



The Signing of the Constitution of the United States

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MASTERING THE BASICS

House and Senate

LEARNING OBJECTIVES

1. Describe the main enumerated powers given to Congress by the Constitution.
2. Understand the reasons why a bicameral legislature was chosen by the founders and what roles each chamber was designed to play in the legislative process.
3. Identify the characteristics that have turned Congress into an *institutionalized* legislative body and describe how the differences in membership and constituency sizes affects representation for members and senators.
4. List the pivotal players in each chamber of Congress, including the powers and responsibilities associated with each of their positions.

Though they had an entire government to establish, delegates to the Constitutional Convention spent over half of their time in Philadelphia considering the intricacies of a newly envisioned national legislature. The delegates knew that if they were to create a federal government that prevented the concentration of power by any single branch or person, a Congress made up of representatives from each of the newly united states had to take the lead. As put by Virginia delegate James Madison, “In republican government, the legislative authority necessarily predominates.”¹

A strong legislature was key for a variety of reasons. It would not only offer each section of the country a voice in national policy-making, but a legislature made up of the people would also give credence to the vital notion that this new federal government was directly connected to, even dependent on, its citizens rather than the other way around. It was to be a government of the people, elected by the people, to represent the people. And vitally, by giving citizens a say in who represented their interests in the legislature, the founders were giving the people a stake in their own government which would only help build confidence in its stability and lasting power.

But as readily as they agreed that the legislative branch was to be the most important branch of the new government, delegates sharply differed on how best to structure it. Most notably, delegates from different states were starkly divided on the issue of representation. That is, delegates had to design an assembly in which citizens of large states and small states, cities and farms, economies of industry and agriculture all felt adequately heard.

In a nod to their British heritage, it was nearly unanimously agreed upon early within the convention that the new Congress should be a **bicameral legislature** made up of two chambers. Pennsylvania was the lone state voting against the bicameral model largely because Benjamin Franklin was strongly in favor of a “single house

of legislation” similar to the one found within the Articles of Confederation. It was quickly decided that the larger chamber, the House of Representatives, was to be modeled after the more energetic British House of Commons; the smaller, more conservative chamber, the Senate, was to look more like the hereditarily filled House of Lords.

Yet despite widespread agreement on a bicameral structure, vexing dilemmas of representation remained, including the question of who should be responsible for electing members to each of the chambers. Opinions varied wildly. Elbridge Gerry of Massachusetts, for example, opposed the **direct election** of lawmakers by the people to either chamber saying “the evils we experience flow from the excess of democracy.” Average citizens, he believed, would not or could not be expected to keep informed on matters of governance, and consequently, were vulnerable to be misled by “false reports circulated by designing men.”² Thus, lawmakers should be chosen by those with knowledge and experience of such affairs, such as those serving in the various state houses throughout the country.

On the other end of the spectrum sat George Mason of Virginia. The larger chamber, ultimately the House of Representatives, should serve as “the grand depository of the democratic principle of the government” he said.³ “It ought to know and sympathize with every part of the community” which could only be achieved by the direct election of members from various districts from within the larger states. In the end, both Gerry’s and Mason’s viewpoints were represented in the final design. The senators would be appointed not by direct election but by votes of the respective state legislatures while those serving in the larger House of Representatives would be chosen by the people.

The need for compromise, however, was not over. Perhaps the hardest issue for the founders to solve dealt with how many votes within Congress each state was to receive. More populous states argued that they should have a greater say in a democratic legislature not only because they had more citizens but also because of the economic and military contributions that follow from having larger populations. Small states vehemently disagreed and fought for equal representation in both chambers regardless of size.

After weeks of offered and discarded proposals—including one that gave each state a single vote in the Senate, an arrangement that hamstrung the Articles of Confederation—an offer put forward by Roger Sherman of Connecticut broke the logjam. Under the terms of the Great Compromise, each state was to be equally represented with two votes each in the Senate; in the House of Representatives the number of seats awarded to each state was dependent on the size of their population, with slaves counting as three-fifths of a person, granting larger states a greater number of representatives. The compromise passed by a single vote.

When the final version of the US Constitution was adopted and signed on September 17, 1787, the importance of the new legislature’s place within the federal government was made undeniably clear by its placement in the document: Article I was

devoted to detailing the constitutional provisions of the Congress, resulting in its colloquial name as the First Branch of government.

THE CONSTITUTION AND CONGRESS

Despite being detailed first in the Constitution, Congress is not the sole branch of government, nor does it hold a monopoly on federal power. In fact, the disbursement of federal power was exactly the point of the new government. The Constitution explicitly divides the national government into three separate but interdependent branches of government—the legislative, the executive, and the judicial—and grants each one definitive constitutional powers specific to their role. Congress was to pass the laws, the executive was to administer the laws, and the judiciary was to interpret the laws. Such a system of separated powers forces the dependence of one branch onto the other two and simultaneously constrains any singular branch from concentrating federal power within its own domain, thereby alleviating fears that a single person or branch would soon hold exclusive power.

From the powers entrusted to the Congress, it was clear that the legislative branch was to be the focal point of the new government, responsible for determining the makeup and organization of the other two branches. The Constitution, for example, lists several executive branch departments but leaves Congress to decide their structure, specific functions, and funding levels. Similarly, the founding document establishes the Supreme Court but entrusts the legislature to determine its size as well as any other “such inferior courts as the Congress may from time to time ordain and establish.”²⁴ The executive and judicial branches have no similar dominion over the legislative branch.

The framers entrusted Congress to make national law, and furnished it as the sole branch of government with the powers to debate, draft, and enact federal legislation. Article I, Section 1 makes this unequivocally clear: “All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.” But because the founders wanted the First Branch to be the most potent of the three branches, legislative authority was far from the only power entrusted to Congress. The Constitutional Convention delegates took great pains to compile a long list of **enumerated congressional powers**—largely found in Article I, Section 8—in hopes that their specificity would leave little question as to who they saw as the engine of the new federal structure. From national security to foreign affairs to investigating the executive branch, the Congress is granted a litany of powers and constitutional responsibilities. Table 2.1 lists some of Congress’s prerogatives found within the Constitution.

Of the many grants of power vested in Congress, perhaps none is more influential in shaping the direction of government than the authority to raise and spend federal monies. The congressional **‘power of the purse’** is plainly stated in Congress’s mandate

TABLE 2.1 ■ Powers of Congress Found Within the Constitution

- To lay and collect taxes, duties, imposts, and excises
- To borrow money on the credit of the United States
- To regulate commerce
- To coin money
- To impeach the president
- To establish post offices and post roads
- To declare war
- To oversee the actions of the executive branch
- To raise and support armies
- To establish inferior courts
- To provide for organizing, arming, and disciplining the militia
- To provide and maintain a navy
- To advise and consent on executive branch nominees, including justices
- To establish copyright protections for authors, inventors, and writers
- To exercise exclusive legislation over the capital district
- To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

to “lay and collect taxes, duties, imposts, and excises” and is reinforced by the explicit prohibition that “No money shall be drawn from the Treasury, but in consequence of appropriations made by law” found in Article I, Section 9. Simply put, Congress—not the executive branch nor the judiciary—is the only federal branch of government with the legal authority to raise or spend federal dollars, a power that provides remarkable opportunities to shape the direction of federal policy through funding decisions.

The Constitution also provides Congress several levers of power over the nation’s economy, including the authority to coin money and borrow funds, as well as the broad, opaquely worded power “to regulate commerce with foreign nations, and among several states.” Through an extraordinarily broad power involving all matters of finance and business, the ambiguity of the ‘**commerce clause**’ has led to innumerable disagreements and subsequent court cases as to exactly what falls under Congress’s constitutional authority to regulate commerce. For example, in 2012 the Supreme Court decided in *NFIB v. Sebelius* that the individual health insurance mandate within the Affordable Care Act was impermissible under the commerce clause, though it was held constitutional under Congress’s taxation powers.

The ‘**necessary and proper clause**’ found within section 8 has produced similar interpretational questions about the limits of Congress’s powers. The Constitution

explicitly states that Congress has the authority “to make all laws which shall be necessary and proper.” But necessary for what? Proper according to whom? It was left to others to decide what the framers meant by such vague language. In 1819, Chief Justice John Marshall famously expanded Congress’s lawmaking authority beyond those expressly enumerated within the Constitution in the case of *McCulloch v. Maryland*. Marshall wrote, “Let the end be legitimate, let it be within the scope of the Constitution and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consistent with the letter and spirit of the Constitution, are constitutional.”⁵ In the intervening two centuries, the meaning and interpretation of the clause has continued to be debated on a host of salient issues, including antidiscrimination laws and whether or not the federal government has the authority to implement gun registration laws within the states. Indeed, the necessary and proper clause has earned the nickname of the ‘elastic clause’ or the ‘sweeping clause’ because of how broadly it has been invoked as a source of lawmaking authority.

Limits on Congressional Power

In addition to the many **enumerated powers** within the Constitution, the framers were equally focused on limiting congressional and governmental power within the new system beyond the separation of powers principle undergirding the Constitution. Article I, section 9 lists several acts explicitly prohibited so there could be no future debate as to their constitutionality, as well as to give confidence to those that feared the creation of too strong of a federal government and legislature. Among these are a ban on the suspension of habeas corpus—an individual’s protection against false imprisonment—unless when required to maintain public safety, and the prohibition of bills of attainder, which declares a person guilty of a crime and punishing them without a trial. Notably, not all of the limits imposed were focused on protecting individuals or states from their government. In a circular bit of language, Article I, section 9 also made it illegal for Congress to pass a law that altered or eliminated the slave trade until at least the year 1808. It’s hard to believe (and hard to stomach), but it’s true: the Constitution made it illegal to make the slave trade illegal for a period of twenty years.

When thinking about the constitutional limits on congressional power, it is also important to remember that despite intense debate, the original Constitution did not contain a specific set of protections for individuals. As the Constitution made its rounds to ratifying conventions in the various states, it became clear that additional protections were necessary to adequately secure the protections of the American people. Thus, the first Congress, and principally James Madison, developed a list of 12 amendments to be added to the Constitution, 10 of which were ultimately adopted. And though the amendments within the Bill of Rights are often portrayed as rights to individuals *provided by* their government, many amendments are perhaps more accurately thought of as protections enjoyed by citizens *from their* government. For example,

the First Amendment famously guarantees the rights of free speech, religion, the press, and to peaceably assemble. But, the amendment is written within the Constitution as follows: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the right of the people to peaceably assemble, and to petition the Government for a redress of grievances.”

That the right of the people to keep and bear arms “shall not be infringed” (Second Amendment), and “no person should be held to answer for a capital crime” without an indictment from a grand jury (Fourth Amendment) are similarly phrased guarantees of personal rights from an overreaching government. The same is true for many of the subsequent amendments added to the Constitution, such as the Fifteenth Amendment—ratified in 1870—which states “The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.”

Finally, the Tenth Amendment warrants particular attention when contemplating the framers’ intent regarding the limits of the new Congress, and especially the division of power between the federal government and the individual states, a principle known as federalism. The amendment states that “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” The amendment’s inclusion in the bill of rights was particularly important to the many states and people who were fearful that the newly constituted federal government would come to dictate how each state was to govern itself. Varying interpretations of the Tenth Amendment and the Constitution continue to this day, with those favoring a more limited federal government likely to contend that because the Constitution explicitly itemized specific grants of authority to Congress, those not listed should be thought of as prohibited and unconstitutional.

ONE CONGRESS, TWO DIFFERENT CHAMBERS

Whether in the classroom, the media, or in opinion polls, Congress is commonly talked about as a singular body that debates, votes, and legislates as one entity. Too often it is forgotten that because of its bicameral design, the same principle of separation of powers that underlies the three federal branches of government is found directly within the legislative branch itself. The framers created two distinct chambers, each designed to act largely autonomously from the other. Both chambers were directed by the Constitution to determine its own rules and procedures independently of the other, keep a journal of its own proceedings, and act as a judge of its own membership elections and qualifications. Additionally, each chamber was granted their own respective constitutional powers withheld from the other chamber as a means of diffusing power between the two.

The design was purposeful. The framers envisioned a Congress where neither chamber could legislate on its own and where each was to play a different role in representing the nation's many diverse interests. The much larger House of Representatives is founded on population-based representation, and consequently, was and is the chamber of Congress fashioned to maintain a closer connection to the people. Its representatives, argued James Madison, "should have an immediate dependence on, and an intimate sympathy with, the people."⁶ In order to facilitate the desired dependence and connection with the masses, House members are directly elected from smaller, more parochial districts within the states with equal population to one another. Plus, representatives serve two-year terms, a feature that ensures that every House seat is up for reelection every two years and incentivizes lawmakers to maintain a more direct relationship with its smaller constituencies. Members of the House are constitutionally required to be at least twenty-five years of age at the time of being sworn in, a US citizen for a minimum of seven years prior to election, and a resident of the state the lawmaker is to represent. The Constitution specifies that only the House can "originate **revenue bills**" or determine the presidential winner in the case of an Electoral College tie. The House also maintains the "sole power of impeachment," a power most recently used with the two impeachments of President Donald Trump in December 2019 and January 2021.

Often (self-)proclaimed as the "greatest deliberative body in the word," the Senate is founded on equal representation wherein each state, regardless of their geographic size or population, receives two senators. The smaller chamber was designed to be a more personal, slower moving body whose decision-making is deliberately less reliant on the people and their swaying political passions. As put by the late five-term Senator John McCain (R-Ariz.), "Our founders envisioned the Senate as the more deliberative, careful body that operates at a greater distance than the other body from the public passions of the hour."⁷ To better isolate the "upper chamber" from the people and ever-changing public opinion, senators serve staggered six-year terms where only about one-third of the chamber is selected every two years. To serve in the Senate, lawmakers are required to be a minimum of thirty years old, nine years a citizen, and a resident of the state represented.⁸ In a clear signal that the founders feared too much reliance on the people and wanted to have a chamber further removed from their whims, senators were originally elected not by popular vote but instead selected by the individual state legislatures. It wasn't until the Seventeenth Amendment was ratified in 1913 that all senators became directly elected just like their House counterparts. The Senate enjoys the constitutional authority to ratify treaties, provide "**advice and consent**" to all presidential judicial and executive branch nominations, and conduct any impeachment trials.

Structural Differences Between the House and Senate

As the founders envisioned, the House of Representatives and Senate are two naturally dissimilar bodies. Though they share a mutual dependence for passing laws as well as

many common features and organizational structures, each has developed its own rules, precedents, procedures, and methods of representation to carry out their respective roles. Table 2.2 outlines many of the main differences between the House and Senate.

Two chamber differences that have institutional and procedural implications are membership size and the scope of the constituencies they represent. By virtue of their much more limited membership, for example, the Senate has welcomed being referred to as the ‘upper chamber’, a moniker that suggests a greater sense of prestige characterizes its lawmakers and the chamber’s role in the legislative process. Proponents of the view that the Senate is the more distinguished and desirable body point to the fact that nearly half of the modern Senate is made up of members who had previously served in the House, whereas the last time the House had a former senator serve in its ranks was 1989. Relatedly, the cost of running a successful campaign is substantially higher for the more exclusive Senate. In the 2018 election cycle, the average winning Senate campaign cost nearly \$16 million, compared to the \$2 million average cost for a successful House campaign.

TABLE 2.2 ■ House and Senate Differences

House of Representatives	Senate
2-year terms	6-year staggered terms
Majoritarian procedures	Supermajoritarian procedures
Originates all revenue bills, determines presidential winner in case of tie, has power of impeachment	Ratifies treaties, provides advice and consent on nominees, holds impeachment trials
More homogeneous, narrow constituencies	More heterogeneous, varied constituencies
Germaneness requirement for floor amendments	No germaneness requirement for floor amendments
Policy specialists	Policy generalists
Smaller staff (maximum of 18 full-time staffers)	Larger staff (average of 51 staffer) ⁹
Debate heavily restricted	Unlimited debate on most measures
11.3 years, average congressional tenure	17.8 years, average congressional tenure
5.4, avg. committees + subcommittees served on	12.9 committees + subcommittees served on ¹⁰
17.3 bills introduced per member	38.7 bills introduced per member
\$2.06 million, average cost for winning election (2018)	\$15.75 million, average cost for winning election (2018) ¹¹

But membership size affects far more than perceptions of prestige or the campaign costs of each chamber. How each chamber operates internally and legislatively is a direct result of its size difference. Given that the House of Representatives is more than four times the size of the Senate—435 voting representatives to 100 senators—the House has devised a strict set of rules and procedures that limit its members’ legislative rights and behaviors. In the House, the priorities of the individual often take a back seat to the broad interests of the majority. As former House Speaker John Boehner (R-Ohio) was fond of saying “As the Chamber closest to the people, the House works best when it is allowed to work its will,”¹² in order to fulfill its role as the chamber most intimately connected to its constituents, the House is set up to allow a majority of its members to decide nearly every aspect of its operations, agenda, and lawmaking activities.

This is why the House is aptly thought of as a **majoritarian** institution—it operates predominantly on majority rule. “This is the House of Representatives of the United States,” remarked Representative Michael C. Burgess (R-Texas). “Any bill can pass on the floor of this House with 218 votes.” In the House, what a united majority wants, they often get. Because its rules so heavily favor the majority, and despite its much larger size, the House is often the faster-moving congressional chamber. As was readily seen in May 2020 when the House introduced and passed the \$3 trillion coronavirus stimulus bill¹³ in a single day, only a simple majority was needed for its passage no matter how long, controversial, or expensive a piece of legislation may be.

On the Senate side of the Capitol, however, the rules and precedents of the chamber favor individual senators and minority rights over the will of the majority. In large part because of its smaller size, the upper chamber has historically operated as a more personal body whose daily happenings rely heavily on informal traditions and precedents rather than codified rules. Instead of organizing its activities based on majority rule as in the House, the Senate grants tremendous powers to individual lawmakers in an effort to foster deliberation and consensus among its fewer members. Former long-serving Senator Lamar Alexander (R-Tenn.) colorfully described the fundamental difference between the House and Senate rules: “If a party wins a majority in the House, a freight train rolls through the House and the bill is passed and sent to the Senate. The Senate, throughout its history, has been the saucer into which the tea is poured to cool it a little bit. In other words, it takes a little more deliberation here to pass something.”¹⁴

The comparative slowness at which the Senate acts stems from its rules tilting toward individual senators rather than a resolute majority. For example, each of the 100 senators, no matter majority status, enjoys freedoms such as unlimited debate and amending opportunities on essentially all legislation without the need to be germane—that is, directly relevant to the topic at hand—in most instances. Such formidable privileges, unsurprisingly, greatly impact how and how fast the Senate conducts its business. To more efficiently advance through its noncontroversial business and provide more predictability to its schedule and legislative agenda, the Senate operates largely

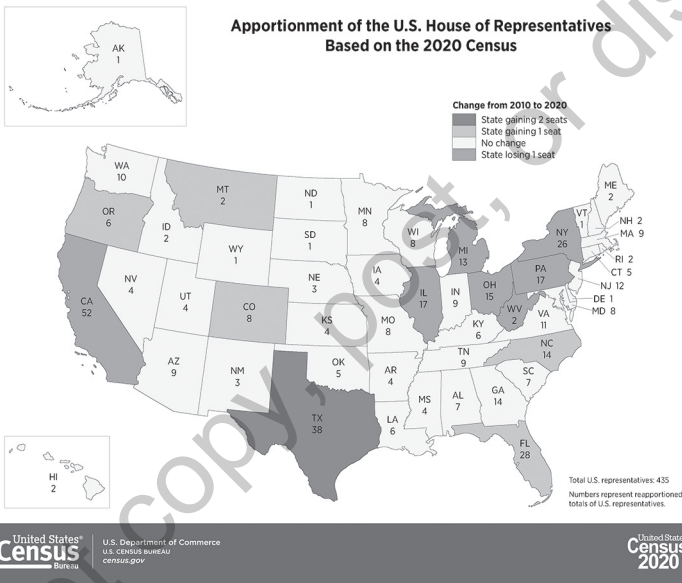
via carefully negotiated unanimous consent agreements. These agreements effectively suspend the rules of the body and curb the aforementioned rights afforded to each senator under the chamber's rules. But, as the name implies, the agreements only hold if they are unanimously supported. If a single senator formally objects, the agreement fails, the individualistic rules of the chamber remain in place, and the body's business can be severely slowed. As a result, power to influence legislation or the flow of the chamber's business is much more widely shared than in the House not only because of each senator's ability to participate widely in debate and floor activities but also because of his or her ability to slow down the chamber's pending business by objecting to a unanimous agreement.

A strong minority also possesses great influence over the Senate's schedule and legislative activities due to its ability to delay passage of more controversial legislation using, or threatening to use, the filibuster. As will be discussed more thoroughly in Chapter 7, at least sixty votes—far more than a simple majority—are necessary in the Senate to end debate and move to final passage on the bill. In an era of polarized parties and narrow Senate majorities, a determined minority party can effectively stall the progress on any piece of legislation unless the majority is able to peel off several members of the minority to support its passage. Indeed, the filibuster has proven so effective in halting Senate actions in recent years that the Senate has twice lowered the filibuster threshold to a simple majority in regard to presidential appointments, including those to the Supreme Court, though the sixty-vote threshold still remains for all pieces of legislation.

The 60-vote threshold has led many to refer to the Senate as a '**supermajoritarian**' institution in that it often requires a supermajority of its members—as compared to the simple majority within the House—for policy advancement.¹⁵ As much as the rights afforded to senators and small minorities can slow, frustrate, and derail the policy-making wishes of the majority party, senators commonly embrace this role as the exact one the Senate is designed to play in Congress's bicameral structure. As articulated by Senator Robert Byrd (D-WV), the longest-serving member of Congress in history, the Senate was designed to be and “is a deliberative body. It is a deliberative body sheltered from shifting public opinion by longer and staggered terms, and originally by being elected via the State legislatures. It serves as a counterbalance to the US House of Representatives.”¹⁶

Beyond their difference in membership size, another critical distinction between the chambers is the wholesale differences in constituencies the two types of lawmakers represent. Senators represent entire states, the vast majority of which have incredible diversity in demographics, economics, geographics, and voting ideologies. Representatives, by contrast, represent about 750,000 people on average and are elected from more narrow districts that are often more alike across a host of characteristics. This is because the Constitution specifically describes the House as a proportional institution. Representatives, Article 1 says, should be “apportioned among the several states” according to the “whole number” of persons residing in that state.

Congressional **apportionment**, therefore, is the reason California has 53 members of the House, while Idaho only has two. To this day, the national census, conducted every ten years, determines the number of House seats awarded to each state based on their respective populations. Elements of this process have changed, of course, over time. For example, the original Constitution called for the counting of “whole Persons,” but also “three-fifths of all other Persons,” by whom they meant the enslaved population. It wasn’t until the ratification of the Fourteenth Amendment in 1868 that the three-fifths clause was removed and all whole persons were counted equally for matters of apportionment. Additionally, the size of the House of Representatives grew along with the country’s population over its first 150 years, going from 59 members in the 1st Congress to 435 members in the 71st (1929–1931), where it was permanently fixed at 435 with the passage of the Permanent Apportionment Act of 1929.



2020 Census: Apportionment of the US House of Representatives

Source: U.S. Census.

While there are seven states with a single House district, this simple yet vital dissimilarity between House and Senate constituencies produces a much different set of electoral, legislative, and representational pressures and incentives for the two types of lawmakers, and greatly impacts how each carry out the many duties of their respective elected offices. As a general rule of thumb, as the diversity of a constituency increases, so does the struggle for a lawmaker in representing constituents.

Take Pennsylvania, for example. Pennsylvania’s two senators—Bob Casey (D) and Pat Toomey (R)—represent nearly 13 million constituents over 116,000 square miles

of densely populated cities, sparsely populated farmland, and sprawling suburbs¹⁷; the third largest economy in the United States,¹⁸ including millions of jobs dependent on tourism, ports and shipping, agriculture, and mining; a vast higher education network made up of over 165 four-year colleges and universities¹⁹; counties where over 80 percent of its votes went to Donald Trump and others where over 80 percent of voters went for Joe Biden.²⁰ The state, like most states across the country, is a melting pot of broad, and often competing, demographic and economic interests, all of which fall under the representational purview of its two senators. This state-wide diversity explains Pennsylvania's recent habit of electing both Democratic and Republican senators, as well as why the state was carried by about a single percentage point in both the 2016 and 2020 presidential elections.

On the House side, Pennsylvania is split up into 18 separate congressional districts each represented by a single representative. While each district differs sharply with most others within the same state on a host of measures, as evidenced by the two Pennsylvania districts highlighted in Table 2.3, nearly all are more homogenous than the state as a whole. From constituent demographics to primary economic drivers, the smaller districts allow each representative to better identify key constituencies

TABLE 2.3 ■ Representing Pennsylvania Versus Representing Pennsylvania Districts

	PA Senate Representation ²¹	PA-2	PA-11
Population	12,801,989	722,722	734,038
Percent white	81.6%	45.0%	89.1%
Percent Black	12.0%	25.2%	3.7%
Percent Latinx	7.8%	27.9%	8.9%
Median income	\$59,445	\$46,248	\$68,811
Percent below poverty level	12.0%	25.4%	10.1%
Unemployment rate	4.5%	8.3%	2.8%
Median house price	\$174,000	\$176,000	\$221,700
Percent bachelor's degree or higher	30.8%	22.6%	28.1%
Dem. POTUS Vote 2020	50.0%	72.5%	36.9%
Biggest industry	Industrial machinery	Healthcare and social assistance	Manufacturing

whose support they need to retain their office. What's more, the smaller districts are typically more uniform in their party identification, which in turn, creates safer seats that continually select candidates of the same party, most often the incumbent. This makes the job of House representative easier because voters of the same ideological leaning are prone to support and defend the actions of their incumbent. Fittingly, the Pennsylvania congressional delegation that served in the House and Senate during the 117th Congress was perfectly split between the two parties: 10 Democrats and 10 Republicans.

Senate Generalists and House Specialists

On Capitol Hill and from congressional observers, it is not uncommon to hear representatives described as 'specialists' and senators as 'generalists'. The two critical House and Senate differences just described—membership size and diversity of constituencies—explain much of this distinction. Let's first look at the impacts of their clear differences in constituencies. Because of their much larger and more heterogeneous constituencies, senators represent, and are more electorally dependent upon, a wider set of voices than their House counterparts. As such, senators generally feel compelled to speak to each issue of importance to their entire state. This requires them to speak broadly to a more varied collection of audiences.

House members, on the other hand, are electorally motivated to concentrate on the narrower set of issues that are of primary relevance to their smaller, often more politically homogeneous, district constituencies. Shorter terms in office compound this trend in the House. Because representatives are never more than two years away from facing their voters, they experience more electoral pressure to immediately represent and respond to the wills of the voters who are responsible for their electoral fates. With their six-year terms, senators are usually further removed from their next election, and consequently, maintain more freedom from the political environment at any given time.

The particular responsibilities and expectations of lawmakers of the upper chamber also provide motivations for senators to generalize rather than specialize. Because of their constitutional duty to provide advice and consent on treaties and the hundreds of federal judicial and executive branch nominees, senators feel constantly responsible for staying up to speed on international affairs, public policy administration, and the many pressing issues before the courts. These extensive demands across a bevy of topics leave little time for senators to dig into the nitty gritty policy details of a particular issue area. Instead, their job duties and broad constituencies require them to be well-versed on a great number of them. This is especially true for the many senators who have an eye toward running for higher office. The Senate has historically been seen as a stepping stone to running for the governorship or the White House, a notion codified in 2020 when seven sitting senators vied for the Democratic nomination, all of whom ultimately lost to Joe Biden, himself a long-serving former senator before

becoming Vice President to Barack Obama. These ambitious members face further incentives to be broadly conversant on all matters of domestic and foreign policy in order to develop a national following through media appearances or speaking engagements, all of which limit time available to be committed to developing a specific issue area expertise.

The large difference in chamber membership size also informs why senators typically become policy generalists instead of specialists. As will be discussed in much greater detail in Chapter 6, both the House and Senate have developed similar committee systems in order to divide the policy-making labor between its members in an effort to more efficiently study, deliberate, and draft legislation. Due to this division of labor, members become considerably more familiar with the issue areas that are under their committees' jurisdictions. But the number of committees across the two chambers is relatively equal. Simple math dictates that senators are assigned to serve on appreciably more committees than their House colleagues. For example, during the 116th Congress (2019–2020), representatives served on an average of 5.4 committees and subcommittees compared to nearly 13 for the average senator.²² Serving on so many committees forces senators to spread their time more evenly between each, effectively limiting their ability to develop expertise on any one. For House members, however, fewer committee assignments means more individual time and attention to be devoted to those respective issues. This translates into greater lawmaker expertise and reputational influence on the subject matter.

Fewer members and broader constituencies reinforce the senator-as-generalist description through a few additional data points: the number of pieces of legislation introduced each Congress by the two types of lawmakers, and their marked difference in staff sizes. Senators, on average, write and introduce nearly 39 bills per Congress, twice as many as the average representative (17.3). Among other reasons, senators introduce more bills in an effort to show their more varied electorates that they are working in Congress on their behalf. Representatives, on the other hand, generally feel less pressure and have fewer opportunities to produce a slew of legislative proposals, especially when factoring in the sheer number of other House lawmakers competing for legislative attention, as well as how few bills are ultimately signed into law (1 percent in the 116th Congress).

A final key difference between the two types of lawmakers is the number of congressional aides each employs to assist them in carrying out the varied aspects of their elected office. Senators, on average, maintain a staff size of 51 aides, while representatives are limited to 18 full-time staffers by law. Why the large difference in employee resources? Again, chamber differences in constituencies and membership size provide the answer. In order to keep in close contact with their electorate and provide more personal constituent services, congressional lawmakers have staffed district offices with about half of their hired aides. Because senators represent entire states with far more people than House districts, there is a greater need for more district offices, and thus, more state-based aides. On Capitol Hill, senators hire more staffers than their House

counterparts in order to help them stay on top of their broader policy and committee portfolios, respond to more substantial constituent mail and contacts, and support the member in crafting a state-wide and national messaging campaign.

House and Senate Similarities

As different as the two chambers are, the Senate and the House of Representatives have numerous similarities. Both chambers, for example, must vote to pass the same bill for it to become a federal law. Each has many similar authorities, including investigatory and subpoena powers, to conduct oversight of the president and executive branch agencies. Lawmakers in each chamber are electorally dependent on their constituents, and as such, place such a premium on constituent service that about half of the staff for both types of lawmakers are hired to work in district offices where they work more closely with their electorate. Both House and Senate legislators have centralized much of their scheduling and decision-making authority to a few elected party leaders, and the two chambers share a very similar committee system complete with comparable jurisdictions in each. And while the House is geared toward majority rule, holding the majority in either chamber equates to significant power in setting the policy-making agenda and chairing congressional committees.

Moreover, elections for both House and Senate over the past several decades have become increasingly **'nationalized.'** This means that the outcomes of individual races are less dependent on the particulars of any one candidate, state, or district but rather mostly tied up into the political fates of their respective parties and presidential candidates.²³ This, along with an electorate that has become increasingly sorted ideologically and geographically, has made congressional election outcomes easier to predict before any votes are actually cast.²⁴ In fact, in the final month of the 2020 elections, the *Cook Political Report*—a respected political analysis firm—rated only 25 out of 435 House seats (5.8 percent) and five of the 35 Senate races (14 percent) as true toss-ups. Relatedly, reelection rates for House and Senate lawmakers who seek a return to Congress are both extremely high. Since 1990, 87.5 percent of senators and nearly 94 percent of representatives who choose to run for reelection retain their seats.²⁵

Political parties play a hugely important role in both chambers. The two parties in either chamber, largely through their party leaders, work with their copartisans in the other to develop schedules and coordinate legislative activity for their respective chamber. Despite the different methods of legislating in the House and Senate, legislators and parties in both chambers typically work hard to present united fronts in messaging and legislating, evidenced by high degrees of party-line voting on all matters of policy. On the political front, members and parties in both chambers have invested heavily in robust electoral, fundraising, and communication organizations to take their party's message to the American public, and each continuously doles out talking points to its membership and tests messaging campaigns in order to effectively broadcast politically advantageous themes to specific audiences.

CONGRESS, INSTITUTIONALIZED

Unsurprisingly, the Congress and federal government of today are much different than the ones created in 1789. The United States and the world have experienced drastic changes since the Constitution was ratified over 230 years ago, including wholesale technological and medical advancements, population surges, and economic globalization. These and thousands of other societal, demographic, and governmental developments have regularly forced Congress to adjust in order to better and more efficiently fulfill its role as the first branch of government. As the country grew, as political dynamics shifted, and as public expectations about how Congress should represent its citizens matured, its members adapted the institution, albeit incredibly slowly at many points. Because of these changes, Congress has become more complex, its rules more formal and its workload more sweeping. In the words of political scientist Nelson Polsby, Congress has become **institutionalized**.²⁶

Comparing the features of the first Congress (1789–1791) to those of the contemporary Congress—as laid out in Table 2.4—clearly highlights the marked institutional development that has taken place within the United States and the first branch. The most obvious catalyst for Congress’s evolution since the eighteenth century has been the colossal growth in the US population and its resulting impacts on the size and scope of the federal government. In 1789, the country was made up of 13 states with a combined population of fewer than four million people including nearly 700,000 slaves. Only 59 representatives and 26 senators—all of them white and all of them male—served in the first Congress. The entire executive branch consisted of three federal departments and a miniscule presidential staff of less than a dozen people. Following the assumption of state’s debts following the costly Revolutionary War, the country held a federal debt of \$1.6 trillion in 2020 dollars and Congress appropriated a total of \$63.6 million 2020 dollars to fund the entire federal government.²⁸

Fast-forward to 2022. The increasingly diverse US population stands at over 330 million people, and 37 new states have been admitted to the union, along with five territories and the federal District of Columbia. The House has added 376 voting lawmakers while the upper chamber is made up of 74 more than in the 1st Congress. The annual budget of the federal government has swelled to nearly \$5 trillion, the executive bureaucracy sprawls over 15 federal departments and over 160 agencies, and the federal debt tops \$30 trillion. The average House district was once made up of about 30,000 people. In 2022, House lawmakers represented about 760,000 people on average. And the membership of the 117th Congress is the most diverse in history, with more female and non-white lawmakers than ever before.

These boons in population and government size have predictably and drastically impacted the scope of Congress’s workload, and consequently, the way it conducts its business. By nearly any standard, the 1st Congress was responsible for a comparably tiny federal government. Though it was responsible for legislating an entire

TABLE 2.4 ■ The 1st Congress (1789–1791) Versus the 116th (2017–2019) Congress

1st Congress (1789–1791)	117th Congress (2011–2023)
Population of 3.9 million (694,000 slaves)	Population of 332 million
59 Representatives; 26 senators	435 voting representatives plus 6 nonvoting; 100 senators
30,000 people, average House district size	760,000 people, average House district size
No written rules of the House	48 pages of rules; 16 volumes of precedents
Fewer than 10 congressional staffers	18,000 congressional staffers
1 standing committee (Committee on Elections)	21 standing House committees, 16 Senate, plus 14 special/select committees, over 175 congressional subcommittees
3 executive departments (War, Treasury, Foreign Affairs)	15 executive departments; over 160 federal agencies
\$2,154,344.20 appropriated (\$63.6 million in 2020 dollars)	\$4,829 trillion appropriated
\$54 million in federal government debt (\$1.6 trillion in 2020 dollars)	\$30 trillion in federal government debt
143 bills introduced in House; 24 in Senate	10,179 bills introduced in House; 5,631 in Senate ²⁷
Minimal formal leadership structure; did elect Speaker Frederick Muhlenberg (PA)	Established leadership structure
\$6/day compensation plus travel expenses for members	\$174,000 salary for members; \$193,400 Senate Pro Tempore; \$223,5000 Speaker of the House
Zero women or nonwhite members	146 women members; 59 Black, 46 Latinx, 17 Asian Americans (including Pacific Islander) 6 Native Americans

federal government into existence, only 167 bills were introduced during the entire 1st Congress. Because of its more narrow legislative mandate, lawmakers in the early congresses felt little need to divide its labor or restrict debate among its members. In fact, the 1st Congress only had one standing committee—the Committee on Elections—and instead relied on small and temporary ad-hoc committees to author and debate particular bills or issues. Legislation was nearly always up for amendment on the chamber floors where members, no matter their ideological or party affiliations, could actively participate. Formal party leadership structures were yet to be developed and political parties were yet to become the driving force in politics that we know today.

Each of these features is different in the modern Congress. For one, the range of issue areas has drastically expanded. From financial derivatives to agricultural subsidies to a national response to climate change, hardly any issue escapes the attention and purview of the contemporary US Congress. As evidence, the 117th Congress introduced more than 15,000 pieces of legislation in a less than two-year period, a mind spinning growth in activity in comparison to 167 bills introduced in the 1st Congress. Relatedly, over the decades, Congress has developed an expansive committee system designed to divide the congressional workload based on issue jurisdictions into smaller, more concentrated working groups. The 117th Congress boasts 37 standing committees and over 175 subcommittees across the two chambers, as well as 14 additional special, select, or joint committees, each of which is responsible for their own rules and precedents that govern their proceedings. The modern Congress has invested in over 18,000 congressional aides to help members carry out the many functions of their office, from researching and drafting legislative proposals to helping constituents navigate the federal bureaucracy. A complex set of procedures have been developed to better manage each chamber's proceedings, more formally structure debate, and limit amendment opportunities, particularly for the minority party. And political parties in both the House and Senate have come to heavily rely on a formalized hierarchy of elected party leaders tapped to speak on behalf of their respective members, pursue a partisan legislative agenda, and manage the flow of business in their chambers. On nearly every front, the current Congress would be unrecognizable to the founding generation.

Professionalization and Diversification of Congress

The **institutionalization** of Congress has also coincided with a rise of the congressional career for its members. For many, being elected to serve in the early years of Congress was viewed more as a temporary civic duty rather than a long-term career prospect. The legislature met only part-time at various points throughout the year in an undeveloped capital district where its members were typically forced to bunk up in boarding houses near the Capitol, which was still literally being constructed. Serving in Congress meant spending months at a time away from family, weeks of slow and uncomfortable travel to and from home, and came at a heavy financial cost for many lawmakers. Members of the 1st Congress were paid so little—only \$6 per day in session plus travel expenses—that most maintained jobs back home to supplement their incomes. Under such conditions, Congress experienced predictably quick membership turnover during the first ninety years of Congress. During this period, the average tenure for a representative was never more than four years, or less than two full terms, while the average tenure for senators never was longer than five years, less than a single full term.²⁹

Beginning around 1880, however, more and more members saw congressional service as a rewarding occupation they wanted to continue. Washington DC had developed into a cultural and political capital where being a member of Congress came with renown and societal clout. Plus, as the federal government grew, so too did the

importance and authority of its lawmakers in legislating its affairs. The rise of political parties and regional party dominance allowed for more certain reelections for its members. And serving longer came with increased benefits within the Congress. For example, members with longer tenures in Congress were subsequently rewarded for their seniority and experience with institutional positions, such as committee chairmanships or powerful party elders.

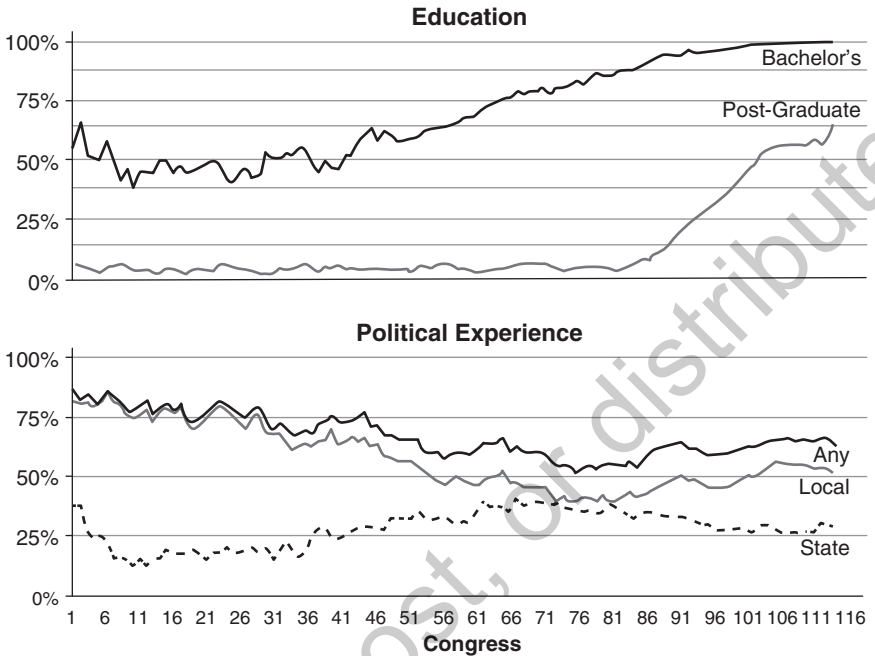
The trends of congressional careerism and professionalization have continued throughout the 1900s and into the present day. Instead of the part-time demands of the early era, policy-making and representational demands on members have turned serving in Congress into a year-round job. Contemporary members are now full-time legislators who are paid \$174,000 per year for their public service. Representatives, senators, and committees have invested in thousands of professional staffers to assist them with all aspects of the job, from drafting legislation to responding to the thousands of constituent phone calls and pieces of mail they receive each session. Political parties and their elected leaders have become organizing machines for their respective caucuses, have taken over much of the scheduling in both chambers, and are incredibly active in helping their members fundraise and develop professional campaign operations in order to maximize reelection prospects. All of these changes have contributed to making service in Congress a more gratifying and fulfilling career option rather than a short-term civic duty, a change we see reflected in longer congressional tenures in both chambers: at the beginning of the 117th Congress, the average tenure for House members climbed to 8.6 years while those of senators reached 10.1 years.³⁰

As Congress professionalized as an institution and as the country experienced dramatic economic, technological, demographic, and political changes, the composition of representatives and senators—the individuals actually elected to serve—has followed suit, though not always in predictable ways. Most notably, the contemporary Congress is more diverse on nearly every measure than any of its predecessors. The 116th and 117th Congresses set records for: the number of women serving in both chambers; the number of Hispanic or Latino lawmakers, Black members, Asian American, Indian American, or Pacific Islander members, and Native American members. The modern Congress also boasts a greater variety of pre-Congress occupations, economic status, and religious diversity, including the first two Hindu women, among its members.

Members of Congress have also become increasingly well educated over time, particularly at the graduate level, a trend laid out in Figure 2.1. Over 95 percent of members serving in the 117th Congress have received a bachelor's degree, and only a handful of members hold no further education than a high school diploma. In the late 1950s, postgraduate education levels began a decades-long surge for members of Congress. Prior to then, no Congress had even 20 percent of its members holding graduate degrees. In comparison, over 70 percent of 117th lawmakers held a postgraduate degree, a record, with law degrees being the most common.

Perhaps counterintuitively, however, we have seen the inverse relationship in the percentage of members with either state or local governmental experience on their

FIGURE 2.1 ■ Educational and Political Experience in the House (1789–2019)



Source: Author data.

resume prior to coming to Congress. On this measure, the earlier dominate with over 75 percent of their members having experience in government before their serving in Congress. Those experience levels are off their record-highs, especially in local positions, with just over 60 percent of the 116th Congress boasting previous governmental experience. The freshman class elected in 2018 perfectly exemplified this diverging education–experience relationship in that it was simultaneously the most educated and least politically experienced freshman class ever elected.³¹ And though the current congressional membership has historically been disproportionately wealthier, older, and whiter compared to the American population, those elected to serve in Congress are becoming increasingly representative of the constituents they are elected to serve.

Pivotal Players

One of the defining features of the institutionalized and professionalized Congress is the role and importance of elected party leaders within both chambers (Box 2.1). From setting the legislative agenda to negotiating with the president to articulating and advancing their party's policies, the party leaders help organize and provide order to the processes of the House and Senate. Leaders in both chambers enjoy many hard

and soft powers over their members. These include broad influence regarding committee assignments and an outsized authority to decide which members receive a share of media attention or party-raised funds for their reelection campaigns. The House’s leadership structure consists of the Speaker of the House, a majority party leader and a minority party leader, and a whip organization for each political party. The Senate has a similar leadership structure complete with majority and minority leaders and whips, though the chamber’s de-facto power broker, the Senate Majority Leader, does not possess the same amount of unilateral power enjoyed by the Speaker of the House.

BOX 2.1: LEADERSHIP OF THE 117TH CONGRESS

Speaker of the House



Rep. Nancy Pelosi

Elected by the whole of the House of Representatives, the Speaker acts as leader of the House and combines several roles: the institutional role of presiding officer and administrative head of the House, the role of leader of the majority party in the House, and the representative role of an elected member of the House. The Speaker of the House is second in line to succeed the President, after the Vice President.

Democratic Leadership



Majority Leader

Rep. Steny Hoyer

Represents Democrats on the House floor.



Majority Whip

Rep. James Clyburn

Assists leadership in managing party’s legislative program.



Assistant Speaker

Rep. Katherine Clark

Assists the Majority Leader.



Democratic Caucus Chairman

Rep. Hakeem Jeffries

Heads organization of all Democratic Party members in the House.

Republican Leadership



Republican Leader

Rep. Kevin McCarthy

Represents Republicans on the House floor.



Republican Whip

Rep. Steve Scalise

Assists leadership in managing party’s legislative program.



Republican Conference Chairman

Rep. Elise Stefanik

Heads organization of all Republican Party members in the House.



Republican Policy Committee Chairman

Rep. Gary Palmer

Heads Conference forum for policy development.

Constitutionally Mandated Officers

About the Offices of the Vice President and President Pro Tempore



Vice President
Harris,
Kamala D.



President Pro Tempore
Leahy,
Patrick J.
(D-VT)

Democratic Leadership



*Democratic Leader
Chairman of the
Conference*
Schumer,
Charles E.
(D-NY)



Majority Whip
Durbin,
Richard J.
(D-IL)



Assistant Democratic Leader
Murray,
Patty
(D-WA)



Chair of Policy & Communications Committee
Stabenow,
Debbie
(D-MI)



Vice Chair of Conference
Warren,
Elizabeth
(D-MA)



Vice Chair of Conference
Warner,
Mark R.
(D-VA)



Chair of Steering Committee
Klobuchar,
Amy
(D-MN)



Chair of Outreach
Sanders,
Bernard
(I-VT)



Vice Chair of Outreach
Cortez Masto,
Catherine
(D-NV)



Vice Chair of Policy & Communications Committee
Manchin,
Joe, III
(D-WV)



Vice Chair of Policy & Communications Committee
Booker,
Cory A.
(D-NJ)



Secretary of the Conference
Baldwin,
Tammy
(D-WI)

Republican Leadership



Republican Leader
McConnell,
Mitch
(R-KY)



Republican Whip
Thune,
John
(R-SD)



Republican Conference Chairman
Barrasso,
John
(R-WY)



Republican Policy Committee Chairman
Blunt,
Roy
(R-MO)



Vice Chairman of the Senate Republican Conference
Ernst,
Joni
(R-IA)



Republican Senatorial Committee Chairman
Scott,
Rick
(R-FL)

Speaker of the House

The **Speaker of the House** is one of only two congressional positions specifically mentioned within the Constitution, and though the document does not explicitly require that the Speaker be an elected member of the House, there has never been an instance in which the Speaker was also not a member. The modern-day Speaker is one of the most visible and powerful governmental leaders, responsible for articulating, negotiating, and advancing a winning legislative agenda for her party. But it wasn't always so. The powers afforded to the Speaker by House members have waxed and waned throughout Congress's history, with Speakers holding very little power in the first several congresses to being nicknamed 'Czar' because of their tight grip over the chamber by the twentieth century.³² In the contemporary Congress, a multitude of institutional and informal powers have been centralized in the modern Office of the Speaker.

The Speaker is chosen on the first day of each new Congress and is the only congressional leader formally elected by all members of the House, though more recently, Speakers have been elected in a party-line vote won by the majority party's candidate. Additionally, the Speaker serves as second in line to the presidency should the President and Vice President no longer be able to serve. In all of Congress's history, only one female, current Speaker Nancy Pelosi (D-CA) has served as Speaker, while no non-white member has been elected to the post.

Once elected, the Speaker holds three positions at once: elected representative from his or her own district; house officer; and party leader. As an elected representative, the Speaker maintains the same rights as the other 434 within the chamber, and is equally dependent on maintaining her voters' support each two years to remain in office. The prestige and power associated with being the Speaker of the House come from their role as the leading House officer and as a party leader. Box 2.2 lists many of the powers of the Speaker stemming from these roles.

BOX 2.2: POWERS OF THE SPEAKER OF THE HOUSE

House officer	Party Leader
<ul style="list-style-type: none"> • Administer oath of office to new members • Call House to order • Recognize members who wish to speak or make a motion • Preserve order and decorum in chamber and galleries 	<ul style="list-style-type: none"> • Act as main spokesperson for the party and its legislative agenda/ accomplishments • Heavy influence over committee assignments of members • Choose membership of House Rules Committee and House Administration Committee

House officer	Party Leader
<ul style="list-style-type: none"> ● Refer bills and resolutions to congressional committees ● Present pending business to House for voting ● Decide points of order ● Count and determine a quorum or absence of a quorum ● Appoint Speaker pro tempore ● Examine and approve previous day's <i>Journal</i> ● Appoint members to select and conference committees ● Sign all acts, writs, warrants, subpoenas, and joint resolutions ● Authority over House side of the capitol, including Statuary Hall ● Receive communications from the president and government agencies ● Administer system for audio and video broadcasting 	<ul style="list-style-type: none"> ● Serve as member on Democratic/Republican Congressional Campaign Committee ● Assist members seeking reelection through party fundraising and legislative opportunities ● Schedule when and how votes occur on House floor through Rules Committee ● Recommend all members to joint, select, and ad hoc committees ● Appoint members to conference committees ● Approve congressional delegations for foreign trips (CODELs) ● Lead negotiator with Senate and President

As the primary officer of the House, the Speaker is conferred ranging formal powers over the chamber and its operations. Among many duties granted to the Speaker under the rules of the House, he or she approves the previous day's *Journal* of business and is responsible for maintaining order and decorum within the chamber. Additionally, the Speaker is tasked with administering the oath of office to new members of both parties, is the addressed recipient for official communications from the President and the Senate, and has final say over the use of all rooms on the House side of the Capitol.

The Speaker also presides over the House, which grants him or her great authority to affect nearly all phases of the legislative process. The Speaker decides all points of order, helps set the calendar for when the House is in session, and is responsible for referring introduced bills to congressional committees for further consideration. Most importantly, the Speaker has broad discretion over who and when to recognize members who wish to speak. Through this power to recognize, the Speaker maintains power over the House's agenda. That is, it is effectively up to the Speaker to decide what motions the House will consider and when the body will consider them on the House floor.



117th Congress, Speaker of the House Nancy Pelosi

Photo By Bill Clark - Pool/Getty Images

The third role of the Speaker of the House is that of a political party leader. In this role, the Speaker works in a partisan manner on behalf of his or her political party to maintain their majority status, and oversees a legislative agenda designed to expand the size of their majority in the next congressional election. As the leader of his or her party, the Speaker acts as the main spokesperson for the House majority and actively publicizes the party's legislative goals and achievements through media appearances. Through their powers of scheduling, recognition, and agenda setting, the Speaker is responsible for advancing policies preferred by the majority, especially when the Senate and the White House are of the same party. In times of divided government, the Speaker attempts to voice and seek a policy-making strategy that provides a clear contrast with the opposing party.

To accomplish these goals, the Speaker uses a mix of the formal House powers just discussed, rights afforded by the rules of his or her party, and personal skills of persuasion and bargaining. As the elected leader of the majority party, the Speaker has oversized authority over committee assignments made within his or her party as chair of their respective steering committee, as well as powers to appoint committee members to joint, select, and conference committees. She appoints members to the all-important House Committee on Rules, the panel who decides how bills will be debated or amended (if at all) on the House floor. And the Speaker is also intimately involved with his or her party's respective congressional campaign committee, including deciding which members receive party-raised funds or professional campaign staff and resources for their reelection efforts. It is through all of these prerogatives, as well as her talents as a politician, that the modern Speaker pursues her main goals of maximizing the reelection prospects of as many of her party's members as possible and advancing the legislative priorities of her caucus.

House and Senate Majority Leaders

The **House majority leader** works directly under the Speaker of the House and has traditionally served as the party's primary legislative strategist. In this role, the majority leader acts as a conduit between the Speaker, the party's whips, the chamber's committee chairs, and varying member caucuses to coalesce around a legislative schedule and platform that advances the party's interests. He also manages the day-to-day actions on the House floor in order to effectuate a successful partisan policy agenda and often speaks on behalf of the party and their legislative strategy, both inside and outside the chamber. Finally, given his inter-chamber prestige and high visibility, the House majority leader serves as a principal fundraiser for the party.

The only other congressional position mentioned in the Constitution outside the Speaker of the House is one many tend to overlook: the **Senate pro tempore**. Number three in the presidential line of succession, the Senate pro tempore serves as the presiding officer of the Senate in the absence of the president of the Senate, the Vice President of the United States. He (and it has only ever been a he) is elected by the full chamber to serve as the chamber's institutional leader, though in the modern era, the honor has been granted to the longest-serving senator of the majority party.

Despite the Senate pro tempore's constitutional position, the business of the Senate is predominantly decided by the **Senate Majority Leader**. As with the Speaker of the House, the Senate majority leader acts as a party leader who works to keep and expand their party's majority within the chamber through legislative, messaging, and campaign-related activities. Thus, the majority leader articulates and advances the interests of the majority party's senators, is often the main spokesperson for his party's visions, and is in constant negotiations with the president and the Speaker of the House on potential legislative actions. He also maintains broad authority over committee assignments for his party's members, and is largely able to set the Senate's policy and recess schedules. Most importantly, the Senate majority leader enjoys much authority over scheduling the Senate's legislative agenda because of the 1937 Senate precedent that the majority leader has the right of first recognition on the Senate floor. In practice, this means that the Senate majority leader will always be recognized first when wishing to speak, which allows him to effectively control the flow of the chamber's operations.

However, and as will be discussed in greater detail in Chapter 7, because of the rules of the chamber and the more individualistic rights available to each senator, the Senate majority leader cannot act as unilaterally as the Speaker can in the House. Having the majority isn't enough. The senate majority leader is very dependent on the **Senate minority leader**—the leader elected by the minority party—to schedule legislation to be brought up on the Senate floor, largely through unanimous consent agreements negotiated by the two parties' leaders. Or, in order to legislate around the filibuster in the Senate, the senate majority leader must always be in constant negotiation with members of his own party and leaders of the opposition party in order to build bipartisan consensus to advance bills. This has been a true struggle in recent

polarized congresses, which is why so few bills have been passed by the Senate. Because of these obstacles, the Senate majority leader relies heavily on his mastery of Senate rules and precedents as well his ability to build bipartisan coalitions to advance his party's legislative agenda.

House and Senate Minority Leaders

The minority party in each chamber elects minority leaders every two years to advocate for the opposition party and act as the floor leader for the minority on the chamber floor. The duties of the House and Senate minority leaders largely match those of the majority party leader in that they monitor the floor proceedings and track legislative proposals, consult broadly with members to gauge policy preferences, and act as a primary spokesperson for their party, often in direct opposition to the majority party. Minority leaders, particularly in the majoritarian House, have very little leverage over the chamber's legislative schedule, and thus are regularly forced to respond to the actions of the majority rather than initiate them. Because of their lack of formal agenda-setting powers, minority leaders in the era of polarization are often busy maintaining internal party cohesion in an effort to stymie the goals of the majority party and offer a contrasting legislative vision to voters.

Party Whips

Party whips also serve an incredibly important role for each party within both the House and Senate. Elected by their party members every Congress, whips are best thought of as an informational go-between between party leaders and rank-and-file members and serve as key strategists for their party's legislative gameplan.³³ As their title implies, **whips** are seen as the primary vote counters and getters for their respective party. It is their job, largely through their deputies and dedicated staff, to have accurate vote totals for and against a measure prior to it being brought up on the chamber floor. And in instances where leaders need more party support for their position, whips are sent to 'whip' votes in support, sometimes trading favors or applying pressure for a yay vote.

In order to provide party leaders with vital information on the opinions and prospective vote choices of the various members within their party, whips lead a team of deputy whips that represent the geographical, ideological, and seniority variation within the caucus. In turn, whips provide party members with information directly from their leaders, including scheduling information and the status of legislative negotiations with the White House and the other chamber. In order to maintain these trusted flows of information, successful whips maintain the confidence of their caucus members and are seen as readily available to even the most junior members of the party.

Keeping accurate vote counts also allows whips to carry out another vital service in congressional politics: releasing vulnerable members from votes that may hurt them in the future. Whips work feverishly to secure as many of their party's votes as possible

in order to guarantee passage of a bill. But once they are secure in the bill's fate by having more reliable votes than the required majority, they are able to return to members who are on the fence or would politically benefit from voting against their party to let them know they are free to vote as they see fit. For those members who represent a toss-up district or have personal hesitations with the party's position, being released from the party line in these instances is incredibly valuable and can often help the member's reelection chances.

Whips also play a key, often underappreciated, part in drafting policies. Well before a bill is put up for a vote—especially on more controversial or high-salience issues—party leaders and committee chairs rely heavily on whips to work with the party caucus in order to identify what specific provisions have wide support and which are not supported by the party and should be excluded from the final proposal. Doing so allows party leaders to draft bills with the benefit of already knowing where the caucus stands on specific elements. As described to political scientist James Curry by an aide to House leadership, this process is often referred to as “whipping to write” in that the whips use their information sources to solicit the opinions of members in order to inform how a bill is subsequently written.³⁴

Committee Chairs

The **chairs of each congressional committee** are also seen as pivotal players on Capitol Hill, particularly for the issues that fall under their respective committee's jurisdiction. **Committee chairs** are effectively rulers of their committee's fiefdom, akin to being Speaker of the House for their particular panel. At their discretion, **committee chairs** determine the committee's agenda and schedule, call and preside over hearings, lead markups, enjoy hiring and firing privileges of aides who work on behalf of the committee, and work directly with party leaders on legislative strategies for bills in which the committee is responsible. By virtue of their longer tenures on the committee, chairs are typically viewed as substantive experts on the committee's issues, speak on behalf of the majority party committee's members, and often act as floor managers on the committee's legislation that reaches the chamber floor. Committee chairs are elected by the full chamber typically by voice vote, and traditionally, though less so in recent congresses, preference is given to the most senior committee member of the majority party to be its chair.

The minority party's most influential figure on all committees is their elected **ranking member**. Due to their lack of agenda control, ranking members generally lead the minority party's response to the actions of the majority. Often they present the minority's preferred alternative policy proposals during markups and through the media, and they develop strategies to slow or obstruct actions taken by the majority within committee. Ranking members serve as floor leaders for bills from their committees that reach the chamber floor and also oversee the minority party's committee staff.

A FINAL NOTE ON CONGRESSIONAL RULES

As much as the framers enumerated and specified the limits of congressional power, the Constitution provides surprisingly little detail on exactly how Congress was supposed to fulfill its considerable role. The document provides no guidance, for example, as to how a piece of legislation should be written, how long it should be considered or by whom, or what if any limits should be put on debate. Other than a few notable exceptions—such as defining a quorum as a majority of lawmakers present and establishing that two-thirds of each chamber vote can override a president's veto—the framers left it to each chamber to decide nearly every aspect of its organization and what procedures it was to use to facilitate action. As a result, when the 1st Congress convened in New York City in March of 1789, there were no rules or precedents waiting for the members when they arrived. It was up to them to create them, and they knew full well that their decisions were to shape the way future congresses were to act. James Madison, a representative during that all-important first Congress, detailed the daunting task of organizing Congress for the first time in a letter to Thomas Jefferson just months into his term: “We are in a wilderness without a single footstep to guide us. Our successors will have an easier task, and by degrees the way will become smooth, short and certain.”³⁵

Their decisions then and over the subsequent 230 years have resulted in two very different chambers with two very different sets of rules and procedures. While this is true, it is important to note a few key aspects of the regularly overlooked authority for each chamber to make and change its own rules as provided by the Constitution. First, with enough support from its membership, how each chamber operates can change at any time. Members often portray themselves as powerless to change their own rules, organizing structures, and procedures. But, they aren't. In fact, only they—the members of each chamber—have the constitutional right to alter them.

We have seen this occur most famously with the elimination of the filibuster within the Senate on judicial branch appointments. In 2013, Senate Democrats lowered the threshold for how many votes were necessary to avoid a filibuster from 60 to a simple majority for President Obama's nominees to lower court vacancies. Senate Republicans then extended the new lowered threshold to Supreme Court nominations in order to confirm President Trump's nominee Neil Gorsuch in 2017.

Major changes to the organization or processes of Congress are rare, but they have occurred, and smaller changes happen fairly regularly. This is especially true in the House because the rules of their chamber expire at the end of each Congress and are required to be adopted on the first day of the following Congress. Political parties—especially when majority status changes between them—take advantage of the requirement to adopt new rules by making small changes to the rules adopted by the previous Congress to better reflect the wishes of their members. For example, when House Democrats regained the majority in the 116th Congress in 2019, their membership wanted a new committee to study the threat of climate change. As a result, the Select

Committee on the Climate Crisis was established by a change in House rules that was adopted on the first day of the new Congress.

The Senate, on the other hand, is known as a continuing body. Because of the Senate's staggered elections, its members are never all up for election at the same time as occurs in the House every two years. Because of this, the Senate's rules continue from one Congress to the next without ever expiring. Their rules can still be changed at any point, however, as was made clear with the changing of the filibuster threshold for presidential appointments, but there is no Senate equivalent expiration and adoptions of the rules package each and every Congress that occurs in the House.

The second, and most important, consideration regarding the ability to change a chamber's rules is the logical inference that a chamber's current rules, organization, and processes are acceptable to at least a majority of either chamber. That is, precisely because a chamber has the power to alter them at any time, the fact that they don't is a clear signal that there isn't sufficient agreement among those who serve to make specific changes. Undoubtedly, there are a litany of reasons for why frustrated members do not look to revamp their chamber—many of which we will cover in subsequent chapters—but it is critical to remember that how each chamber is organized and operates at any given time is the direct result of its members' explicit and tacit decisions. In other words, the current rules and structure of Congress, no matter how often complaints from members are voiced, exist because they at least adequately serve the needs of most members. If they didn't and enough members agreed, they would be changed, as they have at various points in the past.

CONCLUSION

As delegates to the Constitutional Convention worked to replace the deficient Articles of Confederation in the summer of 1787, nearly all agreed that the Congress was to be the first branch of the new federal government. After months of debate, the framers drafted a Constitution which laid out a basic framework for the government and the new national Congress. It was decided the legislature was to be a bicameral institution, with a bigger chamber more directly connected to its citizens and a smaller, more intimate body further removed from the day-to-day political passions of the day. And though the Constitution expressly enumerated the legislature's powers and limitations, the framers left much to be decided by those elected to serve and future generations of lawmakers.

As intended, the House of Representatives and the Senate have since operated as two very different chambers mainly because of the marked size differences in both membership and constituencies. The House operates as a majoritarian institution whose rules and procedures tilt toward allowing the party with more members to work its will. The Senate, on the other hand, is known as a supermajoritarian body whose rights available to individual members—namely the filibuster—are set up to slow down legislative activity and reward, even demand, compromise for policy-making success.

Over the intervening decades and centuries since the 1st Congress was called to order, the country has evolved and experienced huge population, technological, and economic shifts. Congress's workload and constituency demands have exploded in kind. In order to best represent their constituents, these developments have forced Congress and its members to adapt the institution to the increasingly complex times. As a result, Congress has become an institutionalized and professionalized body. Each chamber has developed volumes of rules and precedents, established traditions and norms, instituted an elaborate committee system, created a powerful leadership hierarchy to facilitate chamber business, and invested in staff. Once seen as a temporary duty, service in Congress has become a sought-after career prospect for a more diverse set of members than at any other time in our history.

KEY TERMS

Advice and Consent (p. 26)	Majoritarian (p. 28)
Apportionment (p. 30)	'Power of the Purse' (p. 22)
Bicameral legislature (p. 20)	Ranking Member (p. 47)
Commerce Clause (p. 23)	Revenue Bills (p. 26)
Committee Chairs (p. 47)	Senate Majority Leader (p. 45)
Direct election (p. 21)	Senate Pro Tempore (p. 45)
Enumerated powers (p. 24)	Speaker of the House (p. 42)
House Majority Leader (p. 45)	Supermajoritarian (p. 29)
Institutionalization (p. 37)	Whips (p. 46)

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