by party leaders. These agreements, which can be killed by a single objection, might govern,

for example, the order in which bills are considered and the length of debate allotted to them. But unanimous consent agreements are only the most extreme example of the general rule: the capacity of House and Senate party leaders to lead depends largely on the willingness of party members to follow their leaders.

*Other Groups in Congress.* Although parties are by far the most important of Congress's coalitions, members have formed dozens of other groups, a few durable enough to have had permanent staffs until the new Republican House majority in 1995 banned the use of office allowances to pay staff salaries for member organizations. Some groups are explicitly ideological (Conservative Opportunity Society, House Progressive Caucus, Centrist Coalition, Mainstream Conservative Alliance). Others are based on demographics (Congressional Black Caucus, Hispanic Caucus, Caucus for Women's Issues). Bipartisan groups form around shared regional interests (Northeast-Midwest Congressional Coalition, Western Caucus, Coastal Coalition) and economic concerns (Steel Caucus, Textile Caucus, Travel and Tourism Caucus). Other groups focus on specific issues (Pro-Life Caucus, Pro-Choice Cau-



cus, Heart and Stroke Coalition). The Congressional Friends of Animals Caucus fights for tighter regulation of livestock raising; the House Beef Caucus defends the livestock industry.

Such groups give members better access to information and allies on issues of special concern to them (or their constituents) that do not fit neatly into regular party or committee categories. They reflect the value of ready-made alliances in a system where success depends on building majority coalitions.

### *The Committee Systems*

The committee systems of the House and Senate are the second organizational pillar upholding the institutional power of Congress in the federal system. Although committee power has at times been used to frustrate party majorities and leaders, committees are ultimately subject to the majority party, and the committee and party systems are closely integrated and mutually dependent. House committees, like House party leaders, are more powerful than their counterparts in the Senate, again reflecting the need for tighter organization in the larger body.

*Evolution of Congressional Committees.* The committee systems are the end product of more than two centuries of institutional evolution. The first Congresses delegated authority to committees sparingly. Instead, the House would turn itself into a Committee of the Whole (sitting as a committee, the House operates under a more flexible set of rules), frame a piece of legislation, elect a temporary committee to draft the bill, then debate and amend the bill line by line. After reassuming its guise as the House, it would vote on final passage.

From the start, this process was intolerably cumbersome. One early member, Fisher Ames of Massachusetts, likened it to trying to make a delicate etching with an elephant's foot.<sup>31</sup> Thus the House began to delegate more and more work to permanent committees. Ten were in place by 1809, twenty-eight by 1825. Transaction costs were further reduced by having committees appointed by

the Speaker rather than elected. As the Speaker emerged as leader of the majority party, appointments became a partisan affair, and choice committee assignments became rewards for party loyalty and bargaining chips in campaigns for the Speakership.

The Senate was slower to set up permanent committees. Despite their smaller numbers and lighter workload, senators found they were spending too much time on electing a new committee to draft each bill, and the Senate began to accumulate standing committees. The initial twelve were established in 1816; by 1841 there were twenty-two. The Senate also was slower to delegate legislative action to committees and has never gone as far in this direction as the House.

After the Senate's parties assumed the right to make committee assignments, seniority became the criterion for selecting committee chairs: the office was awarded to the majority party member with the longest term of service on the committee. The seniority rule avoided two unwelcome alternatives: election, which would have led to divisive, time-consuming intra-party squabbles, and appointment by party leaders, which would have given the leaders more power than senators thought desirable or necessary. In technical terms the Senate's seniority rule reduced transaction and conformity costs.

*Types of Committees.* The **standing committees** of the House and Senate—those that exist from one Congress to the next unless they are explicitly disbanded—embody Congress's division of legislative labor (Table 6-3). Standing committees have fixed jurisdictions (that is, they always deal with the same legislative topics) and stable memberships, both of which facilitate specialization. Once appointed, a member in good standing cannot be forced off a standing committee unless his or her party suffers large electoral losses. That fate overtook some Senate Republicans after the 1986 election and some House Democrats after the 1994 midterm. Party ratios on committees generally match party ratios in the House and Senate. When a party has a narrow overall majority, however, it usually gives itself somewhat larger commit-

tee majorities, and it always gives itself extra seats on the most important committees. The job security associated with standing committees gives committee members both the motive and the opportunity to become knowledgeable about policy issues under their committee's jurisdiction. Expertise brings influence—other members defer to the judgment of committee experts they trust—and therefore a chance to make a real difference in at least one area of national policy.

Although committee membership is generally stable, changes occur when legislators seize the opportunity to move up to the committees deemed more important and desirable than the others. At the top of the heap in both chambers are the money committees—Ways and Means and Appropriations in the House, Finance and Appropriations in the Senate—because their activities are so central to Congress's main source of power in the federal system, its control over the budget. The House and Senate Budget Committees share some of this prestige. Seats on the Senate Foreign Affairs and Judiciary Committees also are in demand because of the Senate's special authority over treaties and diplomatic and judicial appointments. In the House the powerful Rules Committee, which controls the flow of legislation from committees to the floor, is especially attractive. Among the least desirable committees are those dealing with the internal administration of Congress, particularly its members' ethics; many members feel uncomfortable sitting in judgment on their colleagues.

Committee assignments are made by party committees under the firm control of senior party leaders and are ratified by the party membership. Members pursue committee assignments that allow them to serve special constituent interests as well as their own policy and power goals. For example, Agriculture (House and Senate) attracts members from farm states, and Armed Services (Senate) and National Security (House) attract members from regions with large military installations.

Because party leaders want to keep their followers in office, they are responsive to arguments that a particular

**Table 6-3** The Committees of the 106th Congress

	Party Ratio	Number of Subcommittees
<b>House of Representatives</b>		
<i>Standing Committees</i>		
Agriculture	27R:23D	5
Appropriations	34R:26D	13
Banking and Financial Services	29R:25D	5
Budget	24R:19D	-
Commerce	28R:23D	5
Education and the Workforce	25R:20D	5
Government Reform and Oversight	24R:20D	7
House Oversight	6R:3D	-
International Relations	26R:21D	5
Judiciary	20R:15D	5
National Security	30R:25D	5
Resources	27R:23D	5
Rules	9R:4D	2
Science	25R:21D	4
Small Business	19R:16D	4
Standards of Official Conduct	5R:5D	-
Transportation and Infrastructure	40R:33D	6
Veterans' Affairs	16R:13D	3
Ways and Means	23R:16D	5
<i>Select Committees</i>		
Permanent Select Committee on Intelligence	9R:7D	2
Select Committee on China	5R:4D	-
<b>Senate</b>		
<i>Standing Committees</i>		
Agriculture, Nutrition, and Forestry	10R:8D	4
Appropriations	15R:13D	13
Armed Services	10R:8D	6
Banking, Housing, and Urban Affairs	10R:8D	5
Budget	12R:10D	-
Commerce, Science, and Transportation	11R:9D	7
Energy and Natural Resources	11R:9D	4
Environment and Public Works	10R:8D	4
Finance	11R:9D	5
Foreign Relations	10R:8D	7
Governmental Affairs	9R:7D	3
Judiciary	10R:8D	6
Labor and Human Resources	10R:8D	4
Rules and Administration	9R:7D	-
Small Business	10R:8D	-
Veterans' Affairs	7R:5D	-
<i>Special and Select Committees</i>		
Select Committee on Ethics	3R:3D	-
Select Committee on Intelligence	10R:9D	-
Special Committee on Aging	10R:8D	-
Special Committee on the Year 2000 Problem		
<b>Joint Committees</b>		
Joint Economic Committee	12R:8D	-
Joint Library Committee	6R:4D	-
Joint Printing Committee	6R:4D	-
Joint Committee on Taxation	6R:4D	-

assignment will help a member win reelection. Moreover, when members are assigned to the committees that best serve their personal and political interests, they will take committee work more seriously, making a larger contribution to their party's overall performance. The danger is that committees may become stacked with members whose views do not represent those of their party's majority. By and large, party leaders have managed to avoid this problem by judicious distribution of assignments, especially to the committees whose jurisdictions are most important to the party. A party's committee members are, like party leaders, the party's agents, and party majorities use their ultimate control over committee assignments to keep their agents responsive to the party's desires. For example, the House Democrats' committee on committees, the Steering Committee, has sometimes listed on a blackboard various measures of party loyalty next to applicants' names when deciding which members to place on important committees.<sup>32</sup>

Most committees are divided into subcommittees, many of which also have fixed jurisdictions and stable memberships. Like full committees, subcommittees serve Congress as a whole by encouraging specialization and, at the same time, reward members who develop expertise with special influence over their own small piece of legislative turf. Both committees and, in the Senate, subcommittees come with staffs of experts to help members do their work. Most committee staffers report to committee and subcommittee chairs; the ranking minority members also control a much smaller set of staff assistants.

In addition to the standing committees, Congress also forms special, select, joint, ad hoc, and conference committees. In theory, most **special committees** and **select committees** are appointed to deal with a specific problem and then disappear. A good example was the Senate's Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition, formed in 1986 to investigate the Reagan administration's secret sale of arms to Iran and its use of the profits to support right-wing Nicaraguan

rebels despite a congressional ban on such aid. This committee issued its report a year later and disbanded, but some special and select committees sometimes last through many Congresses—for example, the Senate's Special Committee on Aging has been around since 1961.

**Joint committees** are permanent committees composed of members from both chambers; the committee leaderships rotate between the chambers at the beginning of each newly elected Congress. Joint committees gather information and oversee the executive but do not report legislation. One joint committee oversees the Library of Congress, the Botanical Garden, and public statuary; another (Printing) oversees the Government Printing Office and the arrangement and style of the *Congressional Record*, which publishes all of the speeches and debates on the floors of the House and Senate. In the House the Speaker occasionally appoints **ad hoc committees** to handle bills that are particularly sensitive (the 1989 congressional pay raise, for example). **Conference committees** are appointed to resolve differences between the House and Senate versions of bills (see section "Making Laws" in this chapter). The committees and subcommittees of the 106th Congress are listed in Table 6-3.

A century ago House committees were dominated by the Speaker, who appointed committee members and chairs. The revolt against Speaker Cannon in 1910 effectively transferred control over committees to committee chairs, who, under the altered rules, owed their position to seniority, not loyalty to their party or its leaders. By the 1950s both chambers were run by a handful of powerful committee chairs who could safely ignore the wishes of party majorities. Conservative southern Democrats, continually reelected from one-party strongholds, chaired the most powerful committees and cooperated with Republicans to thwart policies supported by a majority of Democrats, especially in the area of civil rights. The most notorious example was Howard W. Smith, a segregationist Virginia Democrat who used his position as chairman of the House Rules Committee

during the 1950s to stop civil rights bills. The rules allowed chairs to run committees like dictators, and some of them did.

In 1959 frustrated younger liberals formed the Democratic Study Group (DSG) to take on the conservatives, hoping that they could make up in numbers what they lacked in institutional clout. Over the next decade the DSG grew large enough to take over and revitalize the Democratic Caucus. The most important changes occurred after the 1974 election, when the public reaction to the Watergate scandal brought seventy-four new Democrats, eager for action and disdainful of seniority, into the House. At their instigation, the Democratic Caucus adopted a rule that forbade any individual from chairing more than one committee or subcommittee; this way, many more members could enjoy this privilege. Committee members and the caucus, rather than chairs, assumed control over committee rules, budgets, and subcommittee organization. Committee nominations were transferred from Democrats on the Ways and Means Committee, who had held this authority since the revolt against Cannon, to the caucus's own Steering Committee.

The caucus itself elected committee chairs by secret ballot (secrecy removed the threat of retaliation). In 1975 the caucus actually deposed three committee chairs, underlining the new reality that the party's majority, not seniority, would now have the final say in who runs committees.

These changes produced a more fragmented and decentralized committee system in which fully half of the Democrats in the House chaired a committee or subcommittee. Although members benefited individually, they found it more difficult to act collectively. The simultaneous strengthening of the Speaker's authority, described earlier, logically complemented these changes. The party leaders may have found the task of coordination more difficult, but they also were given more tools (for example, control of nominations to the Rules Committee) to carry it out. The net effect was a strengthened party capacity for collective action.

The new Republican majority that took over the House in 1995 revised committee rules to ensure that the legislative agenda outlined in its Contract with America would move swiftly to enactment. The new rules gave committee chairs greater control over subcommittees by authorizing them to appoint all subcommittee chairs and control the work of the majority's committee staff. But committee chairs themselves now had to report to the Speaker and were limited to three consecutive terms. All these changes gave the Republican majority more control over its committees than any House majority had exercised since the early years of the twentieth century.

*Jurisdiction* In the House does international trade policy fall within the jurisdiction of the Commerce Committee or International Relations Committee? Should education programs for veterans be handled in the Senate by Veterans' Affairs or by Labor and Human Resources? Where does something like energy policy, which affects virtually every aspect of American life—transportation, environment, the economy, international trade, national defense—fit? And making matters even more complicated, such technical issues are overlaid with political issues. Committees and subcommittees compete for jurisdiction over important policy areas, but the supply of legislative turf is always insufficient to meet the demand. Thus it is not surprising that the House and Senate have altered the number and jurisdictions of their committees from time to time, nor is it surprising that such changes have been highly contentious.

Within Congress, the constant pressure to multiply standing committees and subcommittees arises out of the increasing complexity, volume, and scope of legislative business and members' desires to serve as committee and subcommittee chairs, especially now that Congress is populated by career politicians seeking their own pieces of the action. Inactive committees are hard to kill off. For example, the Senate maintained a Committee on Revolutionary Claims (requests for payment of bills incurred during the American Revolution) until 1920, when it pruned its standing committees back from seventy-four to

thirty-four. Many of the disbanded committees had not met in years, but their chairs clung to them because committees came with staff and office space. The cutbacks were achieved only by giving individual senators their own clerks and offices.

Since the 1920s the House and Senate have trimmed their committee systems several times, notably in the Legislative Reorganization Act of 1946, which sharply reduced the number of standing committees in both chambers (from thirty-three to fifteen in the Senate, from forty-eight to nineteen in the House). The act also rearranged committee jurisdictions to reduce the overlap and confusion and to make the House and Senate systems more similar. Reductions were achieved by consolidation, however, so many former committees simply became subcommittees. The most recent committee changes occurred in 1995, when the victorious House Republicans abolished three standing committees and made other modest alterations in committee jurisdictions.

The political problem with trying to distribute committee jurisdictions more sensibly (at one time in the Senate, seventeen committees and forty subcommittees had some jurisdiction over energy policy) is that changes redistribute power and upset long-established relationships among committee members, administrative agencies, and interest groups. Nevertheless, Congress must rationalize jurisdictions occasionally, or the emergence of new issues will lead to turf battles, overlapping jurisdictions, uneven workloads, and confusion. Recent Democratic leaders sought to cope with these problems by using **multiple referrals**—that is, sending bills, in whole or piece by piece, to several committees at the same time or in sequence. For example, a banking reform bill introduced in the House in the 102d Congress (1991–1992) went first to Banking, Finance, and Urban Affairs, then to Energy and Commerce, then to Agriculture, then to Judiciary, and finally to Ways and Means.<sup>33</sup> Rules adopted by the Republicans after 1994 do not allow the Speaker to assign the same bill to more than one committee at a time but permit sequential and split referrals.

*The Money Committees.* The “power of the purse” has inspired the most contentious jurisdictional fights. In the earliest years of government, revenue and spending bills were handled by Ways and Means in the House and Finance in the Senate. Then, during the 1860s, the spending power was transferred to a separate Appropriations Committee in each house to help deal with the extraordinary financial demands of the Civil War. Other committees in both houses later broke the Appropriations Committees’ monopoly on spending, and by 1900 authority over national finances was spread among nearly twenty House and Senate committees. In the House this devolution of authority was not such a great impediment to action when the chamber was dominated by powerful Speakers, but a few years after the revolt against Cannon the Republican House majority underlined its commitment to parsimony by restoring the Appropriations Committee’s monopoly. The Senate followed suit in 1922.

Since then, legislative spending has been a two-step process in each chamber. In step one, the committee with jurisdiction over a program *authorizes* expenditures for it, and, in step two, the Appropriations Committee *appropriates* the money—that is, writes a bill designating that specific sums be spent on authorized programs (sums that need not and often do not match the amounts authorized). For some important programs expenditures take the form of **entitlements**, which designate specific classes of people who are entitled to a legally defined benefit. Social Security and Medicare payments and military pensions are examples. Congress must spend whatever it takes to cover those who are eligible for entitlements—unless it changes the eligibility standards or the amounts to which the eligible are entitled.

After 1921 the money committees took on the institutional task of protecting congressional majorities from the collective damage that the pursuit of individual electoral goals threatened to impose. In the House the powerful Appropriations Committee used its authority to keep members’ desires for locally popular projects (such as dams, highways, and harbor improvements) and pro-

grams (such as housing, urban renewal, and police equipment) from pushing up taxes or deficits to politically intolerable levels. Tax legislation emerging from Ways and Means was routinely granted a **closed rule** (forbidding members to propose or vote on amendments—changes in wording—to a bill being considered for final passage on the floor of the House) to prevent a scramble for revenue-draining tax breaks for local firms.

*Budget Reform.* By the early 1970s the ability of the money committees to enforce collective self-control had been seriously eroded. The committee reforms had weakened committee leaders, and a move toward congressional "openness"—doing more business in public—made it harder for individual members to resist the temptation to promote locally popular projects of dubious worth. Inhibitions against offering floor amendments to fiscal legislation fell by the wayside, and members became adept at finding ways to circumvent the normal budgetary process to finance their pet programs.

At about the same time, an important external constraint on congressional spending also ceased to work properly. Congress had come to rely on the president to impound—refuse to spend—some of the funds authorized and appropriated by Congress in order to keep spending totals from reaching unacceptable levels. But President Richard Nixon turned this authority against Congress, impounding funds to subvert the spending priorities of its Democratic majorities. In 1972, for example, he refused to spend \$9 billion in clean-water funds and terminated many agricultural programs.<sup>34</sup> Nixon even impounded appropriations passed over his veto. His action posed a fundamental challenge to the House and Senate as institutions as well as to their Democratic majorities.

Congress responded with the Budget and Impoundment Control Act of 1974. The act subjected presidential impoundment authority to strict congressional control. More important, it revamped Congress's budgetary process with the goal of making impoundment unnecessary. Among other things, the act established a Budget Committee in each chamber to oversee the coordination

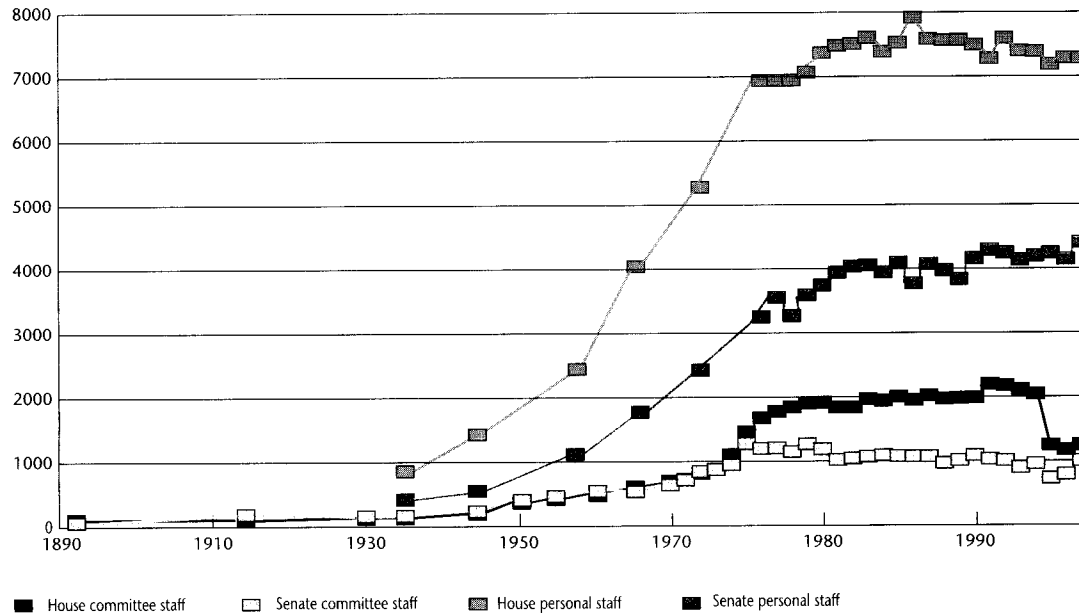
of taxing and spending policies. It also instituted procedures and timetables for setting budget targets, supervising the committees' decisions on revenues and spending, and reconciling the tax and spending bills enacted by Congress with the targets. The system was designed to compel members to vote on explicit levels of taxation, expenditures, and deficits, thereby taking direct responsibility for the fiscal consequences of the many separate decisions made during a session.

Despite Congress's good intentions, the reformed budget process proved entirely incapable of preventing the huge budget deficits produced by budget politics during the Reagan and Bush administrations. Orderly budgeting fell victim to the intense partisan conflict between the Republican presidents and congressional Democrats over budget priorities. Presidents Ronald Reagan and George Bush sought to keep taxes low; congressional Democrats sought to protect popular domestic spending programs. Since both low taxes and spending for popular programs proved politically irresistible, the budget was left unbalanced. No amount of reform, then, could have prevented the massive budget deficits of the 1980s and early 1990s because nothing can force Congress to follow the rules it makes for itself. Procedures are chosen to produce desired outcomes; when the rules stand in the way of desired outcomes, ways always can be found around them. Congressional leaders simply ignored the formal budget process when it proved unable to resolve budget conflicts in a way they found satisfactory.<sup>35</sup>

Attempts to reduce the deficit by procedural devices failed repeatedly until both sides developed the political will to support a precarious agreement. The negotiations that produced the Budget Enforcement Act of 1990, a package of tax increases and program cuts designed to reduce the projected deficit by some \$500 billion over five years, exemplified budgeting under a government divided between the parties. It consisted of improvised deals worked out in charged, high-level negotiations between the president and congressional leaders. Congress and the administration, both under Democratic control after the

**Figure 6-7** Congressional Staff, 1891–1997

Number of Employees



Source: Norman J. Ornstein, Thomas E. Mann, and Michael J. Malbin, *Vital Statistics on Congress, 1997–1998* (Washington, D.C.: Congressional Quarterly, 1998), 135, 139.

1992 election, made further inroads into the deficit in 1993 with another round of tax increases and spending cuts intended to reduce the deficit by another \$500 billion between 1994 and 1998.

Still, the budget did not come into balance, requiring yet another round of budget confrontations and negotiations, stretching from 1995 to 1997—and this time between a Republican Congress and a Democratic president. The agreement became possible when the booming economy produced a bonanza of tax revenues, making it much easier to accommodate the desires of both sides. By 1998 the economy had produced so much in new tax revenues that the budget was in surplus, and budget politics turned, at least temporarily, to the happier task of choosing among tax cuts, additional spending for government

programs, or paying down the national debt. But politics continues to dominate process, and the formal budget rules control the action only insofar as they do not prevent congressional majorities from doing what they want.

### *Congressional Staff and Support Groups*

In addition to relying heavily on its committee system, Congress has sought to cope with its expanding workload by adding staff (see Figure 6-7) and specialized research agencies. Staff doubled between the mid-1950s and the late 1970s (with most of the growth in personal staff); the numbers then remained stable until 1995, when House Republicans reduced House committee staffs by 30 percent. The cuts, however, left them with much larger committee staffs than they had had when they were in the mi-

nority; the staffers who lost their jobs were all on Democrats' payrolls.

Personal staff assistants manage members' offices in Washington and back in the state or district. They also draft bills, suggest policy, prepare position papers, write press releases, handle casework for constituents, deal with lobbyists, and negotiate with other staff on their boss's behalf. Almost any political or legislative chore short of casting formal votes in committee or on the floor can be delegated to staff assistants. Committee staff are deeply involved in all legislative activities; they organize hearings and investigations, research policy options, attend to legislative details, and negotiate with legislators, lobbyists, and executive branch officials on behalf of the party faction on the committee that employs them.

Members receive additional help in gathering and processing information from several specialized research agencies. The General Accounting Office (GAO) audits and investigates federal programs and expenditures, probing for waste, fraud, and inefficiency. The Congressional Research Service (CRS) gives Congress access to a highly professional team of researchers.

Expert advice on complex technological issues—such as air pollution control, converting defense industries to civilian work, and the health effects of dietary supplements and vitamins—are provided by the Office of Technology Assessment (OTA). This particular kind of advice is rarely needed by a legislature having very few members with any kind of scientific or engineering background.

The Congressional Budget Office (CBO) and the GAO are the most important congressional agencies. Created as part of the 1974 budget reforms, CBO provides Congress with the economic expertise it needs to make informed fiscal decisions and to hold its own in conflicts with the president's Office of Management and Budget (see Chapter 7). Among its tasks are economic forecasting and economic policy analysis. Although CBO was mainly designed to serve the collective institutional needs of Congress, it also serves members individually; it will, on request, provide analyses to let members know how vari-

ous budget alternatives would affect their home states and districts.

By using the expert advisers within committee staff and congressional support agencies, members of Congress do not have to take the word of experts from the executive branch or interest groups, who cannot be expected to impart unbiased information. Although officially bipartisan, the support agencies are the most valuable to the majority party in Congress when the other party controls the executive branch. *Indeed, it was no accident that a Democratic Congress created OTA and CBO (and initiated a major expansion of CRS) during the Nixon administration or that Republicans replaced the CBO director when they took control of Congress in 1995.*

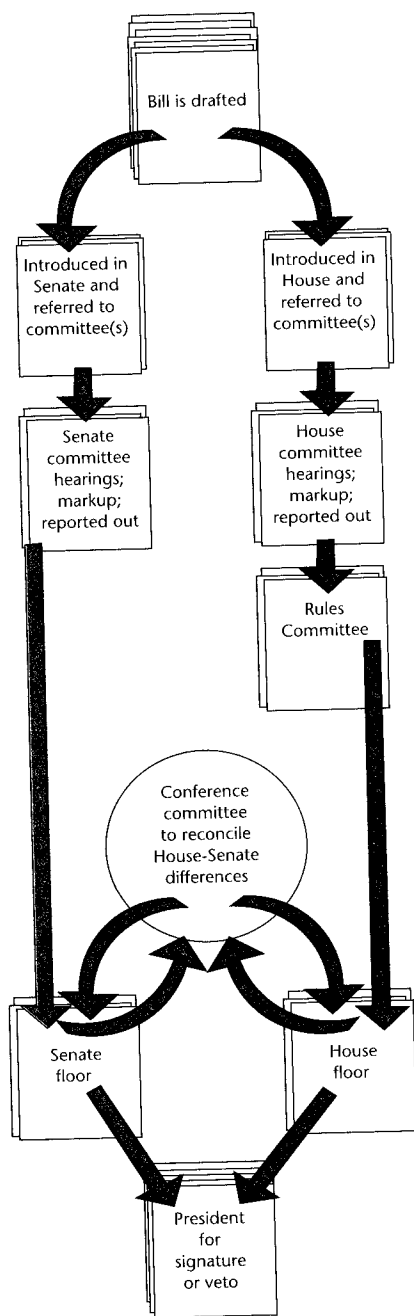
### Making Laws

Congress's rules and structures—the parties and committee systems—are designed to enable majorities to make laws. At every stage of the many routine hurdles a bill must clear to become law, individual and collective (usually partisan) political interests shape the action (see Figure 6-8). The lawmaking process presents opponents of a bill with many opportunities to sidetrack or kill the legislation. It is considerably easier, then, for members to stop bills than to pass them. Although the regular legislative procedures are now regularly circumvented by party leaders trying to enact important and controversial bills in circumstances of intense partisan conflict and divided government,<sup>36</sup> an examination of these procedures will complete the picture of how ordinary legislative politics works.

### Introducing Legislation

Only members may submit legislation to the House or Senate. Many proposals originate outside Congress—from the executive branch, interest groups, constituents—but they must have a congressional sponsor to enter the legislative process. The process itself is largely routine and routinely political. Some bills carry (informally) their au-



**Figure 6-8** How a Bill Becomes a Law

thors' names; the Immigration Reform Act of 1986 is known as the Simpson-Mazzoli law after its chief sponsors, Republican Alan Simpson of Wyoming in the Senate and Democrat Romano Mazzoli of Kentucky in the House. The Balanced Budget and Emergency Deficit Control Act of 1985 is called the Gramm-Rudman-Hollings act after Republican senators Phil Gramm of Texas and Warren Rudman of New Hampshire and South Carolina Democrat Ernest Hollings. Even whole programs may be named after their authors. For example, the government helps college students finance their education through Pell grants, named after Democratic senator Claiborne Pell of Rhode Island. Personal credit for what is, after all, a collective act of Congress (one vote is never sufficient and rarely necessary to accomplish anything) is a valuable commodity. Proponents of bills try to line up cosponsors both to build support (by sharing credit) and to display it (increasing the chances for legislative action). Most important bills are introduced in the House and Senate at the same time so the chambers can work on them simultaneously.

The parties and the president (with the cooperation of congressional friends) also use legislative proposals to stake out political positions and to make political statements. Republican presidents Reagan and Bush regularly introduced proposals they knew were "dead on arrival" to establish a record that their party could run on in the future. So do members of Congress.

### *Assignment to Committee*

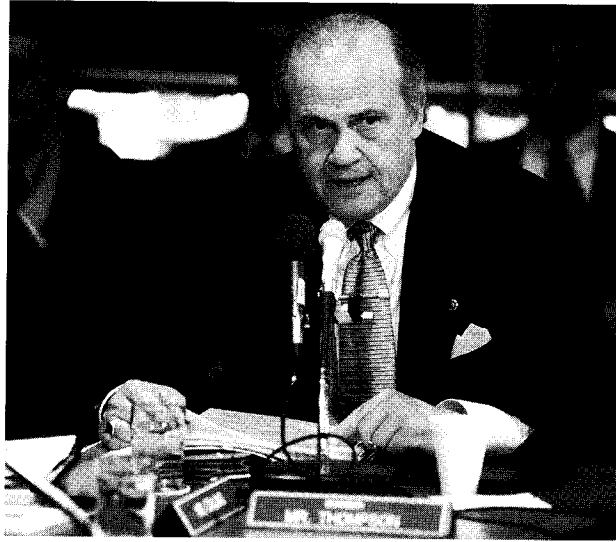
After a bill is introduced, it is assigned a number (preceded by *H.R.* in the House, *S.* in the Senate) and referred to a committee. Even the number assigned can make a political point. In 1995 Republicans gave top billing to items from their Contract with America; *H.R. 1* was assigned to a bill applying federal labor and safety standards to Congress and *S. 1* to a bill limiting the federal government's ability to compel state and local governments to carry out policies without providing the money to pay for them. Most bills are routinely assigned to the appropriate

committee; complex bills are sometimes referred to several committees, and controversial bills are occasionally handled by temporary ad hoc committees appointed for that single purpose. The Speaker makes the nonroutine decisions in the House, manipulating the committee process to assure more friendly or expeditious treatment of legislation important to the majority party. In the Senate, party leaders negotiate agreements to settle disputed referrals.

Once a bill has been referred to a committee, the most common thing that happens next is: nothing. Most bills die of neglect—and are meant to die of neglect—in committee. Many more bills are introduced than Congress has time to deal with. Some bills are introduced “by request,” meaning the introducer was doing someone—a constituent or campaign contributor—a favor by offering the bill but has no further interest in its fate. Bills introduced by the minority party to score political points or embarrass the majority are deliberately buried. Like party leaders, committee chairs and their allies strive to avoid situations in which their party colleagues might have to cast potentially embarrassing votes. If the committee decides on further action, the bill may be taken up directly by the full committee, but more commonly it is referred to the appropriate subcommittee.

### Hearings

Once the subcommittee decides to act, it (or the full committee) may hold hearings, inviting interested people—from the executive agencies, from interest groups, from academia, from almost anywhere—to testify in person or in writing about the issue at stake and proposals to deal with it. In a typical recent two-year Congress, the Senate held about 1,200 hearings, the House about 2,300. Hearings may be orchestrated to make a record for (or against) a particular proposal, to evaluate how a program is working, or simply to generate publicity—for committee members as well as issues. Committees can investigate almost anything, including the White House or Congress itself. Senate committees also hold hearings to evaluate



*During the 105th Congress (1997–1998), the Senate Governmental Affairs Committee held public hearings on the Clinton administration's campaign fund-raising practices both to embarrass the president and vice president and to generate publicity for the committee's chairman, Republican Fred Thompson of Tennessee. Thompson was believed to have presidential ambitions of his own.*

judicial, diplomatic, and senior administrative appointments.

Hearings also provide a formal occasion for Congress to monitor the administration of the laws and programs it enacts. The heaviest duty falls on the Appropriations subcommittees in the House, for government agencies have to justify their budget requests to these panels every year. Congress often is criticized for shirking its duty to oversee the administration of laws. After all, if carried out, comprehensive oversight would be a tedious, time-consuming, politically unrewarding chore. Instead, members of Congress set up administrative procedures that give affected interests an opportunity to protest damaging bureaucratic policies and decisions. In this way, members can confine their oversight to those areas of administration where the political stakes are demonstrably high. Members operate more like firefighters than police, waiting for fire alarms to go off before taking action rather



*Here Senate Banking Committee members gather to mark up banking legislation. The Senate, with its tradition of full participation, does more work in full committee, less in subcommittee.*

than patrolling the streets looking for crime.<sup>37</sup> By relying on people affected by administrative decisions to alert it to problems, Congress, in effect, puts a big bumper sticker on bureaucrats that says, "How am I driving? Call 1-800-Congress" (see Chapter 8).

### *Reporting a Bill*

If the subcommittee decides to act on a bill (and often it does not), it marks it up—that is, drafts it line by line—and reports it to the full committee. The full committee then accepts, rejects, or amends the bill. With the exception of important and controversial bills, committees usually defer to subcommittees; otherwise, they lose the benefits of a division of labor.

Much of the coalition building that produces successful legislation takes place as subcommittees and committees work out the details of bills. No one wants to waste time on a bill that has no chance of passing—unless political points could be scored such as when a Democratic Congress sent Republican president George Bush a campaign finance reform bill he was certain to veto. If a bill cannot attract solid support from at least the majority par-

ty committee members (and perhaps minority party members as well), its chances on the House or Senate floor are slim indeed. But if amendments, compromises, and deals can build a strong committee coalition for a bill, its chances on the floor are very good. The committee system, then, also divides the labor of coalition building.

The written report that accompanies every bill reported out of committee is the most important source of information on legislation for members of Congress not on the committee and for other people in government, including the agencies and courts that have to implement and interpret the law once it is passed. These reports summarize the bill's purposes, major provisions, and changes from existing law. They also summarize the arguments for and against the bill.

### *Scheduling Debate*

When a committee agrees to report a bill to the floor, the bill is put on the House or Senate calendar—a list of bills scheduled for action. Each house has different calendars for different types of bills. In the House, noncontroversial bills are put on the Consent Calendar or Private

Calendar to be passed without debate. Such bills also may be dealt with expeditiously under a suspension of the rules, which waives almost all of the formalities to allow swift action. Most legislation passed by the House follows one of these routes.

Controversial or important bills are placed on the Union Calendar (money bills) or House Calendar (other public bills). The committee reporting such bills must ask the Rules Committee for a **rule**, a resolution that specifies when and how long a bill will be debated and under what procedures. The rule may permit amendments from the floor (**open rule**), only certain amendments (**restricted rule**), or no amendments (closed rule). Majority party leaders use restricted or closed rules to keep unwanted amendments off the agenda, both to protect their party's members from casting embarrassing votes and to keep legislative packages from unraveling. Closed rules help to solve the majority's prisoner's dilemmas; many proposals that would not be enacted piece by piece because different members would defect on different sections can win if they are voted on as packages. As partisan competition became more intense during the 1980s, Democratic House leaders used restricted or closed rules to maintain control of the floor agenda (see Table 6-4). Republicans objected strenuously but, after taking over in 1995, resorted to restrictive rules themselves to prevent Democrats from hindering the Republicans' promised speedy action on proposals set forth in the Contract with America.

If the Rules Committee holds hearings on a rule, interested members may express their views on the legislation. After hearings, a bill may be granted a rule or it may be denied a rule entirely or until the originating committee

**Table 6-4** Open and Restrictive Rules, 95th–104th Congresses (1977–1997)

Congress	Total Rules Granted	Open Rules		Restrictive Rules	
		Number	Percent	Number	Percent
95th, 1977–1978	211	179	85	32	15
96th, 1979–1980	214	161	75	53	25
97th, 1981–1982	120	90	75	30	25
98th, 1983–1984	155	105	68	50	32
99th, 1985–1986	115	65	57	50	43
100th, 1987–1988	123	66	54	57	46
101st, 1989–1990	104	47	45	57	55
102d, 1991–1992	109	37	34	72	66
103d, 1993–1994	104	31	30	73	70
104th, 1995–1996	151	86	57	65	43

Source: Roger H. Davidson and Walter J. Oleszek, *Congress and Its Members*, 6th ed. (Washington, D.C.: CQ Press, 1998), 232.

Note: Democrats claim that Republicans misclassified rules in the 104th Congress, thereby overstating the frequency of open rules.

has revised it to the Rules Committee's satisfaction. Once the Rules Committee grants a rule, it must be adopted by a majority vote on the floor. When floor action on a bill is constrained by its rule, the House majority has, in fact, consciously chosen to constrain itself. Sometimes the House kills a bill by voting against the rule rather than against the bill itself. In 1994, for example, the House rejected a rule for a bill to elevate the Environmental Protection Agency to cabinet status because the bill did not require the new department to consider the economic costs and benefits of new environmental regulations. The House's action killed the legislation.

The Senate has no equivalent of the House Rules Committee or, indeed, any rules limiting debate or amendments. Thus the leaders of both parties routinely negotiate unanimous consent agreements to arrange for the orderly consideration of legislation. Unanimous consent agreements are similar to a rule from the House Rules Committee in that they limit time for debate, determine which amendments are allowable, and provide for waivers of Senate rules. In the absence of a unanimous consent agreement, anything goes.

There is no limit on how long senators can talk or on how many amendments they can offer. Individuals or small groups can even **filibuster**—hold the floor making endless speeches so that no action can be taken on the bill or anything else—to try to kill bills that the majority would otherwise enact. And breaking a filibuster is difficult. Under Senate rules an extraordinary three-fifths majority of the Senate membership (sixty votes) is required to invoke **cloture**, which allows an additional thirty hours of debate on a bill before a vote is finally taken.

Filibusters were used most notoriously by conservative southern senators in their rear-guard action against civil rights laws a generation ago, but senators of all ideological persuasions now use the tactic. In fact, filibustering has become much more common in recent years, rising from an average of only one filibuster per Congress in the 1950s to more than twenty-five per Congress in the 100th–103d Congresses (1987–1994).<sup>38</sup> Senate Republicans, then in the minority, used it to kill a number of Bill Clinton's initiatives during the 103d Congress (1993–1994), including his economic stimulus package, a proposal to raise fees for grazing cattle on federal lands, a package of campaign finance reforms, a bill to bar members of Congress from accepting gifts from lobbyists, and a bill to forbid employers from permanently replacing workers who go on strike for higher pay. After 1994 Senate Democrats found new affection for the tactic; a record fifty cloture votes were taken in the 104th Congress, of which 18 percent were successful, the lowest rate ever.<sup>39</sup>

Even the threat of a filibuster can stop action on legislation because Senate leaders dislike wasting time on bills not likely to pass. With filibustering now so routine, the new reality is that the support of sixty senators is needed to pass any controversial piece of legislation. Under Senate rules, a few members can tie the Senate up in knots by refusing to consent to limited debate on a bill. Senators, then, must depend to a considerable degree on mutual restraint and bipartisan cooperation to get their work done. When cooperation breaks down, the Senate is immobi-



*The longest speech in the history of the Senate was made by Strom Thurmond of South Carolina. Thurmond, a Democrat who later became a Republican, spoke for twenty-four hours and eighteen minutes during a filibuster against passage of the Civil Rights Act of 1957. This display of stamina was no fluke; Thurmond was still serving in the Senate during the 106th Congress (1999–2000) at age ninety-six.*

lized. Senators thus buy lower conformity costs at the price of higher transaction costs.

### *Debate and Amendment*

In the House the time for debate is divided equally between the proponents and opponents of a bill. Each side's time is controlled by a floor manager, typically the committee or subcommittee chair and the opposing ranking member. If amendments to a bill are allowed under the rule, they must be germane (pertinent) to the purpose of the bill; extraneous matters, known as **riders**, are not al-

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lowed. Debate on amendments usually is restricted to five minutes for each side. The House often debates bills as a Committee of the Whole because acting in the guise of a committee the House is less encumbered by formal procedures. For example, a quorum—the number of members who must be present for the House to act officially—is 100 rather than the usual majority of 218, and the gavel is wielded by a member chosen by the Speaker. The House must revert back to itself, however, to vote on legislation.

Floor debates do not change many minds because politicians are rarely swayed by one another's eloquence. Debates are for public consumption: to make arguments that members will use to justify their vote to constituents and others; to shape public perceptions through the media; to guide administrators and courts when they apply and interpret the legislation; to stake out partisan positions; to show off. More important, formal floor debates serve to legitimize policy. Whatever deals and compromises went into building a legislative coalition, whatever the real purposes of its supporters, they have to make a case that the proposed action would serve the public interest. The opposition has equal time to argue against the action. Occasionally, public justification assumes historic proportions such as in 1991 when ninety-four senators and more than three hundred representatives took the floor to explain their positions on U.S. intervention in the Persian Gulf.

Floor action does more to shape legislation in the Senate than in the House. Because unanimous consent is required to limit Senate debate (except when cloture is used to end a filibuster), members are free to spend as much time as they like debating a bill. Unlike in the House, few conflicts are resolved in committee or subcommittees; senators do much more legislating on the floor, offering amendments or complete alternatives to the bill reported by the committee. Senate amendments need not even be germane; important bills are sometimes passed as amendments—or riders—to completely unrelated bills. For ex-

ample, in 1994 when the Senate passed a bill elevating the Environmental Protection Agency to cabinet status—the same bill the House killed by voting down the rule—it also inserted into the text an amendment that would have reauthorized the 1974 Safe Drinking Water Act. Unrestrained floor debate is the fullest expression of the Senate's individualistic, participatory ethos. It also provides a prominent forum for the articulation of any social interest that catches the fancy of even one senator.

### *The Vote*

Members of Congress are ever alert to the political implications of votes on important bills. The fate of legislation often is decided by a series of votes rather than a single vote. For example, opponents of a measure may propose "killer" amendments, which, if passed, would make the bill unacceptable to an otherwise supportive majority. In addition, opponents may move to recommit the bill—that is, to send it back to committee for modification or burial—before the final vote. And, on occasion, members may try to straddle an issue by voting for killer amendments or to recommit but then voting for the bill on final passage when these moves fail. Sophisticated observers have little trouble picking out the decisive vote and discerning a member's true position, but inattentive constituents may be fooled.

How do members of Congress decide how to vote? Political scientist John Kingdon sought to find out by asking them. They revealed that, along with their own views, the opinions of constituents and the advice of knowledgeable and trusted colleagues have the strongest influence on their decisions. Often they are aware of what their constituents want without anyone having to tell them. At other times, they rely on letters, phone calls, faxes, e-mail, editorials, and polls to get a sense of what people think. Even on issues where constituency opinion is unformed, members try to anticipate how constituents would react if they were to think about the issue. The idea is to cast an *explainable vote*, one that can be defended

publicly if it is brought up by a challenger in some future campaign. Not every vote has to please the people who hire and fire members of Congress, but too many "bad" votes can expose a member to the charge of being out of touch with the folks back home.<sup>40</sup>

In general, members have reason to listen to anyone who can supply them with essential information: political information about how constituents and other supporters will view their actions and technical information about what the legislation will do. They also have reason to weigh the views of anyone who can help or hinder them in winning reelection, advancing their careers in Washington, and having an impact on policy. Constituents' views count the most because they have the most direct control over members' careers, but the views of interest groups, campaign contributors, and party leaders also shape decisions, especially on issues of little concern to constituents.

Most constituents know little and care little about most of the issues members vote on. The minority of the public that does pay attention varies from issue to issue. The relevant constituency opinions are those held by people who care, pay attention, and are not securely in the other party's camp, for their support will be affected by how the member handles the issue. In other words, the politically relevant interests on most issues are special interests. For that reason, in Congress intense minorities often prevail over apathetic majorities. One example: opponents of gun control, led by the National Rifle Association, have stopped or weakened gun control legislation many times over the years despite widespread public support for stronger regulation of firearms.

Trusted colleagues strongly influence voting decisions because legislators cannot possibly inform themselves adequately about all the matters they must vote on. They depend instead on the expertise of others, most often members of committees (usually from their own party) with jurisdiction over the bills outside their own specialties. Members say that lobbyists, executive branch officials, party leaders, congressional staff, and the news media influence their decisions much less than do con-

stituents and colleagues. Groups representing special interests are deeply involved in congressional policy making, but their direct influence is not strongly felt at this point in the legislative process; effective groups work through constituents and colleagues (see Chapter 13, Interest Groups).

And how influential is the president when the votes are finally cast? Occasionally presidents have been able to win against the odds by persuading wavering members of their party to stick with the team or by cutting special deals with pivotal members. For example, in 1993 President Clinton's successful appeals to party loyalty were crucial to his razor-thin budget victories (218–216 in the House, 51–50 in the Senate, where Vice President Al Gore's vote broke a tie); no Republican in either chamber would support the budget because it included tax increases. Essential, too, were the bargains made to modify the bill to satisfy reluctant Democrats.<sup>41</sup> On most votes, however, the administration's wishes are by no means paramount.

The same is true of the wishes of party leaders. Senate leaders exert little formal influence at this or any other stage of the legislative process. House leaders use their much more formidable powers at earlier stages and through control of the agenda. The majority party's leaders may, if they wish, do much to frame the choices that House members face. But their job is to construct legislative packages that party members are comfortable supporting. If they are successful, no persuasion is necessary. If they fail, few members are likely to put party loyalty ahead of constituents' views.

In the House, votes may be cast by voice, but at the request of at least twenty members a recorded "roll-call" vote is taken. Members vote by inserting a small plastic card into one of the more than forty stations scattered about the House floor and pressing yea, nay, or present (indicating they were on the floor for the vote but did not take a side). Senators simply announce their votes when their names are called from the roll of members rather than record it by machine.

## LOGIC OF POLITICS

### PORN FOR CORN

The conference committee charged with working out differences between the House and Senate versions of the fiscal 1992 appropriations bill for the Interior Department faced a typical problem and came up with a classical solution. The House had voted to increase the very low fees stock raisers pay to graze their animals on public land by more than 400 percent over a four-year period. The Senate, which overrepresents sparsely populated western states, opposed this provision.

In the meantime, the Senate had, in its Interior Department Appropriations bill, adopted language proposed by Republican senator Jesse Helms of North Carolina forbidding the National Endowment for the Arts (NEA) from spending federal money "to promote, disseminate, or produce materials that depict in a patently offensive way sexual or excretory activities or organs." Majorities in both chambers probably opposed censoring NEA grants, but they also realized it was politically risky to go on record as

permitting taxpayers' money to fund anything that might smack of pornography.

The conference committee struck a bargain: the House delegation would vote to drop the grazing fee increase if the Senate delegation would vote to drop Helms's provision—an exchange of "porn for corn," as it was quickly labeled. The conference bargain held on the floors of the House and Senate. Helms tried to put the restrictions back in the appropriations bill, but western conservatives feared the resurrection of the grazing fee increase if they broke the deal and refused to go along with him.<sup>1</sup>

"Porn for corn" is a definitive example of doing politics: conservative western ranching interests made common cause with the liberal urban arts community though they scarcely shared common purposes.

1. Phillip A. Davis, "After Sound, Fury on Interior Bill Signifies Nothing New," *Congressional Quarterly Weekly Report*, November 2, 1991, 3196.

#### In Conference

Once passed, a bill is sent to the other chamber for consideration (if some version has not already been passed there). If the second chamber passes the bill unchanged, it is sent to the White House for the president's signature or veto. Routine legislation usually follows this route, but controversial bills often pass the House and Senate in different versions, so that the two bodies have to reconcile the differences in the versions before the bill can leave Congress.

This reconciliation is the job of a conference committee. Each house appoints a conference delegation that includes members of both parties, usually from among the standing committee members most actively involved for and against the legislation (if a conference committee is

not appointed, as sometimes happens, the bill dies). The size of the delegation depends on the complexity of the legislation. The House delegation to the conference handling the 1,300-page Clean Air Act amendments of 1990 consisted of 130 representatives from eight different committees. The Senate got by with a delegation of nine from two committees. But the relative size of the delegations is not important, for each chamber votes as a separate unit in conference, and a bill is not reported out of conference to the House and Senate until it receives the approval of majorities of both delegations.

Conference committees are supposed to reconcile differences in the two versions of a bill without adding or subtracting from the legislation. In practice, however, they occasionally do both. Conference committees gener-



ally exercise the widest discretion when the two versions are most discrepant (see box "Porn for Corn" for an amusing example of conference maneuvering—and of how politics is done).

Once conferees reach agreement on a bill, they report the details to each chamber. A conference report is privileged—that is, it can be considered on the floor at any time without going through the usual scheduling process. The divisions in conference committees normally reflect the divisions in the chambers they represent, so majorities assembled in conference can usually be reproduced on the House and Senate floors. If both chambers approve the report, the bill is sent to the president.

Sometimes one or both chambers balks and sends the conferees back to work, perhaps with instructions about what to change. If differences cannot be reconciled, the bill dies. This outcome is unusual, however; when a proposal has attracted enough support to make it this far and members face a choice to take it or leave it, they usually take it. This situation strengthens the hand of the committees that originally reported the legislation because the conference delegates are normally drawn from these committees and the conference gives them a chance to have the last word.

### *To the President*

Upon receiving a bill from Congress, the president has the choice of signing the bill into law; ignoring the bill, with the result that it becomes law in ten days (not counting Sundays); or vetoing the bill (also see Chapter 7, The Presidency, where the veto process is explained more fully). If Congress adjourns before the ten days are up, the bill fails because it was subject to a **pocket veto** (the president, metaphorically, stuck it in a pocket and forgot about it). When presidents veto a bill, they usually send a message to Congress, and therefore to all Americans, that explains why they took such action.

Congressional override of a presidential veto requires a two-thirds vote in each chamber. If the override suc-

ceeds, the bill becomes law. Success is rare, however, because presidents usually can muster enough support from members of their own party in at least one chamber to sustain a veto. When a head count tells presidents that an override is possible, they hesitate to use the veto because the override would expose their political weakness. Of the 453 regular vetoes cast between 1945 and 1996, only 46 were overridden. Presidents also exercised 310 pocket vetoes, none of which could be overridden, over the same period.<sup>42</sup>

Presidents often prevail without having to resort to a veto because members of Congress are reluctant to invest time and effort in legislation that will die on the president's desk. The exception is when congressional majorities want to stake out a position on a prominent issue to score political points. The veto, then, is a major weapon in the presidential arsenal; presidents can threaten to kill any legislative proposal they find unsatisfactory, usually leaving Congress with no choice but to cut presidents in on deals.

### *A Bias against Action*

Emerging from this review of the process and politics of congressional lawmaking is one central point: it is far easier to kill a bill than to pass one. Proponents of legislation have to win a sustained sequence of victories—in subcommittee, in committee, in Rules (in the House), in conference, on the floors of both chambers (repeatedly), and in the White House—to succeed. Supporters of a bill have to assemble not one but a series of majority coalitions. Opponents need win only once to keep the bill from going forward. To be sure, a way can be found around every legislative choke point; Congress has special procedures to circumvent regular procedures when they prevent adamant majorities from getting their way or when Congress needs to act swiftly. But use of extraordinary procedures requires more attention and effort than legislative leaders usually are able to invest except on the most crucial legislation, such as the annual budget.

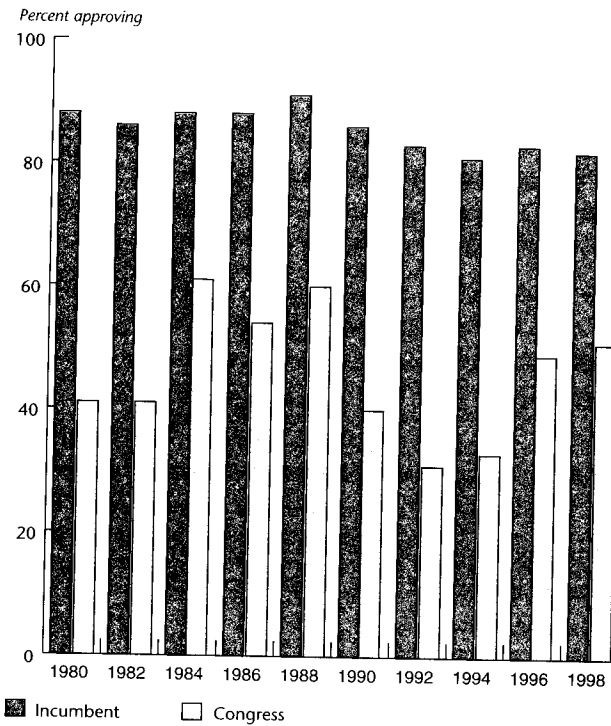
Dead bills, however, always can be revived and reintroduced in the next Congress. Indeed, it is not at all unusual for many years to lapse between the initial introduction of a major piece of legislation and its final enactment. Proposals for national health insurance have been on the congressional agenda for more than fifty years (only Medicare, applying exclusively to the elderly, has passed so far). Defeats are rarely final, but neither are most victories; the game is by no means over when a law is enacted. The real impact of legislation depends on how it is implemented by administrators and interpreted by the courts (see Chapter 8). And laws always are subject to revision or repeal later by Congress. That victories or defeats almost always are partial and conceivably temporary contributes a great deal to making politics—cooperation in the face of disagreement—possible. Politicians recognize that taking half a loaf now does not mean they cannot go for a larger share in the future.

### Evaluating Congress

Americans hold contradictory views about their national legislature. In the abstract, most people approve of the Constitution's institutional arrangements. Any proposals for change advanced by constitutional scholars and reformers are ignored by virtually everyone else. And Americans generally like their own representatives and senators. Most members receive high approval ratings from constituents, and most win reelection even when the public professes to be thoroughly fed up with national politics and the politicians of one or both parties. But Congress as it operates and its members as a class are rarely appreciated. Sometimes large majorities of Americans assign their Congress a failing grade (Figure 6-9). The low point in congressional approval occurred in the early 1990s and coincided with an unusually high level of turnover in congressional seats.

The public's general disdain for Congress reflects the low reputation garnered by politicians as a class. Habitual contempt for politicians arises from the nature of politics

**Figure 6-9** Approval Ratings of Congress and One's Own Representatives, 1980-1998



Source: American National Election Studies.

itself. Americans use politics as a vehicle for social decisions even when they share no consensus about the best course of action. Politics, then, inevitably requires compromises and trades, the results of which leave no one fully satisfied. The alternative to compromise—stalemate—is often equally scorned by a public more inclined to view legislative gridlock as a product of partisan bickering than of intractable conflicts among legitimate values, interests, and beliefs. In reality, Congress's difficulty in deciding on a budget, reforming the health care system, or dealing with an array of social problems (poverty, crime, education, urban decay) reflects the absence of any public consensus on what should be done about these issues. The only consensus is that national leaders, in failing to act, have failed to do their job.

Congress's poor reputation also arises from the very nature of pluralism. In pluralist politics, adamant minorities frequently defeat apathetic majorities because the minorities invest more of their political resources—votes, money, persuasive efforts—in getting their way. Indeed, the ability of pluralist systems to weigh the intensity of preferences as well as to count heads is viewed as a major advantage because it means that groups tend to win when they care most and lose when they care least. But it also means that “special interests” often win out over general interests, leaving members of Congress perpetually open to the charge of violating the public trust.<sup>43</sup>

During the 1980s and 1990s Congress's reputation also suffered from recurrent ethics scandals, including those involving such powerful leaders as Democratic Speaker Jim Wright (forced to resign in 1989 over a shady book deal), Republican Speaker Newt Gingrich (fined and reprimanded in 1997 for lying to the House Ethics Committee), Ways and Means chairman Dan Rostenkowski (jailed for mail fraud in 1996), and Senate Finance Committee chairman Bob Packwood (resigned in 1995 to avoid expulsion for sexual harassment). More broadly, the House bank overdraft scandal of 1992 and the publicity that followed about other congressional perks—gyms, beauty parlors, and limousines—fueled widespread scorn for Congress and helped Republicans overthrow forty years of Democratic rule in 1994.

All of these sources of public disdain for members of Congress represent conditions to be coped with rather than problems that can be solved. Senators and representatives cannot avoid making political deals, representing conflicted publics, or paying special attention to intensely held views. And not all of them will resist the many opportunities for corruption that come with the job. Thus members of Congress as a class are never likely to be revered by the public for any length of time.

Still, public approval of Congress does vary in response to how it seems to be doing its job. The public prefers bipartisan agreement to partisan bickering, coop-

eration with the president over conflict between the branches, and, most of all, successful public policies. For example, in early 1998, on the heels of the 1997 balanced budget agreement between Clinton and the Republican Congress and against a background of a booming stock market and unemployment and inflation rates down to levels not seen since the 1960s, public approval of Congress in the Gallup Poll reached 57 percent, up nearly thirty points from its low in 1992. But when Congress engaged in a highly partisan battle over impeaching Clinton for perjury and obstruction of justice in his attempt to cover up his sexual dalliance with a White House intern, its level of public approval fell sharply. In present-day politics, intense partisan conflict is far more common than bipartisan cooperation, so most of the public is likely to find fault with Congress most of the time.

Despite all its faults, perceived or real, the U.S. Congress remains the most powerful and independent legislature in the world. It has retained its power and independence for both constitutional and institutional reasons. The Constitution not only granted the House and Senate extensive legislative powers, but also provided the basis for electoral independence from the executive. Congress's formal legislative powers and electoral independence would have been of little avail, however, had members not created effective institutional devices for acquiring information, coordinating action, managing conflict, and discouraging free riding. By developing the party and committee systems and securing the assistance of numerous staff and specialized research agencies, members of Congress have given themselves the organizational means to carry out, and thus to retain, their constitutional mandate. But their task is rarely easy or the way smooth, for the Madisonian system that Congress epitomizes erects formidable barriers to collective action, and the range and complexity of contemporary political conflicts continually test Congress's fundamental ability to do politics successfully.

## Key Terms

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## Suggested Readings

- Arnold, R. Douglas. *The Logic of Congressional Action*. New Haven: Yale University Press, 1990. Explains how congressional leaders can manipulate the rules to overcome electorally induced free riding when they want to enact policies that impose short-term or concentrated costs in order to achieve longer-term or diffuse benefits.
- Cox, Gary W., and Mathew D. McCubbins. *Legislative Leviathan: Party Government in the House*. Berkeley: University of California Press, 1993. Lucid explanation of the logic that undergirds the House party organizations; makes a strong case that congressional parties are more powerful than most observers have assumed.
- Fenno, Richard F., Jr. *Home Style: House Members in Their Districts*. Boston: Little, Brown, 1978. Fenno's close personal observation of House members' interactions with their constituents produces a wealth of insights about how representation actually works.
- Jacobson, Gary C. *The Politics of Congressional Elections*. 4th ed. New York: Longman, 1997. A comprehensive look at congressional elections.
- Mayhew, David R. *Congress: The Electoral Connection*. New Haven: Yale University Press, 1974. Classic analysis of how electoral incentives shape almost every aspect of congressional organization and behavior.
- Rohde, David W. *Parties and Leaders in the Postreform House*. Chicago: University of Chicago Press, 1991. Explains the decline and resurgence of party unity in the House over the past several decades, with special attention to how the reforms of the 1970s fostered greater partisanship.