1 The Troubled Congress

President Barack Obama delivers his State of the Union address in the House chamber in the U.S. Capitol on Tuesday, January 20, 2015.

For most Americans today, Congress is our most frustrating political institution. National surveys put approval of Congress's performance well below approval for the president and the Supreme Court. In fact, during most of the 2010–2015 period, well below 25 percent of Americans approved of Congress's performance, and their approval dipped to 9 percent in late 2013. Stalemate on important issues, frequent delays in getting must-pass bills enacted, messy wheeling and dealing, and partisanship that many people viewed as excessive underlay the sour ratings.

STUDYING CONGRESS

Congress is not easy to understand. Its sheer size – 535 members and more than 25,000 employees – is bewildering. Its system of parties, committees, and procedures, built up over the course of two hundred years, can appear remarkably complex and serves as an obstacle to public understanding. Perhaps most frustrating is that Congress also is important and exciting. No other national legislature has greater power than does the Congress of the United States. Its daily actions affect the lives of all Americans and of many people around the world. It checks the exercise of power by the president, the courts, and the bureaucracy. If you want to understand the forces influencing your welfare, you must understand Congress.

Let us begin with three tips about Congress. First, you must realize that the legislators themselves determine most features of the policy-making process in Congress. The Constitution provides some essential details, but only a few. It establishes a House and a Senate, provides for presiding officers in both houses, provides that both houses must approve legislation, implies that legislation is approved by majority vote, and gives the president a veto that can be overridden by a two-thirds vote of both houses. But the Constitution does not provide rules that specify how legislation is to be prepared for votes and does not mention the organizational arrangement of committees, parties, leaders, and staff that we now take for granted. These parliamentary rules and organizational features are determined by the members of Congress.

Second, you must keep in mind that Congress is always changing. It changes because it is a remarkably permeable institution. New problems, whatever their source, invariably create new demands on Congress. Elections bring in new members, who often alter the balance of opinion in the House and Senate. Elections also frequently result in a change in majority party control of Congress, which leads to a transfer of agenda control from one party to the other both on the floor and in committees. In addition, each new president asks Congress for support for his policy program. Members of Congress often respond to these requests by passing new legislation. But as lawmakers pursue their personal political goals, compete with one another for control over policy, and react to pressure from presidents, their constituents, and lobbyists, they sometimes seek to gain an advantage or to remove impediments to action by altering the procedures and organization of Congress itself. The result is frequent change in the committees, parties, procedures, and informal practices that form the legislative process.

Third, you must keep your own partisanship in check. That is not easy. For many people, being sophisticated about politics is knowing who is right and who is wrong about the issues of the day. As social scientists, however, we want to understand *why* politicians behave as they do, including how they organize the

political institutions that they run. As a rule, we find that members of Congress organize its parties and committees, and elect its leaders, with their own interests and the interests of those they represent in mind. In trying to understand human behavior in this unique context, it pays for us to remain somewhat dispassionate.

Explaining the ongoing changes in Congress is the central focus of this book. We begin in this chapter by highlighting several developments in American politics that have transformed congressional politics. These developments – including changes in the roles of parties and their leaders, changes in the way that the media covers Congress, an evolution in standards for public ethics, a rise in plebiscitary politics, a war on terrorism, new information technologies, new forms of organized efforts to influence Congress, and new kinds of issues– have altered the context of congressional policy making in basic ways.

A PARTISAN, CENTRALIZED CONGRESS

Developments of the past three decades have produced a Congress that behaves differently from the Congress of the middle decades of the twentieth century. Congress is now a far more partisan place, with the parties sharply divided on most important issues, and it is an institution whose agenda, committee work, and policy choices are made far more frequently under the supervision and guidance of the top party leaders. These two features of today's Congress – the polarization of the political parties and the centralization of policy making – are closely related. The relationship between partisan polarization and centralization is our central theme.

Polarized Parties

In the mid-twentieth century, both houses of Congress seemed to have evolved fairly stable decision-making processes that featured strong committees, weak parties, and weak central leaders, which gave the appearance of a decentralized way of legislating. It was labeled "decentralized" because much deference was given to the work of the committees, which wrote and reviewed the details of most legislation. The chairmen (few women were elected to Congress in those days) dominated their committees so that each house appeared to be run by a couple of dozen powerful committee leaders. Top party leaders – the Speaker of the House and the Senate majority leader – scheduled legislation for floor consideration, but they did not play a significant role in setting committee agendas or designing the content of legislation. Instead, they supported and facilitated the efforts of the committee chairmen and became involved whenever their assistance might prove useful.

During this era, the two parties in the House and Senate comprised quite het-
erogeneous memberships. By virtue of the party affiliation that they acquired in
getting elected to Congress, nearly all representatives and senators were auto-
matically members of either the Democratic or the Republican party conference
in their chamber. Wide differences in the kinds of districts and states that elected
them produced substantial differences among the elected members of each party
in their ideological or policy views. Perhaps most notably, the Democrats were
divided between those legislators, largely from outside the South, who advocated
for stronger civil rights policies to combat discriminatory election laws, segre-
gation, and other racist policies, and those southerners who still viewed their
party as the party of the Civil War Confederacy. Republican legislators, too, were
divided between those who favored using the federal government to address
economic and social problems – a group largely from the urban Northeast and
Midwest – and those who opposed a stronger federal role.

Over the last quarter of the twentieth century, Democrats and Republicans
became more polarized. The process of polarization had many elements, which
include these developments since the 1960s:

- Southern states changed from being one-party Democratic to being largely
  dominated by Republicans. Starting in the 1970s, mainly conservative
  Democrats were replaced by conservative Republicans, making the Demo-
  crats in Congress more uniformly liberal and the Republicans in Congress
  more conservative.
- Conservative and moderate Republicans in northeastern states, who once
  dominated that region, were replaced by liberal Democrats.
- Political elites, most notably congressional Republicans, took stronger, more
  ideological positions and provided more polarized cues to the electorate.
- Political activists, first on the Republican side, recruited candidates with
  stronger ideological commitments for office and mobilized support for them
  in primary and general election campaigns.
- The emergence of political narrowcasting – the creation of cable television,
  talk radio, and the Internet – provided new outlets for programs targeted to
  narrower and sometimes more extreme political audiences.

Stimulated and reinforced by these developments, the congressional parties
became more polarized. This is illustrated in Figures 1.1 and 1.2, which show the
average liberal-conservative score for Democrats and Republicans in the House
and Senate. The scores are based on a statistical analysis of the roll call voting
record that incorporates all members and votes cast in each two-year Congress
from 1961 to 2014.

Trends in party polarization are similar in the two houses of Congress. In
both the House and the Senate, Republicans moved further in the conservative
direction than Democrats did in the liberal direction. That is, this polarization is
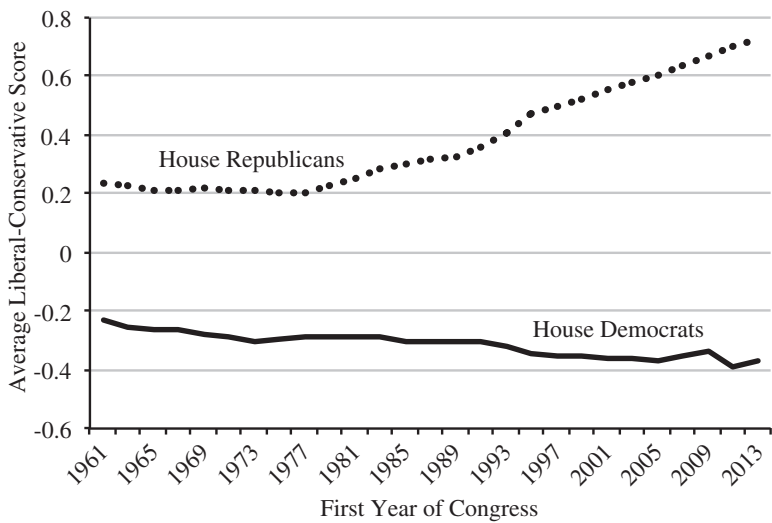
Figure 1.1 Polarization of House Parties, 1961–2014. Source: voteview.com. DW-NOMINATE means for each party.

due more to changes among congressional Republicans than to changes among congressional Democrats. The changes started a few years earlier in the House (the late 1970s) than they did in the Senate (the early 1980s); in recent years, the distance between the parties is large in both houses.
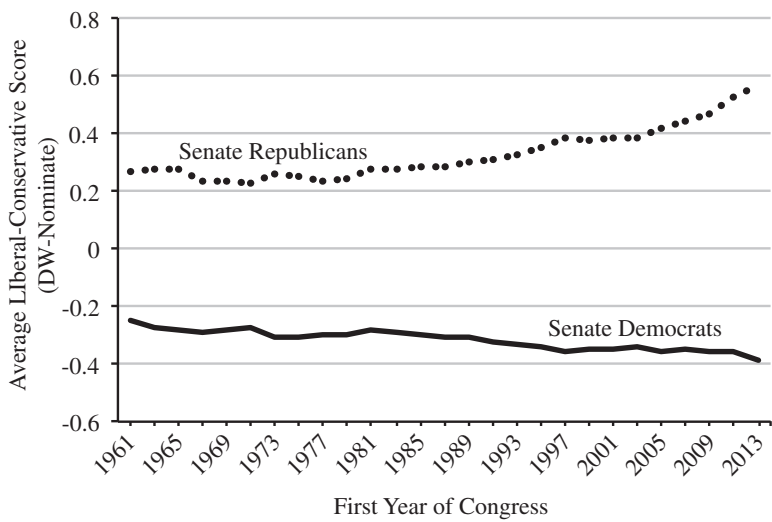

Figure 1.2 Polarization of Senate Parties, 1961–2014. Source: voteview.com. DW-NOMINATE means for each party.

Their polarization is more than a matter of the parties' having trouble finding common ground on issues of national importance. It involves very different perspectives on what those issues are. That is, the two parties differ in the issues to which each gives priority. Republicans are far more likely than Democrats to emphasize the burdens of taxes, regulation, and national security; Democrats are much more likely to emphasize poverty, education, the environment, and other problems that the government should address. As a result, the partisan battle that has been raging in Washington for the last quarter century now involves very different perspectives on the proper role of government, over ends as well as means.

Centralized Policy Making

In the mid-twentieth century, the heterogeneous congressional parties produced a legislative process that was *decentralized*. That is, the many standing committees and their chairmen were the dominant players in designing legislation. A bill would be written by the members of the House committee and the Senate committee that had jurisdiction over the issue, often with little participation by other legislators, including top party leaders. An occasional amendment to the bill might pass on the House or Senate floor, but most members were fairly deferential to the committee that recommended the bill. If the bill went to a conference committee to resolve the differences between the House and Senate versions of the bill, the conference committee would be made up of the senior members of the two committees. Another bill on another issue would similarly be written by members of another pair of House and Senate committees. Few key issues would be decided on the House or Senate floor. The process looked quite decentralized, with power centered in the multiple standing committees of the House and Senate.

One consequence of heterogeneous parties and a committee-oriented process was a limited role for party leaders. With the members of each party somewhat divided on important issues, a strong, aggressive party leader would likely have alienated many members of his party and intensified animosities among fellow members. The best leadership style was either to steer the party away from issues that would deeply divide it or to be a facilitator in finding consensus and compromise. Top leaders tended to leave the details of legislation for the committees to determine and simply make themselves available to assist the chairmen when asked. In the House, leaders tended to avoid calling meetings of the full conference or caucus, preferring instead to deal with committees, factions, and individuals as required.

In the late 1960s and early 1970s, a strong push by liberal Democrats in the House to revitalize their party organization led to more frequent meetings and important reforms. The reforms took two forms: (1) to democratize the internal

workings of committees and reduce the power of committee chairs, and (2) to enhance to power of the Democratic Speaker by giving him more influence over committee assignments, the referral of legislation to committees, and the Rules Committee. The first set of reforms seemed to decentralize power further by giving more power to subcommittee chairs. This led observers to worry about the ability of the House to act quickly and coherently on complex policy problems.

By the 1980s, as liberals became more dominant among Democrats, the House Democratic party caucus showed signs of revitalization. Steps were taken to centralize the legislative process more in the hands of the Speaker of the House. The leaders of the House Democrats, Speakers Thomas P. "Tip" O'Neill and Jim Wright, were pressured by liberals to be more assertive. O'Neill became somewhat more aggressive in setting an agenda, but he did so reluctantly and selectively. Wright, however, took the reins of the legislative process gladly and aggressively. Wright expected committees to act on the party agenda and committee leaders to be loyal to the party. He also became a leader in trying to change U.S. policy toward Nicaragua. Wright resigned his speakership after the Republican Newt Gingrich, a future Speaker of the House, leveled charges against him. A House Ethics Committee report partially confirmed the charges that Wright had earned speaking fees in excess of those allowed by House rules and that his wife had been given a job to circumvent the limit on gifts. The Wright episode was viewed as a sign of rising partisanship, first by his assertiveness as Speaker and then in the Gingrich effort to undermine his speakership.

House Republican conservatives also were agitating for a stronger party in the 1980s. Gingrich led a conservative faction – the Conservative Opportunity Society – that demanded less cooperation with majority party Democrats, stronger conservative stances on important issues, and more loyalty from moderate Republicans who sometimes voted with the Democrats. Gingrich hoped to present a clear choice to Americans and, at the same time, force Democrats from conservative districts to choose between their party leaders and their more conservative electorates at home. Giving Democratic leaders few Republican votes would force some Democrats to vote with their party and put their own reelection at risk.

Gingrich was elected Speaker of the House in 1995, just after the Republican Party gained a House majority for the first time since 1954. He quickly moved to dominate every phase of the legislative process for the majority party. No significant committee chairmanship, committee assignment, or action on major legislation occurred without his direction or at least his approval. He set a schedule for committee action on legislation and demanded that it be followed. He carefully constructed conference committees to ensure that his perspective guided negotiations with the Senate. Gingrich served as Speaker only through 1998. His successors – Republican Dennis Hastert, Democrat Nancy Pelosi, and

Republican John Boehner – loosened the reins over committees to some degree, but the Speaker remained the central player in the House on nearly all important issues throughout the next two decades.

The new conservatives, particularly from the South, were central to the process of partisan polarization. Gingrich, for example, was elected from a district in the northern suburbs of Atlanta, Georgia, that had never elected a Republican to Congress before. Once in office, the new conservatives advocated stronger conservative positions and encouraged outside conservatives to organize, create media outlets, and field more conservatives for elective office. Among Democrats, liberals urged more effective legislative and public relations efforts to counter the conservatives. By the mid-1980s, House politics not only reflected changes in the electoral coalitions of the two parties, but members of the House, particularly Gingrich and his allies, were defining clearer and more ideological alternatives for the public to judge. By the 1990s, southern, conservative Republicans were rising to leadership positions and taking the lead in setting strategy for their party.

The Senate is a somewhat different but closely related story. The Senate lacks a presiding officer with the power of the House Speaker. The vice president of the United States presides over the Senate, and when the vice president is absent (most of the time), the president pro tempore, or a senator he designates, presides. Because the vice president may not be of the same party as the Senate's majority party, the Senate's presiding officer has not been granted much power. Moreover, the minority can sometimes block the majority by filibustering legislation – that is, refusing to allow a bill to be considered or to be voted upon. As a result, the Senate's majority leader does not have as much power as the House Speaker. Power cannot become as centralized in the Senate majority party's top leader as it can in the House Speaker.

Nevertheless, as the Senate parties became more polarized, senators looked to their top leaders to set party strategy, order the floor agenda, protect party interests in the design of legislation, and respond to the minority party. Senators who were former members of the House, particularly Republicans elected during the Gingrich era, contributed to the polarization of the Senate and were advocates for pursuing more aggressive party strategies. Recent leaders have been more deeply involved in determining the content of legislation and parliamentary strategies than were leaders in the 1960s and 1970s. While not as centralized as the House, the Senate, too, has shifted more responsibility to party leaders as the parties have become more polarized.

Associated with polarized parties has been sharpened partisan rhetoric. Open animus toward the other party has surfaced more frequently in the House and Senate. Leaders of the two parties, who in the past were often personal friends, today often have little personal relationship with each other and would be distrusted by many of their party colleagues if they did. Although most members

observe the formal courtesies of congressional proceedings, impolite, insulting, and uncivil comments are now commonplace on the House and Senate floors, in press conferences, and in campaigns. For insiders and outsiders alike, congressional politics has become quite unpleasant and top leaders have become far less likable.

DIVIDED PARTY CONTROL AND POLITICAL STALEMATE

The combination of polarized parties and divided party control of the House, Senate, and presidency has produced frequent delays and sometimes gridlock in national policy making. Most legislation requires approval by the House, the Senate, and the president. If the president vetoes a bill, both houses of Congress must have a two-thirds majority to override the veto and force a bill into law. That seldom happens. When the two parties split control over the three institutions and that split is associated with deep differences about policy, as it has been in the last two decades, the costs of compromise are perceived to be great and long delays in acting on important legislation, even deadlock, can result.

Divided party control is a common condition in the federal government in recent decades. In Table 1.1, the majority party in each house of Congress and the party of the president are indicated. Divided party control of the three institutions is far more common than unified party control in the last half century. As the parties have become more polarized, this divided party control has created more tension between the institutions controlled by different parties and has increased the probability of stalemate over policy. Stalemate, in turn, leads to efforts to blame the other side and intensifies the partisan rhetoric that so many Americans dislike.

Recent Congresses, with divided party control and polarized parties, enacted very little legislation and managed to fund federal departments only after protracted negotiations. The 2010 elections brought a Republican majority to the House, while the Senate and the president remained Democratic. The minority Senate Republicans filibustered many of the Democrats' bills and blocked action on many of the president's nominees for executive branch positions and judgeships. The majority House Republicans blocked many serious amendments that Democrats wanted to offer to their legislation. And the House and Senate each passed many bills that the other house refused to consider and pass, even in a different version. The result was, at least as measured by the number of bills passed, very unproductive Congresses. As Figure 1.3 shows, a modern record-low number of bills were passed and pages of text enacted into law in the Congresses of 2011–2012 and 2013–2014.

TABLE 1.1. Party control of the Senate, House, and presidency, 1971–2015

Congress	First year of Congress	Senate majority party	House majority party	President	Divided/unified control
91	1969	Democrats	Democrats	Republican	Divided
92	1971	Democrats	Democrats	Republican	Divided
93	1973	Democrats	Democrats	Republican	Divided
94	1975	Democrats	Democrats	Republican	Divided
95	1977	Democrats	Democrats	Democrat	Unified
96	1979	Democrats	Democrats	Democrat	Unified
97	1981	Republicans	Democrats	Republican	Divided
98	1983	Republicans	Democrats	Republican	Divided
99	1985	Republicans	Democrats	Republican	Divided
100	1987	Democrats	Democrats	Republican	Divided
101	1989	Democrats	Democrats	Republican	Divided
102	1991	Democrats	Democrats	Republican	Divided
103	1993	Democrats	Democrats	Democrat	Unified
104	1995	Republicans	Republicans	Democrat	Divided
105	1997	Republicans	Republicans	Democrat	Divided
106	1999	Republicans	Republicans	Democrat	Divided
107	2001	Democrats	Republicans	Republican	Divided
108	2003	Republicans	Republicans	Republican	Unified
109	2005	Republicans	Republicans	Republican	Unified
110	2007	Democrats	Democrats	Republican	Divided
111	2009	Democrats	Democrats	Democrat	Unified
112	2011	Democrats	Republicans	Democrat	Divided
113	2013	Democrats	Republicans	Democrat	Divided
114	2015	Republicans	Republicans	Democrat	Divided

The Acquired Procedural Tendencies Taken to New Extremes

Chapters 7 and 8 describe the elements of the policy-making processes of the House and Senate and emphasize an important theme: House procedures allow a cohesive majority party to pass the legislation it wants, whereas Senate procedures allow a sizable and determined minority to block a majority's efforts to pass legislation. The sharp divide between the parties in the last two decades has encouraged the parties to more fully exploit parliamentary procedures. The acquired procedural tendencies of the two houses – majority party dominance in