

**Title:** *The United States Congress*

**INTRODUCTION:**

Instructors need a fresh perspective on the study of Congress – one that incorporates a contemporary examination of congressional organization and operations while at the same time conveys state-of-the-literature, knowledge, and findings. The proposed textbook strikes a balance between imparting research advances on Congress and an applied understanding of how the legislature operates day-to-day. Uniquely, this new book melds three important features that demonstrate the centrality of Congress to the functioning of American politics – governing, representation, and the separation of powers – with a serious treatment of contemporary scholarly research to create a textbook that will have wide appeal at all levels of the study of Congress.

This textbook is intended mainly for undergraduate U.S. Congress courses and master’s level courses on Congress, public policy, and U.S. policy making. Conceivably it might also have a market for comparative legislative courses. Additionally, some of the features of the book (described below) might make it attractive as an ancillary or background volume for PhD level Congress classes.

Students in an upper-division Congress course or doing master’s level academic work not only want an introduction to the subject matter, but also a set of skills that have application outside of the classroom. While one upper-division social science course alone will not provide the entirety of what students demand, the rigor of our book is part of a comprehensive and advanced social science foundation.

*The Market for Congress Textbooks*

In our view a new textbook on Congress is needed because currently the market is quite thin, and mainly dominated by one textbook – Davidson, Oleszek, and Lee’s Congress and It’s Members. The Davidson et al. book is in its 13<sup>th</sup> edition, and even with the inclusion of a new co-author (Frances Lee; and an additional co-author, Eric Schickler, coming on board for the next edition) it is showing its age. It is light on analytics, and its connections to modern social science research are rather limited.

Davidson’s primary competition at this time is Smith, Roberts, and Vander Wielen’s, The American Congress. Smith is one of the best-known senior scholars of Congress, and Roberts and Vander Wielen have been building strong reputations over the last decade. The book certainly does a fine job covering the primary topics for a Congress course, but without sufficient depth. The writing is a bit bland, students do not particularly gravitate to the book, and the instruction seems to downplay the social science by pushing a “civics” based approach. An attractive feature of the Smith et al. book is that Cambridge packages it with an associated reader comprised of edited/abridged book chapters and journal articles. (We address this feature with our own set of proposed supplemental materials below.)

Norton’s only entrant into this market is the niche textbook, Analyzing Congress, by Charles Stewart. Though the design of the series was meant to appeal to a particular kind of scholar/instructor, our sense is that its reach has been more limited than initially expected. (In addition, new editions of the Stewart book have been very slow in coming.)

### APPROACH:

As noted, the book provides a comprehensive treatment of the U.S. Congress, including a discussion of both contemporary academic research and a detailed consideration of recent events on Capitol Hill and beyond, via a focus on three key features of American politics: *governing*, *representation*, and the *separation of powers*.

- *Governing*: Citizens see the U.S. Congress as the nation's primary institution for democracy and governing. The Founders also saw it that way, which is why it occupies the foremost place in the Constitution. Much of the recent hand-wringing regarding gridlock and lack of legislative productivity is predicated on the notion that Congress should be more effective in its governing responsibilities than is currently perceived. Governing is, in large part, lawmaking, but also includes bureaucratic oversight, influencing public opinion, and establishing policy priorities and an agenda for the nation. Governing in an institution such as Congress requires collective decision-making and a certain level of cooperation. We examine the aspects of congressional organization, bicameral structure, and the electoral system that both help and hinder collective choice.
- *Representation*: At the same time, governing is predicated on the notion of representation – the fundamental linkage between lawmakers and their constituents. But representation is not merely a bilateral relationship between voters and their member of Congress. There are many constituencies that lawmakers must respond to – stakeholders within the district/state (business, organized groups, latent organizations, etc.), ideological and policy-interested groups outside the district/state, potential reelection supporters, party leaders, the presidential administration, etc. Having to satisfy multiple constituencies often makes collective action and collective choice a challenge. Put simply, representation and governing can sometimes be at odds.
- *Separation-of-Powers*: Finally, Congress is not the only institution of federal governance. Legislators on Capitol Hill must negotiate the lawmaking labyrinth arranged by the Founders – primarily composed of the president and the courts, and their shifting powers over time. How do shifts in these relationships alter the strategies of individual lawmakers and the collective activities of the legislative body? Governing further entails interaction outside the Founders' system of branches. Most notably, the bureaucracy, the media, and interest groups all have multiple venues for access to the governing process. Crafting and preserving policy in the U.S. constitutional system is difficult.

Almost all of what needs to be taught to students about how Congress works, what citizens expect from Congress, and how Congress interacts with other governing entities can be addressed within these themes. It is not difficult to imagine each chapter integrating these various topics seamlessly. For example, a chapter on representation can emphasize tension between individual responsiveness and collective demands – what do a lawmaker's constituents in the district expect from their representative, contrasted with

what do citizens of the nation expect from Congress as a whole. Particular attention can also be paid to minority representation: how does representation of minority groups play out in this context?

Each chapter will have two additional elements of note:

#### *Congress: Yesterday and Today*

At times, students (and faculty) forget that the congressional landscape is dynamic, and that major changes in the legislature's composition and the operations of Congress have changed at various points in time. Thus, each chapter will include a section that provides a temporal comparison of Congress: (1) how the institution used to be, and (2) what is different about the lawmaking body currently. A section that focuses on historical comparisons of Congress over time – related to the particular subject matter of each chapter – provides students a broader context to interpret contemporary events. Often we assume contemporary events are unique or special in some way, and a comparison with earlier times offers useful insight on change vs. continuity in different domains or issue areas. Some boxes could reflect on the origins of Congress or the 19th Century Congress, while others will make the comparison to the pre-1970s reform era or some earlier time in the 20th Century. The comparison period to the contemporary Congress will vary depending on the issue/theme being discussed and what era offers the most interesting or relevant contrast.

#### *How We Study Congress*

Too often undergraduate textbooks gloss over (or ignore completely) the craft of political science research. This is both an enormous disservice to the profession (it is taken less seriously than those social science disciplines whose undergraduate education is more methodologically rigorous – Economics, for example), and to students who would benefit from greater familiarity with social science methods and analysis. Thus, integrated into each chapter is a “How We Study Congress” section, which will examine the different theoretical and empirical approaches scholars apply to the important questions regarding the topic(s) of the chapter.

These segments will be split into three parts:

- *Questions*: What questions do we ask? How are they motivated by political events and changes in political trends? What are some of the interesting hypotheses?
- *Approach*: What theories do we work from? What information do we collect in order to study such questions? How do we collect these data? What are the important and new data sets or sources of information? How do we convert information into data that can be analyzed in a rigorous fashion?
- *Findings*: What are the interesting and unexpected findings? Have we confirmed the conventional wisdom or rejected it? What do we still have yet to know?

We believe that including a presentation of how social science is conducted will broaden the appeal of the book. Obviously instructors who see this as a text for lower-level Congress courses can skip this portion of each chapter. (This is part of the reason to

do these in a separate unit for each chapter.) However, for more methodologically rigorous courses, particularly those at top liberal arts colleges and research universities (as well as course above the undergraduate level), practical training in social science is critical to students' education – and this will provide a nice summary of several different methods and techniques that social scientists use.

Among the different types of research explored are theories of legislative organization, large-N data collection and analysis (such as lawmaking, legislative productivity, campaign fundraising, floor participation, etc.), creation of ideology scores from roll call votes, spatial models to understand the implications of different rules and structures, public opinion and elections studies, participant observer and archival research, and new avenues for analysis of congressional functioning such as experiments.

### **ANNOTATED TABLE OF CONTENTS**

Since a large portion of potential adopters of the book will need to adapt an existing syllabus, which is likely derived from an existing textbook and set of lectures, we probably want to avoid a complete reconfiguration of the relatively standard arrangement of chapters in existing Congress textbooks. At the same time, the approach of our book and the topics we emphasize necessitate that we make some changes to the common Table of Contents. Accordingly, the different topics should not trouble most instructors, as we believe they are in fact largely desirable. We envision that the volume would about standard length for a textbook of this type: between 450-500 pages.

What follows is an initial outline of the book, chapter-by-chapter. While we see the elements of each chapter as being closely tied to the themes of the book, we are receptive to suggestions regarding ways to improve our presentation and structure.

### **Chapter 1: Introduction: Governing and Representation in a Separated System**

This chapter explains the framework of the book built around three key concepts: *governing*, *representation*, and a *separation of powers system*. We view Congress as largely a governing body, but within that governing responsibility are constraints and opportunities defined by the representative-constituency linkage and the constitutionally-mandated separation of powers system. This framework makes it possible to understand the many varied aspects of congressional origins, operations, and output. The book is not simply an introduction to Congress – it also provides a way to understand how political scientists study key concepts and questions and how the lawmaking body has evolved with regard to the three primary precepts. We also emphasize many of the theoretical approaches that have dominated congressional studies over the last few decades, and explain how these theories have shaped the direction of congressional research.

Finally, we introduce the other elements of the book, such as the “*Congress: Yesterday and Today*” and the “*How We Study Congress*” sections.

### **Chapter 2: Constitutional Origins and Historical Development of Congress**

This chapter discusses how congressional institutions under the Constitution reflected the Founders' goals and motivations, as well as their experiences under the Articles of Confederation. The Confederation Congress was notoriously weak: unanimity was required for major decisions and often Congress did not possess the

authority to compel states to follow its wishes. Under the Constitution, congressional power was expanded (consistent with federal law superseding state law), and majority rule was adopted for most decisions. We emphasize how the process and outcome structured by the Constitutional Convention was aimed at overcoming collective action problems, particularly with respect to governance; while at the same time introducing new institutions that could hinder collective decision making, like bicameralism.

We also discuss the changes for Congress as a governing institution – its responsibilities shifted as government began to play a larger role in society, the economy, and the lives of individual citizens. Widening role for Congress meant greater duties, but also greater opportunities to build on the representative relationship, as members of Congress shifted from institutional amateurs to institutional careerists.

*Yesterday/Today:* We highlight the importance of the progressive era reforms that contributed to the making of the modern representative: pre-progressive era amateurs to post-reform professionals. We consider how new institutions like the direct primary and the secret ballot affected this transformation.

*How We Study Congress:* We describe how measures of policy preferences have become a key means of analyzing Congress and studying changes in Congress over time. We introduce early ideology scores (ADA, ACU, COPE) and then the creation of more sophisticated ideology scores (a very basic description of Poole and Rosenthal's NOMINATE scores). Then we trace the movement in overall ideology and its relationship to partisanship (and polarization) over time.

### **Chapter 3: Congressional Constituencies and Representation**

This chapter examines different aspects of representation and how they relate to congressional lawmaking. First we define the concept of representation as it has been considered by Political Science. We begin with the traditional concepts of “delegate” versus “trustee.” We then discuss “descriptive” versus “substantive” representation, and follow that with an examination of differing conceptions of constituencies – “primary,” “reelection,” etc. – as revealed through Fenno's work and others. We also consider representation in the context of “geographic size,” by discussing the representation of congressional districts versus states (particularly big states), and how this affects lawmaker behavior.

Next we explore the broader question regarding governing: what is it that constituents want from their member of Congress vs. Congress as a whole? We examine some recent work on this question (Lenz, etc.)

We then consider how constituencies change through the process of redistricting. We flesh out the process of redistricting, discuss changes in redistricting laws/rules, and describe recent events with partisan/incumbent gerrymandering. We consider how the legislative and judicial branches intertwine with respect to the rules governing redistricting and changes to those rules over time. Finally, we consider how concept of representation has evolved over the course of American history, and how different circumstances (partisan polarization, changes in economic and racial inequalities) have altered the representative behavior of members of Congress.

*Yesterday/Today:* We consider the transformation over the last few decades from lawmakers living in D.C. vs. the “Tuesday-Thursday Club” (routine travel back home on weekends). What are the implications of this for lawmaking? Indeed, is there evidence that members of Congress are in D.C. less often than is suggested by the Tuesday-Thursday Club.

*How We Study Congress:* We explore how representation has been studied “Fenno-style” through “soaking and poking.” By following members around their districts, Fenno was able to observe members’ different constituencies (primary, reelection, etc.) and identify their “homestyle” or method of constituency cultivation. We update the representation research with more recent work incorporating experiments and analysis of social networks.

#### **Chapter 4: Congressional Elections**

This chapter explores the vast literature on congressional elections. First, we consider who runs for congressional seats. We examine trends and data on political experience and background, as well as information on the race and gender of congressional candidates. We consider progressive ambition (the tendency to pursue higher office), particularly with respect to the prevalence of House members to run for the Senate. Next we consider the meaning of incumbency advantage, and the factors that have been associated with it.

In the next section of this chapter, we examine issues regarding the financing of congressional campaigns. We look at the sources of funding, and the role played by the “Hill committees.” Particular emphasis is placed on differences in the financing of House versus Senate campaigns.

Finally, we examine the growth of the Tea Party movement in recent years and its effects on congressional elections. We explore how the movement has changed who runs for office and who wins. We then discuss how the Tea Party movement has affected the tension between governing and representation.

*Yesterday/Today:* Here we discuss how the timing of elections has changed over time. In much of the 19th Century, House elections often stretched over 18 months, before eventually converging to a single election day in the late 19<sup>th</sup> Century (first Tuesday after the first Monday in November). Today, though, more and more states allow “early voting,” so that the standard, single election day is something of a misnomer. (We might also say something of the change in election procedure in the Senate, before and after the 17th Amendment – as the election “deciders” switched from state legislators to the underlying state population.)

*How We Study Congress:* Here we introduce the median voter theorem as a way to understand election outcomes in a polarized world. (The concept of a spatial array of candidates is facilitated by the ideology discussion from Chapter 2.) We note that congressional elections are akin to a two-round spatial election game, where the rounds are the primary and general election. In today’s world, the primary electorates are

skewed toward the extremes, so the median voter theorem will lead to two extreme candidates chosen in the first round, who then face off in the general election (the second round). While the median of the electorate may prefer a more moderate candidate, the two parties – because of polarization and the primary system – select two (relatively) extreme candidates.

### **Chapter 5: Committees in Congress**

As Woodrow Wilson told us over a century ago “...Congress in its committee rooms is Congress at work.” For all practical purposes the locus of governing and representational activities is committees. This chapter examines the differing roles that committees play in the operations of Congress, and for the varied goals and activities of lawmakers. How do the rules regarding committees affect these responsibilities? What do we know about the composition of committees and how that composition has changed over time? How have the responsibilities of committees shifted with broader changes in Congress, how have committees stayed the same, and what is surprising about these changes and continuities? This chapter introduces students to the committee-centered theories of congressional organization, particularly the “distributive” and “problem-solving” theories – which help to explain different duties of committees: providers of particularized benefits, legislative gatekeepers, policy caretakers, and facilitators of partisan priorities.

*Yesterday/Today:* We explore the change from ad hoc committees of the early Congresses to standing committees that eventually emerged and have dominated the modern era. Particular emphasis is placed on transition points, such as the antebellum rise of standing committee dominance, the expansion of standing committees in the late-19<sup>th</sup> and early 20<sup>th</sup> centuries, and the reform periods in the 1940s and 1970s. We explore the long-term stability of the committee system and ask: do committees still play the central role in functioning of Congress in the era of heightened partisanship?

*How We Study Congress:* Here we teach spatial models of committees as gatekeepers within their jurisdictional realm. We provide single-dimensional and multi-dimensional policy spaces. We explain how considering lawmaking in this way helps us to understand why we might get “out-of-equilibrium” policy outcomes.

### **Chapter 6: Parties in Congress**

This chapter focuses on a discussion of party organization and the role of leadership in Congress. We begin with a focus on how parties serve as an organizing mechanism, and how they operate differently in the House versus the Senate. We discuss the differing roles of the House Speaker and Senate Majority Leader, and their accompanying leadership organizations. We also detail the history of these leadership organizations – for example, we cover the period of strong Speakers (1890-1910), the period of relatively weak Speakers (most of the 20th Century), and the rise of strong Speakers again (starting with Gingrich). Additionally, we consider how differences in the partisan organization in the two chambers influence the representation relationship

between lawmakers and constituents, and how the inherent organizational differences in the two chambers cause very big differences in the challenges party leaders face.

We then shift our focus to how Congress has become more partisan and polarized in recent decades. We discuss how parties can take advantage of their majority status (using special rules; leaving votes open until enough members are arm-twisted; leaving minority members out of markup sections; bypassing regular order; filling the agenda tree; etc.). We note the disappearance of moderates in both parties, as Congress has increasingly polarized in last quarter century, and discuss its implications for congressional functioning and lawmaking. We also consider a variety of perspectives on polarization, and the relationship between voter and elite polarization.

*Yesterday/Today:* Here we highlight the rise (turn of the 20th century), fall (conservative coalition), and rise (last three decades) of parties in Congress. We employ some simple metrics, like party unity scores, to provide a visual display of the waxing and waning of party strength in congressional operations.

*How We Study Congress:* This section introduces partisan theories of legislative organization, with particular emphasis on “cartel” theory versus “conditional party government” (CPG) theory. We compare the two theories and describe what they say differently about congressional organization and lawmaker behavior – where the cartel theory focuses on “negative agenda control” (or blocking policies that will harm a majority of the majority), CPG focuses on “positive agenda control” (or the ability to push policies to a final vote on the floor). Also, we note that cartel theory conceives of party power being “unconditional,” while CPG theory postulates that party power is “conditional” on intra-party homogeneity and inter-party polarization. We contrast the partisan models with the “pivotal politics” approach (a la Krehbiel), which is shown to be merely an extension of the basic median voter model with a few critical features emphasized (the Senate filibuster and the Constitutional veto-override provisions).

## **Chapter 7: Policy Making in Congress**

This chapter explores aspects of lawmaking in Congress beyond parties and committees: mainly, how do the House and Senate operate when it is time to evaluate proposals as a chamber? We explore how it is that bills move from committee report to floor consideration in the two chambers, and examine the rules of procedure having to do with debate and amendment. We explore the process of roll call voting, and the challenges faced by bill advocates and adversaries. Emphasis is placed on what this says about Congress as a governing institution. We study the rise of a new “lame-duck session” as MCs increasingly kick controversial issues past the November elections.

In addition, this chapter focuses on how the two chambers differ, particularly with respect to control of floor deliberations. Emphasis is placed on the ability to filibuster in the Senate and how this presents a different pivotal actor than the one we see in a majoritarian institution like the House. We also consider the rise of less “orthodox” means of lawmaking (a la Sinclair) – such as the decline of regular order, diminished use of conference committees, etc.

Finally, we consider inter-chamber bargaining. We offer an examination of the bargaining process, and explore the movement from the common use of conference committees to the increasing prevalence of alternative procedures for reconciling inter-chamber differences.

*Yesterday/today:* Here we examine how the filibuster process has changed over time (literal vs. procedural). We begin with the pre-filibuster period and then move through the Twentieth Century – documenting the increase in the use of holds and cloture votes and discussing their importance for lawmaking.

*How We Study Congress:* We examine how lame-duck sessions of Congress can provide leverage for understanding the behavior of lawmakers and congressional leaders. Traditional lame-duck sessions (before the 20<sup>th</sup> Amendment) were regularly occurring, took place after the November election, and thus comprised the second session of a given Congress. In modern times, the lame-duck session is that portion of the second session of a given Congress (usually a few weeks) that meets after the November election. Because lame-duck sessions include reelected members, defeated members, and retiring members, scholars have exploited these differences to reveal how constituency (electoral) and partisan effects shape how members vote and participate. And the timing of leaders’ agenda choices – whether to hold votes in regular or lame-duck sessions – reveals how constituency (electoral) effects shape the likelihood of policy victory/defeat.

## **Chapter 8: Legislative Effectiveness**

This chapter examines the effectiveness of Congress’s governance responsibility from a macro-perspective. What constitutes effective governing? We explore the linkage between representation and governing and how governing is driven by the demands of constituents. This, in part, involves consideration of the difference between “individual” versus “collective” responsibility. Effectiveness is about the collective responsibility of Congress as a lawmaking body. (This will offer a different view from that presented in the representation chapter.) We will also discuss different philosophies of governing that may exist among lawmakers, and how these philosophical differences might lead to difference in lawmaking behavior.

We then explore Congress’s productivity and gridlock, particularly as it relates to laws of substance and importance. We examine two aspects of the legislative process that dominate the bulk of Congress’s workload – budgets/appropriations and reauthorizations. For the former we consider how much of the governing process is now entirely consumed by budgetary politics. With respect to the latter, we examine the process of policy change and how that is accomplished both in orthodox and unorthodox fashion (reconciliation, task forces, decline of regular order), and what is behind that. We draw on some recent examples of prominence to illuminate our discussion (e.g. the debt limit fight, the “fiscal cliff,” etc.).

*Yesterday/Today:* We discuss changes over the last half-century in the reauthorization and budgetary process in Congress that have shaped the legislative agenda and workload. We discuss why short-term authorizations came about, what

purpose they serve, and how the process of reauthorizations has gotten harder over the last decade.

*How We Study Congress:* This section considers the differing measures of statutory importance (Mayhew, Baumgartner and Jones, Lapinski, etc.). We consider how these lists are created, their utility, and what research is facilitated by their existence. We then examine the finding regarding the production of landmark legislation and the more recent work exploring policy change (Patashnik and Jenkins book; Shipan and Maltzman; Berry, Burden and Howell, etc.).

### **Chapter 9: Congress and the President: Governing Together...and Apart**

This chapter considers the myriad ways that Congress and the president interact to govern. We examine the differing types of influence the president has on the lawmaking process: “going public” (which includes State of the Union addresses, speeches, etc.), budgets, veto threats, executive orders, appointments, statements of administration policy, signing statements, etc.

We pay particular attention to how Congress and the president interact on foreign versus domestic policy, and discuss traditional claims that the president is given more discretion by Congress in foreign policy versus domestic affairs (i.e., the “two presidencies thesis”). We also cover more recent research by Howell and Pevehouse and Kriner, which provides a bit of a corrective – by considering how Congress may limit presidential authority and scope in military interventions.

Additionally we consider the prevalence of divided government over the last half-century and its implications for governing and lawmaking. In doing so, we discuss whether divided government has been a significant factor in explaining variation in the production of important legislation. (More on this in “How we study.”)

*Yesterday/Today:* We explore how the relationship between the president and Congress has changed over time. In the 19th century, the president largely focused on making patronage appointments, and did not have a strong hand in policymaking (other than defensively, to veto legislation). Beginning with Wilson and FDR, the President has taken an active – and often leading – role in national policymaking. In explicating this shift, we also ask: what has been the impact of a more legislatively-active presidency?

*How We Study Congress:* Following up on the discussion in the *Yesterday/Today* section, we explore some of the recent empirical research on presidential intervention and success in the lawmaking process. We examine literature on presidential agendas and legislative requests (e.g., Rudalevige; Edwards and Barrett; and Cohen), presidential success in influencing policy outcomes (e.g., Bond and Fleischer; Beckmann), and efforts to alter policy through extra-legislative means, like “going public” (Kernell; Canes-Wrone), executive orders (Howell; Mayer), recess appointments (Black et al.), and signing statements (Berry).

### **Chapter 10: Congress and the Bureaucracy**

In this chapter, we focus on the relationship between Congress and the bureaucracy. Some discussion will examine how and why Congress has delegated policy making authority to the bureaucracy over time – sometimes because the bureaucracy has a cost advantage in the production of policy vis-a-vis congressional committees (Epstein & O’Halloran), and sometimes because the bureaucracy has an informational advantage (Niskanen, Gailmard and Patty, etc.).

Additional discussion will consider the Congress/bureaucracy relationship in terms of oversight. Here we document how bureaucrats – unelected agents who possess specialized knowledge – are still accountable to members of Congress. We leverage principal-agent theory to discuss ways that Congress can control bureaucratic behavior, even when bureaucrats possess an informational advantage. For example, we discuss how Congress can take a hands-off approach to oversight, and yet achieve success, by forcing bureaucrats to reveal their positions and/or efforts (via administrative requirements) or by shifting oversight costs to special interests who possess specialized information and have an incentive to act (i.e., choosing fire alarms vs. enacting police patrols). We also explore the range of both.

*Yesterday/Today:* We provide a short case study of the Pendleton Act (1883) and how it led the way in transforming the bureaucracy from a spoils system (19th century) to a professionalized civil service today (albeit with creeping politicization a la Lewis).

*How We Study Congress:* We identify and describe the variety of *ex ante* (administrative procedures like reporting requirements, impact statements, sunshine laws, etc.) and *ex post* (reduction in agency budgets, limitation riders, personnel dismissals, etc.) controls that Congress possesses to keep bureaucrats in line and insure that policy outcomes are in accordance with congressional preferences.

## **Chapter 11: Congress and the Courts**

In this chapter we look at how the Supreme Court and lower courts engage with Congress. We start with consideration of the concept of judicial review – its development and history. We trace data on the courts considering and overturning legislation and how Congress has reacted. We draw on recent examples, such as *Citizens United* and the Affordable Care Act. We also consider instances where the courts have demurred from interactions with Congress (refusal to intervene in the filibuster fight) and potential weaknesses in the courts (the *Chadha* decision, and Congress’s willingness to ignore it). We examine congressional attempts to limit Court’s authority, sending signals to the Court of the public’s displeasure – which often leads the Court to restrain itself (Clark).

Finally we look at the politics surrounding the appointment process, and particularly, the Senate’s role in approving justices (more on this in the “Yesterday” section).

*Yesterday/Today:* We discuss how protracted ideological fights have occurred over Courts appointments (at the Supreme Court and lower federal levels) in the contemporary era, and how such politicization was exceedingly rare in earlier eras. In

doing so, we note how “polarization,” which is usually considered in the context of lawmaking, has also influenced other areas of the Federal government.

*How We Study Congress:* We follow up on the politicization/polarization theme from the Yesterday/Today section, by exploring patterns in judicial nomination patterns across time. In doing so, we examine whether factors like senatorial courtesy, committee chair power, and divided government affect the timing of nominations (from vacancy to selection). We then explore the variation in confirmation rates across time, and assess how the same factors (senatorial courtesy, committee chair power, and divided government) affect the likelihood of nomination success.

## **Chapter 12: Congress and Organized Interests**

This chapter considers Congress’s role with a different kind of constituency – organized interests. This includes traditional interest groups (or “pressure groups”) along with unions, corporate interests, Political Action Committees (PACs), 527s, Super PACs, etc. We discuss how these “special interests” have arisen and evolved over time to influence congressional policymaking. We will pay special attention to the rise of policy-based interests (NRA, Sierra Club, pro-life & pro-choice groups, the Tea Party movement, etc.) in the mid-20<sup>th</sup> Century and how these policy-based interests essentially took over the primary electorates in both parties, after the partisan machines crumbled. We also discuss how attempts to minimize the influence of money in congressional policy making has produced only limited success – paying close note to the recent *Citizens United* Supreme Court decision, which gives organized interests a great deal of power and discretion. Finally, we step back and explore the more general question of whether and how much resource-rich organized interests can affect congressional behavior and decision making – do such groups merely “buy access” to members of Congress and committee rooms (ala Hall and Wayman), and thus get a “hearing” when similar resource-poor groups can’t, or do they also directly influence the viability and content of legislation?

*Yesterday/Today:* We focus on how money in politics – and how such money might lead to corruption – has been a recurring theme in Congress for a century or more. We will compare campaign finance reforms of the early 20th Century (Tillman Act, Corrupt Practices Act, etc.) to similar reforms of the latter 20th Century (FECA, McCain/Feingold, etc.).

*How We Study Congress:* Here we explore the trends in research on the linkage between election fundraising and both congressional composition and policy outcomes. We explore how the accessibility of data as well as the transformation of fundraising behavior (the creation of “leadership PACs,” the growth of independent expenditures, etc.) has offered both opportunities and obstacles toward studying the influence of money on lawmaker behavior. We finish with a discussion of some of the difficulties in teasing out the degree of influence that money interests have on congressional output.

### **Chapter 13: Conclusion: Congress' Declining Place in the Constitutional Order?**

We would conclude the book and return to the themes of representation and governing in a separated system by looking at Congress' place in the constitutional order. We note how Congress was clearly the most powerful branch when the Founders drafted the Constitution, but questions have been raised in the last few decades about how the primacy of the legislative branch may have eroded. Have the Courts and the president usurped significant policymaking authority?

Using many of the insights and examples highlighted throughout the book we explore the relevant questions about this evolution of governance. Has a shift occurred because of Congress' active role in delegating authority? Do members of Congress ever have an interest in "boosting" Congress's role in the constitutional order and "reasserting authority" vis-a-vis the president and the Court? Or do the individual-level electoral aspects of the constituency-representation linkage preclude the possibility of MCs acting together to protect and enhance the overall reputation of Congress? What are the indications that Congress is still the dominant player in American politics? In engaging each of these questions, we explore the different views of congressional observers on the question of Congress's evolving place in the governing process.