

# Chapter 13

## Congress and the President

### Key Chapter Questions

1. Why do policy perspectives frequently differ between the President and members of Congress? Also, why has conflict been a typical historical pattern between the two branches?
2. Why are some presidents more successful in handling Congress than others? Also, under what circumstances can the two branches cooperate?
3. What constitutional controversies exist over war powers between the two branches?
4. How and why has the confirmation process become politically destructive in recent years?
5. What is the meaning of executive privilege and executive orders?
6. How have the veto/item veto and budget/spending problems complicated relationships between the president and Congress?
7. Why is “coalition building” so important?
8. What lessons about presidential-congressional relationships can be discerned from the Clinton impeachment process?

### Chapter Outline

- I. Introduction
  - A. George W. Bush came into office with no mandate and a divided nation.
    1. Bush initiated several legislative tasks, tried to gain control over policy agenda
    2. Bush clashed with McCain over campaign finance reform
  - B. Presidential-congressional relations have long historical origins
    1. Framers: saw separation of powers among the branches as beneficial
    2. Congressional decentralization, legislatures, etc., work against presidential policy leadership
  - C. New President—questions?
    1. Who will lead?
    2. Will there be an antagonistic or cooperative relationship with Congress?
    3. Spirit of partisanship vs. non-partisanship?
  - D. Success or Failure? Depends upon:
    1. Partisan/ideological composition of Congress
    2. Skills/Popularity of president
    3. Strength of parties and nature of events
- II. Separate but equal branches
  - A. Framers saw Congress as central branch—the power over the purse, declare war;
  - B. Strength of elastic clause

- C. Historical “ebb and flow”—system finally revolved around presidency
    - 1. Presidencies use State of the Union to recommend legislation
    - 2. Congress can still impose will (Reagan and contras, Clinton and health care)
    - 3. Congress can reject presidential nominees
  - D. Despite separation of powers, branches can and do cooperate on policy making
    - 1. Most presidential budget requests are approved (50-50 chance)
    - 2. Congress reserves its right to modify (defense and agriculture)
- III. Why Congress often views things differently
- A. Constitutional ambiguities
    - 1. Controversy over whether president has “general and undefined power”
    - 2. Presidential powers—implied, inherent, emergency varieties
      - a. Clinton bombing of Sudan/Afghanistan
      - b. Clinton lending Mexico billions even though Congress refused approval
  - B. Different Constituencies—state/local vs. national
  - C. Varying terms of office
    - 1. President has four year term; House-two years; Senate-six years
    - 2. Differences in pace of decision making—one president vs. 535 members of Congress
  - D. Divided government
    - 1. Most of the time, a “split in partisan control of the presidency and Congress”
    - 2. President might have greater success if his party controlled two houses (Bush-2001)
  - E. Role of political parties
    - 1. Most incumbents finance campaigns with little help from party
    - 2. Candidate may be independent of party’s presidential candidate/national platform
    - 3. May go along with president when issue stance is philosophically compatible
    - 4. Partisan affiliation—most important predictor of how members of Congress will vote
  - F. Fluctuating public support
    - 1. Public has recently held presidents in higher esteem than Congress
    - 2. But when president’s popularity drops, public may turn to Congress
  - G. The need for supermajorities
    - 1. Supermajorities—60 votes needed to end filibuster, two-thirds to approve treaty; two-thirds in both houses needed to override a veto
    - 2. Developing supermajorities around complex issues is difficult
- IV. Controversy between the branches
- A. War power
    - 1. Congress can declare war but president is commander-in-chief
    - 2. Presidents must be able to respond quickly to crises; usually better informed
    - 3. Scholars/members of Congress—“imperial” presidents have violated war clause
    - 4. Has Congress at times been passive or abdicated constitutional authority?
  - B. The War Power Resolution (1973)
    - 1. President can commit troops only after war declaration, specific authorization, or emergency
    - 2. Must notify Congress within 48 hours
    - 3. End troop commitment within 60 days (30 days for withdrawal)
    - 4. In general, presidents have ignored resolution
    - 5. Scholars believe Resolution gave away too much congressional authority—should therefore be repealed
  - C. Confirmation politics
    - 1. Senate has rejected nine proposed cabinet members; rejected 27 of 145 nominees to Supreme Court

2. Clinton ran into problems—GOP and “ideological veto” (judgeships)
  3. The 1989 defeat of Bork for Supreme Court by Senate democrats
  4. Confirmation process now more destructive
  5. Ashcroft nomination under George W. Bush (approved by 58-42 vote)
  6. Unqualified nominees are often rejected
- D. Executive privilege
1. Pertains to “the right of confidential presidential communications,” esp. on national security
  2. Presidents have kept information from Congress (Washington in 1792)
  3. Received “bad name” due to Nixon and Watergate (Court--no “absolute” privilege)
  4. Clinton’s overuse of executive privilege in Haiti, Monica Lewinsky affair
- E. Executive orders (not provided for in the Constitution)
1. Presidents have issued more than 13,000
  2. Has force of law, but can be challenged in court or overturned by future presidents
  3. Clinton used them over 350 times in order to bypass Congress
  4. Congress may see these orders as usurping its power
  5. Presidency must exercise this power responsibly
- F. Veto politics
1. Veto can be overridden by two-thirds vote in each house, but difficult to do; fewer than 10 percent overridden of regular vetoes
  2. Pocket veto—bill becomes law without president’s signature (within 10 weekdays after receiving bill)
  3. President can kill bill if he takes no action
  4. Veto gives president vital bargaining chip
    - a. FDR holds record with 625
    - b. Clinton used veto to get GOP compromise on appropriations bill in 1999
- G. The item veto (intended to give president power to delete specific provisions)
1. Passed by GOP under Clinton (used item veto ten times)
  2. Ruled unconstitutional in 1998—violated separation of powers
- H. Budget and Spending Politics
1. Congress appropriates money; presidents implement/administer the spending
  2. Budget battles can be fierce and constant
    - a. Nixon and impoundment
    - b. Deficits and continuing resolutions—Clinton/Congress and government shutdowns
- I. The Clinton impeachment (see “A Closer Look”)
- a. Despite public opposition, Republican House voted two articles of impeachment
  - b. 67 votes needed to convict in Senate, but only 45 voted to convict him on perjury, and only 50 (all Republicans) voted to convict Clinton on obstruction of justice
  - c. Office of presidency saved Clinton; Lewinsky scandal not impeachable offense
  - d. One lesson is that a “partisan impeachment” is unlikely to succeed; a second lesson is that impeachment designed primarily for crimes against state/government
- V. Coalition Building
- A. Presidents must gain public support—related to cooperation with Congress
1. Presidents must actively take their case to the people
  2. Can mobilize public through the “permanent campaign”
- B. How to win friends/influence Congress
1. Leadership meetings
  2. Bill-signing ceremonies
  3. Social events/patronage
  4. Campaign aid

- 5. Constituency favors
- 6. White House aides talking to key members of Congress
- C. Helpful if president's party controls Congress—twice as much chance of success
- D. Presidents can co-opt issues from opposition (Clinton)
- E. Challenge for George W. Bush—had reputation for coalition-building in Texas
- F. Congress can set/shape national policy agenda
  - 1. Party may enjoy strong majorities in Congress
  - 2. President may be vulnerable/politically wounded
  - 3. Congress may have strong leaders (LBJ in senate)
- G. Experts wish to restructure U.S. along parliamentary lines
  - 1. Yet, system reflects Americans' cautious temperament
  - 2. System intended to protect liberty, prevent authoritarianism
  - 3. Genius of Congress is its continuing capacity for “deliberation, debate, reflection”