



House members being sworn in

Photo by Caroline Brehman/CQ-Roll Call, Inc via Getty Images

# 1

## INTRODUCTION

### A Broken Congress?

## LEARNING OBJECTIVES

1. Gain the dual perspective of voters and representatives on the modern Congress as a dysfunctional legislative body.
2. Differentiate between different models of political representation and, find which are most crucial to how Congress operates.
3. Identify some important representational challenges facing the modern Congress.

“This place sucks!” Senator Joe Manchin (D-WV) shouted. His Democrat colleagues were pleading with him to run for reelection in uber-conservative West Virginia knowing that if he didn’t, his successor would undoubtedly be a Republican. Manchin, however, wasn’t so sure he could take another six years of congressional chaos. He was frustrated with everything about Congress—the partisanship, the infighting, the gridlock, all of it. He was tired of fighting with the president, the other party, and even members of his own. The job wasn’t satisfying, and he had to be convinced by his fellow members to run again, a clear signal that serving as one of 100 senators in the world’s most powerful legislature isn’t as glamorous or as gratifying as many assume it to be.

An unpopular Congress, though, is nothing new. For decades, Americans have grown increasingly upset, angry even, with Congress’s job performance. Since 2010, approval ratings of the legislative branch have only cracked 30 percent once and have more often been in the single digits.<sup>1</sup> Congress as an institution is so disliked it has lost popularity battles to traffic jams, root canals, and even the rock band Nickelback.<sup>2</sup> Most citizens simply don’t trust that members of Congress are doing their jobs as elected representatives of the people. “Congress is broken,” admits Representative David Cicilline (D-RI). “Each day, more and more Americans are losing faith that their government actually works for them. More than 80 percent of Americans say they can’t trust Washington to do what is right for them.”<sup>3</sup>

It is not hard to see why the American people are so down on Congress. The signs of dysfunction are all around. Fewer bills are being passed than in years passed; huge societal problems—from immigration to climate change—are left untouched by those with the power to address them; government shutdowns are becoming more common; voters feel that political parties are more interested in getting and maintaining power than working with each other for the good of the country; multiple members every single year seem to be embroiled in personal or ethical scandals; lawmakers seem to listen only to those who can write huge campaign checks than their own constituents. Put simply, the public is sick of broken promises and feels unrepresented by their elected leaders. These letdowns have led many, including leading congressional observers and

political scientists, to label the contemporary Congress as “The Broken Branch” of government.<sup>4</sup>

And as Sen. Manchin highlights so bluntly, members themselves are growing sick of Congress, too. Many run for office with genuine intentions to do good for their constituents. They willingly give up their careers, privacy, and time with their families to debate and solve America’s most pressing challenges, and they do so accepting that half of the country wants to see them defeated. These and many other features of the modern congressional and political environment have frustrated even the most hopeful of lawmakers. Bipartisan solutions have taken a back seat to political tribalism; an endless campaign cycle has created a constant need for fundraising, leaving little time for legislating; members operate in, and exacerbate, a partisan, siloed, and personally curated media environment—increasingly on social media platforms—that seems more intent on passing on party talking points than unbiased news; and deliberation on the House and Senate floors is so minimal that members of both parties in both chambers can go years without their bills or amendments ever receiving an audience outside of their own staff.

As a result, representatives and senators across the ideological spectrum don’t feel like they are members of a healthy, functioning legislative body. After just a year in Congress, Representative Dean Phillips (D-MN) laid bare feelings held by many lawmakers in a tweet: “I speak for most in Congress when I say we’re disgusted just like you. We who serve to solve problems find ourselves at the mercy of a system that rewards obstinance and punishes cooperation.” He wasn’t near done. “During my 30-year career in business and philanthropy before being elected in 2018, I observed hundreds of organizations, institutions, and enterprises throughout the world - but have never encountered one so utterly dysfunctional and in need of reformation as our Congress.”<sup>5</sup>

Senator Angus King, one of Congress’s three independents, used fewer words to express the same despondent sentiment: “We are failing our oaths, we are failing our most fundamental responsibility, we are failing the American people.”<sup>6</sup>

Despite this widespread frustration, the doom and gloom from voters and members alike, and the rampant polarization coursing through our institutions, there are reasons to be optimistic about the United States Congress. Congress and its members have shown, even in these dysfunctional times, that big ideas can be translated into passable policies that improve the day to day lives of everyday Americans. Never has Congress had a membership who looks more like its voters, though admittedly we still have a long way to go. And as recent elections have made clear, particularly in the 2018 midterms and the 2020 presidential election, voters can significantly alter who they send to Washington to represent their interests, and consequently, what issues and solutions get on the congressional agenda.

Make no mistake about it, though: Congress faces enormous challenges and is in need of dramatic changes. It is important to admit this at the outset of a book aimed at

explaining the complexities and processes of the legislative branch. We aren't interested in painting our current Congress only in the most flattering light. We believe that our best chance at revitalizing Congress into a robust, representative, and functioning legislative body requires honesty about its defects. And we are not naive enough to think that fixing a broken government and legislature is an easy task. Change and progress will come incrementally and frustratingly slow, and sometimes not at all. But, it can be done.

Why are we so confident? History.

The United States has proven able to design and inaugurate a vibrant, energetic federal government with the legislature as the branch most directly connected with its citizens. Yes, this was over two hundred years ago, and the country and world have changed dramatically since then. But, at several points in the intervening centuries, Congress has taken meaningful and purposeful steps to reform, modernize, and adapt itself to better represent its evolving citizenry and better carry out its many and varied duties. These interventions have helped Congress respond to social and political upheavals both at home and around the world. They have also reconstituted the legislature as the preeminent lawmaking body during periods when other branches—namely the executive—have strayed from their constitutional privileges.

Important changes can and have occurred when the people and their representatives agreed that the current version of government is falling short. In fact, this was true before even the very first Congress met in 1789 when delegates were called to overhaul the country's disastrous first attempt at self-governance.

## A FAILED START

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The country was flailing. The **Articles of Confederation** just weren't cutting it. Written in 1777 and ratified four years later, the Articles established a federal compact between the 13 American colonies following their surprising victory in the Revolutionary War over Great Britain. Fearing a strong, centralized federal power similar to one the colonists had just rebelled against, the Articles paired a purposefully frail national government with a confederation of strong, independent states.

The resulting structure was a government too weak and too cumbersome to carry out the most basic and pressing tasks. Of its many defects, the Articles granted each state a single vote no matter its size or population; a requirement of a supermajority of nine states to pass any new laws; and a demand of unanimity between states in order to amend the compact. The newly established federal government was unable to collect taxes or maintain a standing army, and had no authority to enforce the few laws the Confederation managed to pass. The critical consensus was that the Articles of Confederation had created a federal government that was "totally inadequate to the peace, safety and security of the confederation."<sup>7</sup>

Change was needed and a **Constitutional Convention** was called. Fifty-five delegates from twelve of the thirteen states—Rhode Island did not send delegates—gathered in Philadelphia in the sweltering summer of 1787 under the guise of updating the Articles of Confederation. As the attendees debated how best to strengthen the Articles, however, quickly it became clear that changes to the current governmental charter wouldn't suffice. A wholesale renovation was required.

Over the next four months the delegates deliberated in secret under the quiet, watchful gaze of unanimously elected convention president George Washington. A large part of the struggle stemmed from the reality that the framers were in search of a national government with seemingly contradictory goals. They wanted a strong federal charter with the ability to bind its member states with national policies, but without concentrating too much power in a national government; they demanded the protection of rights for individual states to choose what's best for their own people while still accepting there were times when the country needed to speak with a singular, national voice; they recognized that a strong executive was necessary, especially in times of war, but only a federal legislature could represent and protect the liberties of its diverse states, geographies, economies, and citizens. And the founders struggled with (and largely ignored) two incompatible truths: the United States preached itself as a country where all men enjoyed certain unalienable rights; and yet nearly two million women—to say nothing of the over half a million slaves—enjoyed none at all.

What they were searching for didn't exist. Benjamin Franklin admitted as much at a time in the convention's debates where hope for a new government was at its lowest. "We indeed seem to feel our own want of political wisdom, since we have been running about in search of it," he said. "We have gone back to ancient history for models of government, and examined the different forms of those republics which, having been formed with the seeds of their own dissolution, now no longer exist. And we have viewed modern states all round Europe, but find none of their constitutions suitable to our circumstances."<sup>8</sup> Finding no singular model that could be applied wholesale to the American context, the delegates used elements from republican governments throughout history, and negotiated many others to satisfy the varied interests of the delegates.

After a summer of heated exchanges, trade-offs, and compromises, 39 delegates signed the US Constitution on September 17, 1787 and sent it off to the states to be ratified. When New Hampshire became the ninth state to ratify the Constitution in June of 1788, the United States formally adopted a new and far more "energetic" federal charter. This charter has served as the foundation of the American government experiment for the past 230 years and has only been amended 27 times since ratification, 2 of which dealt with prohibiting and allowing the sale of alcohol.

Despite the founders' success in establishing a lasting governmental structure, lawmakers who served in the 1st Congress in 1787 quickly observed many frustrating gaps between governing theory and practice that have challenged every generation since. Members of every Congress, for example, have struggled to represent the competing

demands of their particular constituents, all while operating as only a single member of a body that demands coalitions for action. Lawmakers have also regularly grappled with huge discrepancies between what their constituents want and expect from them versus what Congress can reasonably do at any given time. Even with the best intentions, the job of member of Congress is often a thankless one in that a large portion of the public feels continually let down by those sent to Washington to be their voice.

## WHAT DOES IT MEAN TO REPRESENT?

Many of these frustrations and challenges stem from a set of core disagreements around what a representative government should look and act like. Political theorists, voters, and the members of Congress they elect hold a number of conflicting viewpoints about how representation is enforced, and what it means to be an effective representative. Should elected representatives always reflect the will of the voters, or should they use their own judgment when they deem it necessary? Should voters elect a representative based on what they've done in office, or what they promise to do next? Is it important for a representative to share descriptive traits and identities with underserved communities? Or is that irrelevant as long as they pursue policies that help them in their daily lives? In the absence of a single framework of representation on which all Americans agree, these questions lack a single clear answer. But they must be tackled head-on if our goal is to understand whether the legislative branch is doing its job as a representative institution.

### Our Voice or Their Judgment?

The essence of the republican government the founders agreed upon is that those we elect to Congress should do their best to reflect the judgments of the people who sent them there. Part of the reason we have 435 different members of the House of Representatives is because the policy and ideological views of a rural district in Middle Tennessee are vastly different from those of a district encompassing the South Side of Chicago. Should, then, the two representatives from each of these districts reflect these differences precisely in their policy-making activity in Congress? The answer is not quite so simple.

A traditional view of representation posits that our representatives are nothing more or less than a conduit for their constituents' viewpoints. This "**delegate**" **model of representation** holds that in true democratic fashion, it is the explicit wishes of the people they were elected to represent, and nothing else, that should influence the official activity of a member of Congress. The bills they introduce, their behavior in committee hearings, and of course their votes on important legislation should be guided first and foremost by the policy preferences of their constituents. Members rarely hesitate to point to the wishes of their constituents in justifying this legislative behavior,

particularly on hot-button issues. For example, when decision time arrived for Senator Susan Collins (R-ME) on whether or not to convict President Trump on the charges on which he had been impeached in January 2020, Collins cited the calls she had gotten from constituents—“two-thirds in favor” of acquittal—as a key justification for her ultimate decision to acquit the president.<sup>9</sup>

But just two years before the American colonies declared independence in 1776, British statesman and philosopher Edmund Burke put forth a very different view: “Your representative owes you, not his industry only, but his judgment,” Burke said, “and he betrays you instead of serving you if he sacrifices it to your opinion.”<sup>10</sup> In other words, constituents are best off electing representatives with sound judgment and decision-making capability, even if those judgments run against their constituents’ personal beliefs. This is the core of the **“trustee” model of representation**: representatives are not our mirrors, but stewards we trust to make the right decisions for us. This is a tempting outlook on representation, particularly as the issues Congress is forced to deal with grow more complex by the day. While embraced by many voters and politicians alike, this model does not imply that representatives can act with impunity. In reality, “trustee”-inclined legislators often need to spend more time explaining their process to those who elected them as a means of creating more freedom to act independently of the voters back home. For example, in the midst of a nationwide discussion over whether the United States should intervene militarily in Syria following a suspected chemical weapons attack by that country’s leader on his own citizens, Rep. Chris Gibson (R-NY) took on this persuasive role with his constituents, using his own personal background as a criteria: “It is my judgment, as a 29-year veteran of our Armed Forces,” Gibson wrote in a newsletter to his constituents, “that military intervention would make the situation worse and make us responsible for that conflict.”<sup>11</sup>

In reality, many representatives blend these two styles and embrace each to suit the issue at hand. Some issues find legislators and their constituents in complete lockstep; in others, disagreement leads a representative to trust their own experience or judgment based on the facts. These models are useful but often simplify the painstaking process many representatives face in trying to understand and aggregate the opinions of their districts. Not all constituents agree on a path forward on any one issue, and even fewer agree on exactly what criteria a representative should be judged.

## Looking Backward or Looking Forward?

Legislators, particularly those who have long records in Congress, often do their best to shape these criteria. But in the end, the voters get to decide the words and actions on which their representatives are to be judged. One key distinction political theorists have observed is whether voters look to the past or the future when assessing the quality of the representation they’re getting from their legislators. The model of **promissory representation** is one in which voters elect their representatives based on what they promise they’ll do if they have the honor of serving. As we’ll explore later in this

book, whether members of Congress make new promises to their constituents depends largely on the partisan balance of power. Those most likely to engage in promissory representation tend to be members in the minority during periods when Americans are skeptical about the direction of the country. The out-party promises voters that they will turn the country around in the next term. For example, in 2006 and 2008, Democrats made broad promises to end the War in Iraq and fix the economic crisis, and were elected largely on those expectations.

Just as often, rather than asking “What will you do for me?” voters ask “Did you do what you said you’d do last time?” This is **retrospective representation**, in which constituents treat their vote as a referendum on the previous performance of their representative or the party label to which they are attached; and representatives respond in kind. In their communications with constituents, members of Congress constantly tout their legislative accomplishments in the hopes that their constituents will make positive retrospective evaluations about them, and reelect them as a result. Rep. Henry Cuellar (D-TX), for example, cited his “record of supporting good trade and investment policy” as a reason his constituents should continue to support him. With incumbent reelection rates in the House and Senate consistently above 90 percent, it may appear as though retrospective appeals are a winning strategy for sitting members of Congress. But amid a period of historic legislative gridlock, Congress appears to have little to show for their efforts, and finds little public support as an institution. Throughout this book, we will explore the reasons for this consistent incumbent support, and members’ incentives for sustaining this gridlock.

### Identity or Policy?

These more traditional theories of political representation, while valuable, can gloss over challenges of representation faced by underserved or minority communities of Americans. More contemporary political science research has made an effort to tackle the key question of how best to ensure that these communities—people of color, LGBTQ Americans, young voters, or the rural poor, to name just a few—have their needs met by Congress. How crucial is it that representatives in Congress come directly from these communities and share their experiences? More broadly, should representatives truly be “one of” their constituents? Or, do these descriptive, identity-based traits not matter so long as substantive policy outcomes are positive for these groups?

Previous research tells us that **descriptive representation**—electing representatives who themselves mirror the identity-based traits and characteristics of their constituents—matters not just symbolically but for substantive representation in Congress. Political scientists have found, for example, that descriptive representation “increases knowledge about and contact with” these similar-identifying representatives,<sup>12</sup> and that it helps change public attitudes for the better about who “belongs” in positions of power like Congress.<sup>13</sup> This approach to thinking about representation is a



crucial foundation for understanding many of the activities members of Congress particularly as the institution is undergoing a number of extreme and long-overdue representational changes in areas like race and gender. Many congressional representatives make explicit references to these descriptive traits as crucial to guiding how they think about policy, and how they communicate with their constituents. Descriptive representation also has lasting generational impacts. “It’s surreal taking a picture knowing that it’ll end up in a history book,” mused newly-elected Rep. Cori Bush (D-MO) while having her official congressional portrait photographed following her election in 2020. Bush had the distinction of being the first African-American woman sent to Congress by the people of Missouri. “I want girls who look like me to see me and think, ‘If she can do it, I can do it.’”<sup>14</sup>

On the other hand, many members of Congress without these particular connections to underserved groups focus more on **substantive representation**: communicating about and advocating for policy outcomes specifically geared towards improving life for communities, even those of which the representative is not a member. “Fighting for equal rights for women is a deeply personal issue to me,” said Rep. Ami Bera (D-CA) in a 2014 newsletter to his constituents touting his support for the reauthorization of the Violence Against Women Act. “As a father, I want my daughter to grow up in a country where her gender is not a barrier to her success.”<sup>15</sup> Rep. Bera and others with no direct experience within a particular subcommunity of Americans therefore shift the focus toward the practical implications of policies they support or oppose. Skeptics of the more symbolic “identity politics” embodied by descriptive representation argue that substantive representation should be the centerpiece of Congress’s work. But like many dueling theories of representation, descriptive and substantive representation are by no means mutually exclusive. We can no doubt have a Congress that reflects the demographic diversity that is core to America’s identity, and at the same time passes legislation that improves the lives of all Americans.

## Local Accountability in a Nationalized Age

In many ways, political representation in Congress is fundamentally geographic. Members of the US Senate are elected by separate states to represent their particular interests, and House members represent more equally distributed local communities. These communities presumably have a diverse set of political beliefs and policy priorities, making this fragmented representation necessary to ensure that minority opinions are not lost in the shuffle. In this way, Congress is an institution founded on **dyadic representation**: members of Congress are selected by a very particular community to be their voice in the legislative branch, and should therefore pay no mind to the political pressures or interests from outside the community in which they were elected. In this traditional form of representation, the relevant relationship for a member of Congress (indeed, the only one that should actually matter) is the one they share with

their particular constituency—the “dyad” of the member and the people from their state or district.

Members of Congress continue to recognize the importance of this relationship all the time. They do so not just by attempting to please their constituents on policy grounds but also by engaging in nonpartisan constituent casework: person-to-person outreach within the communities they represent to help their constituents navigate bureaucracy, understand the member’s positions on salient political issues, and offer their own opinions for the member to take into account. In this case, the relevant calls received by Senator Collins discussed earlier in this chapter were not the ones from out-of-state voters and interest groups, but by those who live and vote in her constituency in Maine.

More often, though, the nationalization of American politics has incentivized representational relationships based on broader identities like race, ideology, and partisanship, rather than the particular connections that individual members of Congress share with the constituents who actually elected them. This kind of representation is known as **collective or surrogate representation**. As fewer and fewer Americans are able to even name the member of Congress who represents their home district or state, they instead turn to those politicians who represent them based on other, broader identities. Ideologically liberal voters in deep-red Idaho may turn to nationally-known progressives like Vermont Senator Bernie Sanders rather than the more conservative senators in their home state. For decades, African-American voters from coast to coast derived strength and political empowerment from the late civil rights legend and House Rep. John Lewis (D-GA), regardless of whether they lived in his Atlanta-based congressional district. This is a particularly attractive form of representation for voters who find themselves in “unfriendly” partisan or ideological territory. For example, California conservatives, fed up with years-long representation by Democrats, may find themselves tuning in to the policy making activity of Senator Ted Cruz (R) of Texas.

This brand of representation has always been a part of American politics in one manner or another but has become a simpler and more salient one in recent years due to ideological and identity-based polarization around the two major parties. While the “dyads” of local representation may be the relationship the founders were focused on, broad identities like race, religion, and partisanship have taken on a more central role in our politics. The overlapping of many of these identities has sharpened the differences between the two parties, leading to much of the gridlock, animosity, and dysfunction that Senator Manchin lamented to open the chapter.

The most instructive challenges and promises of congressional representation can occur when these collective identities conflict with each other. South Carolina Senator Tim Scott is the first African-American to ever serve in both the House and the Senate, an inspiring rise considering his grandfather’s humble upbringing

picking cotton in the Jim Crow South. Senator Scott is also a Republican and has continually faced questions and criticisms about his fealty to a party that consistently loses the African-American vote by 90% or more. Scott summed up the complexity of his dual roles as a “surrogate” leader in both the Republican Party and the Black community to journalist Tim Alberta: “I’m not at a point where my grandfather was. He could say nothing. He had to eat his anger. Or the next generation, who harnessed their anger and led marches. I’m on the inside track. I have a very different responsibility.”<sup>16</sup>

This responsibility, Scott says, is to chart a pathway out of the gridlock and frustration that Congress has come to epitomize in recent decades. Members of Congress must find a way to harness a more aspirational form of representation that cuts across these collective identities and serves the American people, as well as their particular constituents at home, in good faith. Only time will tell whether he is successful in his effort, but Senator Scott’s struggle in the area of representation is not unique. Throughout this text, we will explore how these fundamental and conflicting perspectives on representation weave through the many responsibilities a member of Congress shoulders, and shape political and policy calculations for lawmakers both at home and in Washington.

## REPRESENTATION: UNRESOLVED QUESTIONS

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This diverse array of theories guiding how we think about representation in Congress corresponds to an equally vast set of modern challenges that Congress faces in the area of representation. These challenges are both symbolic and also deeply substantive, with enormous implications for how American politics works, who gets to be in power, and whose interests get shunted to the side. These challenges illustrate that representation is not just an idea but a never ending process that Americans must make sure their elected leaders take seriously.

### Descriptive Challenges: A Congress “Of The People”?

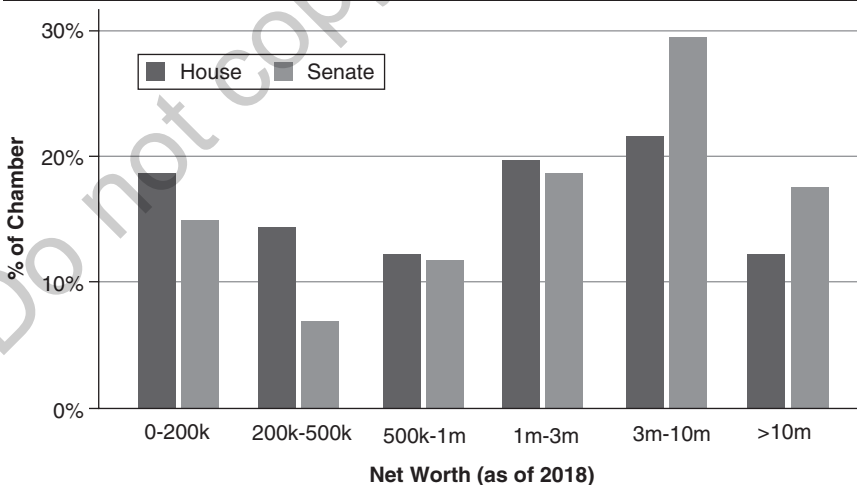
Early leaders of the republic, including those who served at the Constitutional Convention, engaged in great debates not just about what the structure of the two chambers of Congress would be, but what types of men should serve in each. While from the beginning the House of Representatives was envisioned as a “People’s Chamber” occupied by a representative cross-section of citizens, the Senate was thought to be more aristocratic. Until the ratification of the 17th amendment to the Constitution in 1913, the Senate was elected indirectly by state legislatures rather than ordinary citizens.

Despite these early musings intended to “keep down the turbulence of democracy,” as Constitutional Convention delegate Gouverneur Morris put it, the nation has

slowly adopted a more democratic mindset. More and more, Americans seem to want their Congress run not by an aristocratic collection of dignitaries but by individuals who truly feel like “one of us.” In their efforts to elect a Congress that mirrors themselves, the American people have made strides but continue to have a mixed record. Particularly in the last two decades, Congress has become substantially more racially and generationally diverse. Congress has also moved closer to gender balance during this period, with important legislative consequences.<sup>17</sup> And prior political experience, particularly at the state level, has begun to take more of a back seat in favor of political amateurs intent on shaking up the system.

Yet in other areas, particularly the economic status of its members, Congress remains empirically out of touch with the average American voter, and with little incentive to fully contend with the issue. According to estimates calculated by the Center for Responsive Politics summarized in **Figure 1.1**, the median net worth of a member of Congress is about \$1.2 million, more than 10 times as much as the net worth of the median American (\$93,000). This means that more than 85 percent of Congress is wealthier than the median American. As we’ll explore further in Chapter 4, Congress’s massive wealth gap is due in large part to how our elections are run and how candidates build out their campaign apparatus. Money, and who has more of it, is absolutely central to congressional campaigns and elections. And as we’ll learn, it is nearly impossible to unseat entrenched power in Washington without raising and spending millions of dollars from both grassroots donors and wealthy sectors of the economy or being able to self-fund their own campaign. The hard truth is that both sources of campaign cash remain out of reach for the average American. This condition served as a clear barrier of

**FIGURE 1.1** ■ Net Worths of Members of the 116th Congress



Source: Center for Responsive Politics.

entry for many Americans to become members themselves, and has also led to feelings from voters that their representatives are out of touch with their constituents, which have undoubtedly contributed to the low approval ratings of the body discussed at the opening of this chapter.

## **Policy Challenges: Empowering the Disempowered**

Though symbolic representation matters enormously, these descriptive gaps also have substantial practical impacts on policy. One thing that a Congress inclusive of traditionally underrepresented groups brings to the table is a more nuanced agenda. What this means is that if Congress is missing members with certain identities or life experiences, it will also be missing attention to issues particular to these communities. Congress does have extensive powers to hold hearings, call witnesses, and solicit outside sources for policy information and expertise. But as a policy-making institution, Congress can only act on bills introduced by its members. Having representatives who can speak directly to the experiences of their communities—particularly when those communities have traditionally been disempowered in the public sphere—makes it far more likely these issues have a voice within Congress. This is a serious challenge particularly for financially distressed communities, who have traditionally had difficulty getting a seat at the table in a Congress dominated by lawyers, business owners, and other economically well-connected white-collar careers.

Another policy consequence of this lack of direct representation can be that pressure to fight for the underserved must come from outside the halls of Congress. For example, the Congress that passed the Civil Rights Act of 1964 was composed of only five Black members out of 435 House members, and exactly zero in the Senate. This was a legislative body unlikely to take significant action to upend the status quo on race without significant grassroots organizing from groups like the Southern Christian Leadership Conference and the Student Nonviolent Coordinating Committee, as well as millions of Americans hungry for change. This organizing, along with lobbying on the part of President Lyndon Johnson (who himself had faced significant pressure from these groups), combined to induce Congress to take the necessary steps to protect the rights of those it claimed to represent.

## **Foundational Challenges: Who Counts, and How Much?**

“What’s old is new again” could describe a number of the key representational issues that remain controversial in the modern Congress. As was the case in the contentious discussions at the Constitutional Convention, many of these center around geographic representation. Where Americans live, and how their location determines their political power and influence, was one of the most contentious issues in 1787 Philadelphia, and remains so across the country today. Convention delegates from large-population states bristled over the perceived unfairness of allocating the same number of Senators to Virginia as to Delaware, a state nearly 13 times smaller. Over time, this discrepancy



Elbridge Gerry's original "gerrymander"

Source: Library of Congress.

has become even more pronounced: California, despite being more than 68 times larger than Wyoming in population size, receives the same number of Senators, and the fairness debate rages on. In 1812, Massachusetts governor Elbridge Gerry signed legislation creating a series of strangely shaped districts designed to favor his own Democratic-Republican party in the state legislature. Today, the process of "gerrymandering" is both par for the course and the subject of innumerable court challenges.

The very process of "counting" Americans also continues to be a process rife with controversy. The Constitution explicitly empowers Congress to execute a national census to count every American and learn

important information about them. While other nations had traditionally used censuses solely for taxation purposes or merely to oppress its citizens, the founders put ours in place primarily to empower Americans by ensuring equal representation in the House of Representatives and state legislatures.<sup>18</sup> Yet while counting may seem like a fairly straightforward process, the most recent census was subject to great controversy centered around a Trump administration proposal to include a question about US citizenship that had never previously been included. What followed was significant outcry from immigration rights activists and the legal community, who argued that including the question could influence undocumented immigrants to avoid responding to the census over fear of deportation as a result. While ultimately unsuccessful due to delays in the census stemming from the COVID-19 pandemic, this move raised a number of crucial questions about representation that continue to be fought out on the national stage.<sup>19</sup> Should the undocumented count the same in the congressional apportionment process as American citizens? What about the counting of minority populations in condensed urban areas who don't have a stable address or feel comfortable answering when anyone, let alone a government employee, knocks on the door? Will government programs be able to adequately service underserved communities if we leave out such sizable portions of the population? In a time of dizzying change and

identity-based controversy, how does Congress make sure that every American—and every American’s vote—counts as it should?

## WHAT'S NEXT?

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In his book *The First Congress*, Fergus Bordewich spelled out the thorny set of challenges faced by our nation’s first members of the House and Senate: “sectional rivalry, literal versus flexible interpretations of the Constitution, conflict between federal power and states’ rights, tensions among the three branches of government, the protection of individual rights, the challenge of achieving compromise across wide ideological chasms, suspicion of ‘big money’ and financial manipulators, hostility to taxation, the nature of a military establishment, and widespread suspicion of strong government.”<sup>20</sup> If this list sounds familiar, it’s because the core conflicts facing our Congress have proven to evolve rather than to be resolved. The crisis of African enslavement morphs into police brutality against Black Americans; debates over a national bank become modern ones around federal bank bailouts and drastic income disparity between the rich and poor; complaints against federal taxation powers are made anew in the midst of a rising national debt.

But this condition—foundational issues shifting but not disappearing—makes it even more crucial that we not ignore them but contend with and explore them using the best information available. The Constitution that created this Congress was the beginning, rather than the crowning achievement, of the American Experiment. The founding generation tasked those who came next not to create a perfect union, but to continually pursue a “more perfect” one that adapted to the new representational challenges that were bound to arise. In this sense, the American experiment is never-ending. We will never have a fully perfect union. And if the history of Congress has taught us anything, it is that there’s always room to grow.

Many members of Congress, for example, as well as many Americans, pine for the “golden age” of congressional policy-making and negotiation of the 1950s and 1960s, in which bipartisan majorities would pass enormously consequential pieces of legislation like Social Security and Medicare. Yet in reality, much of the “back-slapping” agreement and bipartisanship of this apparently more civil era of American politics because, as *New York Times* columnist Ezra Klein notes, both parties were willing to stomach abject racism, sexism, and xenophobia in order to maintain the political status quo. “People often believe the alternative to polarization is agreement, compromise, civility, comity,” Klein says. “But the alternative—depolarization—is often suppression.”<sup>21</sup> That is, Congress had less partisan disagreement in the “golden age” of the 1950s because they were willing to ignore injustices against racial minorities, indigenous Americans, the poor, and other underserved groups. Agreements were more easily forged because dissenting voices were purposefully left out of the conversation altogether.

This begs an important question: which Congress is really more “broken”? One that has prolonged, public, and honest disagreements about representational issues around race, sex, geography, and a multitude of other foundational issues of our country that lead to intense gridlock and institutional animosity? Or one that sweeps these issues under the rug in search of less polarizing policy agreements but that prevents us from moving forward on important questions of representation? Can we ever secure a Congress that is simultaneously civil, policy-forward, productive, and universally representative?

A central goal of this book is to honestly assess Congress and learn about its inner workings so that readers can begin to answer these fundamental questions. The remaining chapters will dive deeper into the representational issues discussed here, interwoven throughout the detailed foundations of the “first branch” of government, however broken it may currently seem. Together, we’ll explore the basics of each chamber, and how the members of each chamber come to be members through elections; how committees and parties shape the policy-making process and how that process has changed in recent years; how Congress contends with other major federal institutions like the president, the courts, and the federal bureaucracy; and whether and how much they are influenced by outside forces like the media, special interest groups, lobbyists, and of course, voters. As we learn more, we will continue to revisit these challenges of representation in the hopes of gaining a better understanding of the legislative branch, and perhaps even stumbling upon a solution or two to revitalize the United States Congress.

## KEY TERMS

Articles of Confederation (p. 4)	“Promissory” model of representation (p. 7)
“Collective” or “Surrogate” model of representation (p. 10)	“Retrospective” model of representation (p. 8)
Constitutional Convention (p. 5)	“Substantive” model of representation (p. 9)
“Delegate” model of representation (p. 6)	“Trustee” model of representation (p. 7)
“Descriptive” model of representation (p. 8)	
“Dyadic” model of representation (p. 9)	

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