



Rep. Sean Patrick Maloney, D-N.Y., leader of the Democratic Congressional Campaign Committee, concedes his election loss to opponent Mike Lawler at the same time as Democrats celebrated a better-than-expected overall performance in the 2022 midterm elections.

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## THE TWO CONGRESSES

“I don’t like to lose, but my opponent won this race. He won it fair and square. That means something. So I’m going to step aside, and I had a good run,” said Rep. Sean Patrick Maloney, D-N.Y., chair of the Democratic Congressional Campaign Committee.<sup>1</sup> Standing behind a podium at DCCC headquarters in Washington DC, Maloney emotionally thanked the committee’s staff for all their hard work in helping the Democratic Party “beat the spread” in the 2022 midterms.<sup>2</sup> Defying pundits’ forecasts, House Democrats across the country lost only a handful of seats, despite President Biden’s low approval ratings and the public’s frustration with the state of the economy. But at what might have been a moment of triumph, Maloney’s husband and

top aides stood along the wall, with tears streaming down their faces, listening to a concession speech.<sup>3</sup> Maloney, the party's campaign committee chief himself, was one of only six incumbent House Democrats to lose their seat in 2022.

No doubt, Maloney's loss came as a painful shock. "Nobody saw this coming," said Hank Sheinkopf, a veteran Democratic political consultant.<sup>4</sup> From an early age, Maloney had set his sights on a career in politics. Just out of law school, he worked on Bill Clinton's 1992 campaign. He served on the White House staff during both President Clinton's terms. He then worked for two New York state governors. He ran unsuccessfully in the Democratic primary for New York State Attorney General in 2006. He won election to the House of Representatives in 2012. Seeking further advancement, he initially made a bid for the DCCC chairmanship in 2018, but had to drop out due to illness. He finally won the position in 2020 after a close race in the Democratic caucus. Clearly, Maloney had long been striving to distinguish himself in national politics. At age 56, he probably expected to have a lengthy career ahead of him in the House of Representatives when he lost his seat to a come-from-behind challenger.

Although surprising, the outcome of this 2022 race highlights fundamental truths about political representation. The work of Congress is conducted not only in Washington, DC but also in states and districts hundreds or thousands of miles away. In seeking out the DCCC chairmanship, Maloney clearly felt secure enough in his constituency to begin to focus on issues beyond its borders. He had eked out tough races in his suburban Hudson Valley district in 2012 and 2014, but had garnered at least 55 percent of the vote in each of his races since 2016. He touted his track record of winning in a competitive seat as excellent qualification to chair the party's national campaign. He eagerly took on the challenge in what was widely expected to be a difficult midterm election for the party. He went on to lead Democrats in a disciplined campaign that outperformed expectations. However, his effort likely came at a cost to his own personal fortunes among constituents back home. Chairing the DCCC required Maloney to spend a great deal of time away from his district, a price that may have made a decisive difference in his own narrow election loss.

Maloney almost certainly underestimated the challenges he would face in his reelection campaign. New York saw a contentious redistricting process after the 2020 census, with the state's highest court overturning a Democratic-leaning congressional map just months before the 2022 midterms. The court-imposed map split Maloney's old district in two. Rather than running in the district that most overlapped with his previous constituency, Maloney opted to run in a district just to the south, in a constituency that seemed more favorable for a Democrat. In doing so, he forced out freshman Rep. Mondaire Jones, D-N.Y., a well-liked progressive Black legislator. This move stirred up resentment against Maloney in the party, as it struck some as inappropriate for a party leader to bigfoot a freshman member of his own party. This grievance was particularly felt among the party's liberal wing. In response, a progressive state senator, Alessandra Biaggi, decided to mount a primary challenge against Maloney.<sup>5</sup> Although Maloney won renomination decisively, the whole episode created hard feelings and sapped enthusiasm among Democratic base voters.

Maloney's Republican challenger Mike Lawler took full advantage of the opportunities presented to him. Unlike Maloney, who was running in a constituency mostly new to him, Lawler had been born and raised in Rockland County, had long been active in local politics, and was serving as a first-term state assemblyman representing the area. As soon as the new district map was released, Lawler eagerly jumped into the race, noting that 75 percent of the district would be new to Maloney. In particular, Lawler had built strong ties to Rockland County's large Orthodox Jewish population, which turned out forcefully for him. While Maloney's time was divided between the national campaign for Democrats and his own local race, Lawler was barnstorming his district, organizing between six and eight events each day.<sup>6</sup> Lawler's campaign criticized Democrats for surging crime in New York City, a message that resonated in this nearby suburban district. Given his role in Democratic party leadership, Maloney could easily be made to bear the brunt of voters' frustration with Democrats' performance in office generally. Lee Miringoff, a local pollster who tracked the race closely observed, "I think in a subtle way, for some people, the fact that [Maloney] was the head of the Democratic campaign committee made him look like a little more of an insider."<sup>7</sup> Maloney's role in leading the national campaign implicitly raised questions about how much he prioritized local constituents' needs relative to his wider ambitions. "He was caught up in his DCCC work . . . and not working the district as he should have been as a high-priority target of the GOP," wrote George Arzt, a Democratic political consultant. "Contact with the voters is more meaningful than glitzy emails and mailers."<sup>8</sup>

The Maloney/Lawler race illustrates the central themes of this book. No matter how much members of Congress distinguish themselves as lawmakers or Beltway insiders, they also have to distinguish themselves in the eyes of local constituents. There is no question that Maloney was an influential member of Congress, but a successful representative cannot rest on laurels won in Washington. Ambitious potential challengers back in the district are always on the lookout for early signs of weakness. For this reason, lawmakers must forge and continually renew bonds of trust with their constituents. These bonds rest on constituents' sense of connection to their representatives. Representatives must maintain personal relationships and open lines of communication. Constituents may not always understand the details of national policy debates, but they know whom they trust—and whom they doubt.

## THE DUAL NATURE OF CONGRESS

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Sean Patrick Maloney's surprising defeat underscores the dual nature of Congress. Members of Congress must continually inhabit two very different but closely linked worlds, attempting to strike a difficult balance between them. In Maloney's case, there was, on the one hand, New York's new Seventeenth Congressional District, a densely populated but suburban district lacking in major urban centers; a constituency that is majority white, but racially diverse, one that leans Democratic but

includes some very conservative ultra-orthodox Jewish communities. On the other hand, there was the world of Washington politics, where Maloney aspired to party leadership as a moderate, pragmatic Democrat in the mold of former president Bill Clinton. The tensions between the two roles highlight the dual character of the national legislature—Congress as a lawmaking institution and Congress as an assembly of local representatives.

In this sense, there are two Congresses. One is the Congress of textbooks, of “how a bill becomes a law.” It is Congress acting as a collegial body, performing constitutional duties, and debating legislative issues that affect the entire nation. This Congress is a fascinating arena in which all of the forces of U.S. political life converge—presidents, cabinet members, career bureaucrats, activists, lobbyists, policy wonks, military leaders, and ambitious political entrepreneurs of every stripe. This Congress is more than a collection of its members at any given time. It is a mature institution with a complex network of rules, organizations, and traditions. Norms mark the boundaries of the legislative playing field and define the rules of the game. To be effective legislators, individual members generally must accept Congress on its own terms and conform to its established ways of doing things.

A second Congress exists as well, and it is every bit as important as the Congress portrayed in textbooks. This is the representative assembly of 541 individuals (100 senators, 435 representatives, 5 delegates, and 1 resident commissioner). This Congress includes men and women of many different ages, backgrounds, and routes to office, all doing what is necessary to maintain political support in their local constituencies. Their electoral fortunes depend less on what Congress produces as a national institution than on the policy positions they take individually and the local ties they build and maintain. “As locally elected officials who make national policy,” observes Paul S. Herrnson, “members of Congress almost lead double lives.”<sup>9</sup>

The two Congresses are, in many ways, separated by a wide gulf. The complex, often insular world of Capitol Hill is far removed from most constituencies, in perspective and outlook as well as in miles. Lawmaking and representing are separate tasks, and members of Congress recognize them as such. Yet these two Congresses are bound together. What affects one affects the other—sooner or later.

## Legislators’ Tasks

The duality between institutional and individual duties permeates legislators’ daily activities and roles. As Speaker Sam Rayburn, D-Tex., once remarked, “A congressman has two constituencies—he has his constituents at home, and his colleagues here in the House. To serve his constituents at home, he must also serve his colleagues here in the House.”<sup>10</sup>

No problem vexes members more than that of juggling constituency and legislative tasks. For maintaining local connections, members know that there is no substitute for being present in their states and district. Congressional calendars allow

for lengthy recesses, termed district work periods, and most legislative weeks are scheduled from Tuesday to Thursday. “I can tell you based on my experience . . . that time spent in our districts is not ‘time off,’” observed Rep. Rob Bishop, R-Utah.<sup>11</sup> On average, between 2010 and 2022, Congress was in session for 134 days a year, about one out of every three days.<sup>12</sup> Members spend much of the rest of their time at home among their constituents.

Reelection is the paramount operational goal of members of Congress. As a former representative put it, “All members of Congress have a primary interest in getting reelected. Some members have no other interest.”<sup>13</sup> After all, politicians must win elections before they can achieve any long-range political goals. “[Reelection] has to be the proximate goal of everyone, the goal that must be achieved over and over if other ends are to be entertained,” David R. Mayhew observed in *Congress: The Electoral Connection*.<sup>14</sup>

Individual legislators vary in how they balance the twin roles of legislator and representative. Some legislators devote more time and resources to lawmaking while others focus almost entirely on constituency tending. With their longer terms, some senators stress voter outreach and fence-mending during the two years before reelection and focus on legislative activities at other times. Yet senatorial contests normally are more competitive and costlier than House races, and many senators now run for reelection all the time—like most of their House colleagues.<sup>15</sup> Most senators and representatives would like to devote more time to lawmaking and other Capitol Hill duties, but the press of constituency business is relentless.<sup>16</sup>

## Popular Images

The notion of two Congresses also conforms to the average citizen’s perceptions. The public views the U.S. Congress differently from the way it sees individual senators and representatives. Congress, as an institution, is perceived primarily as a lawmaking body. It is judged mainly on the basis of citizens’ overall attitudes toward politics, policy processes, and the state of the Union. Do people like the way things are going or not? Do they feel that Congress is carrying out its duties effectively? Are they optimistic or pessimistic about the nation’s future?

In contrast with their expectations of Congress as a whole, citizens view their legislators in great part as agents of local concerns. People judge individual legislators by yardsticks such as communication with constituents, their positions on prominent issues, service to the district, and home style (the way officeholders present themselves in their districts or states). In judging their senators or representatives, voters ponder questions such as, “Is the legislator trustworthy? Does the legislator communicate well with the state (or district) by being visible in the constituency and offering timely help to constituents? Does the legislator listen to the state (or district) and its concerns?”<sup>17</sup>

The public’s divergent expectations of Congress and its members send conflicting signals to senators and representatives. Congress, as a whole, is judged by the

processes it uses and the policies it adopts (or fails to adopt), however vaguely voters understand them.<sup>18</sup> But individual legislators are regularly nominated and elected to office on the strength of their personal qualities, the positions they take, and their constituency service. In response to this incongruity, officeholders often adopt a strategy of opening as much space as possible between themselves and those other politicians back in Washington.

## The Constitutional Basis

Congress's dual nature—the dichotomy between its lawmaking and representative functions—is dictated by the U.S. Constitution. Congress's mandate to write the nation's laws is found in Article I of the Constitution. By contrast, Congress's representational functions are not specified in the Constitution, although these duties flow from the constitutional provisions for electing senators and House members.

It is no accident that the Constitution's drafters devoted the first article to establishing the legislature and enumerating most of the government's powers. Familiar with the British Parliament's prolonged struggles with the Crown, the authors assumed the legislature would be the chief policy-making body and the bulwark against arbitrary executives. "In republican government, the legislative authority necessarily predominates," observed James Madison in *The Federalist Papers*.<sup>19</sup>

Although in the ensuing years the initiative for policy making has shifted many times between the legislative and executive branches, the U.S. Congress remains virtually the only national assembly in the world that drafts, in detail, the laws it passes instead of simply debating and ratifying measures prepared by the government in power.

The House of Representatives was intended to be the most representative element of the U.S. government. House members are elected directly by the people for two-year terms to ensure that they do not stray too far from popular opinion. As Madison explained, the House should have "an immediate dependence on, and an intimate sympathy with, the people."<sup>20</sup> For most representatives, this two-year cycle means nonstop campaigning, visiting, and looking after constituents.

The Senate was initially one step removed from popular voting. Some of the Constitution's framers hoped the Senate would temper the popular passions expressed in the House, so under the original Constitution, state legislatures selected senators. But this original vision was ultimately overruled in favor of a Senate that, like the House, directly expresses the people's voice. In 1913, the Seventeenth Amendment to the Constitution was adopted, providing for direct popular election of senators. Although elected for six-year terms, senators must stay in close touch with the electorate. Like their House colleagues, senators typically regard themselves as constituency servants. Most have transformed their office staffs into veritable cottage industries for generating publicity and handling constituents' inquiries.



Thus, the Constitution and subsequent historical developments affirm Congress's dual functions of lawmaker and representative assembly. Although the roles are tightly bound together, they nonetheless impose separate duties and functions.

## Back to Burke

On November 3, 1774, in Bristol, England, the British statesman and philosopher Edmund Burke set forth in a speech the dual character of a national legislature. The constituent-oriented parliament, or Congress, he described as

a Congress of ambassadors from different and hostile interests, which interests each must maintain, as an agent and advocate, against other agents and advocates.

The parliament of substantive lawmaking he portrayed in different terms. It was a deliberative assembly of one nation, with one interest, that of the whole—where not local purposes, not local prejudices, ought to guide, but the general good, resulting from the general reason of the whole.<sup>21</sup>

Burke preferred the second concept and did not hesitate to let his voters know it. He would give local opinion a hearing, but his judgment and conscience would prevail in all cases. “Your faithful friend, your devoted servant, I shall be to the end of my life,” he declared. “A flatterer you do not wish for.”<sup>22</sup>

Burke's Bristol speech is an enduring statement of the dilemma legislators face in balancing their two roles. Burke was a brilliant lawmaker. (He even sympathized with the cause of the American colonists.) But, as might be said today, he suffered from an inept home style. His candor earned him no thanks from his constituents, who turned him out of office at the first opportunity.

Burke's dilemma applies equally on this side of the Atlantic. U.S. voters tend to prefer their lawmakers to be delegates who listen carefully to constituents and follow their guidance. During an encounter in Borger, Texas, an irate Baptist minister shouted at then-representative Bill Sarpalius, D-Tex., “We didn't send you to Washington to make intelligent decisions. We sent you to represent us.”<sup>23</sup> Sarpalius was later defeated for reelection.

Representing local constituents is not the whole story, of course. Burke's idea that legislators are trustees of the nation's common good is still extolled. In a 1995 decision, U.S. Supreme Court Justice John Paul Stevens noted that, once elected, members of Congress become “servants of the people of the United States. They are not merely delegates appointed by separate states; they occupy offices that are integral and essential components of a single national government.”<sup>24</sup>

Many talented individuals seek public office, often forgoing more lucrative opportunities in the private sector, precisely because they believe strongly in a vision of what government should do and how it should do it. For such legislators, winning office is

a means to a larger end. It is reasonable to assume that elected officials “make an honest effort to achieve good public policy.”<sup>25</sup>

Burke posed the tension between the two Congresses so vividly that we have adopted his language to describe the conceptual distinction that forms the crux of this book. From Burke, we have also drawn the titles for Part II, “A Congress of Ambassadors,” and Part III, “A Deliberative Assembly of One Nation.” Every member of Congress, sooner or later, must come to terms with Burke’s dichotomy; citizens and voters will also have to form their own answers.

## THE TWO CONGRESSES IN COMPARATIVE CONTEXT

A look around the world reveals that most democracies differ from the United States in how they elect legislators. Members of Congress are selected using the oldest form of elected democratic representation: a plurality vote within geographic constituencies. By contrast, most other advanced democracies elect legislative representatives under systems of proportional representation (PR), a more recent innovation in democratic institutions. Many varieties of PR are in use, but compared with the U.S. electoral system, these systems tend to tie legislators more closely to their political parties than to local constituencies. In this way, PR systems somewhat alleviate the difficult trade-offs that members of Congress face as they attempt to balance national lawmaking with attention to local constituencies.

PR systems rest on the basic principle that the number of seats a political party wins in the legislature should be proportional to the level of support it receives from voters. If a political party wins 40 percent of the vote overall, then it should receive about 40 percent of the seats. In other words, these systems explicitly assume that political parties are more important than geographic locales to voters’ values and political interests.<sup>26</sup> Most commonly in these systems, the parties put lists of candidates before the electorate. The number of a party’s candidates to be seated in the legislature from those lists then depends on the percentage of voters supporting that party in legislative elections. To a greater extent than is true of members of the U.S. Congress, candidates elected in PR systems thus serve as representatives of their party’s policy goals and ideological commitments.

Legislators in PR systems face fewer dilemmas about how to balance local constituency politics with national party platforms. Indeed, some PR systems, such as those in Israel and the Netherlands, do not tie representatives to local geographic constituencies at all; legislators represent the entire nation. Other countries, such as Austria and Sweden, elect multiple representatives from regional districts. Multimember districts are not captured by a single party on a winner-take-all basis. (The United States, by contrast, employs single-member districts, meaning that each constituency elects a representative on a winner-take-all basis.) In countries with multimember districts,



constituencies in which more than one political party enjoys a meaningful level of voter support will elect representatives from more than one party, with each legislator thus representing those voters who supported his or her party. Some countries, such as Germany, Italy, and New Zealand, use a mixed system, with some representatives elected in individual geographic constituencies and others drawn from party lists to ensure proportionality. In all PR cases, citizens and legislators alike recognize that the system is primarily designed to ensure that voters' party preferences are proportionally represented.

Members of the U.S. Congress, by contrast, officially represent all residents of their geographic constituency—a difficult task. The constituents grouped within congressional districts often have little in common. Indeed, constituencies can be very diverse in terms of race, class, ethnicity, religion, economic interests, and urbanization. The largest states are microcosms of the whole nation. Some constituencies are narrowly divided in terms of partisanship and ideology, forcing representatives to cope with continual local controversies about their stances on national issues. Some members of Congress—such as newly elected Rep. Mike Lawler, R-N.Y.—face the challenge of representing constituents who lean toward the opposing party.<sup>27</sup>

In attempting to represent their whole state or district, some senators and House members attempt a “lowest common denominator” form of representation, de-emphasizing their party affiliation and their opinions on controversial national issues. Instead, they advertise their accessibility to constituents; focus on narrow, localized concerns; and dodge hot-button questions whenever they can.<sup>28</sup> This strategy is most appealing to members representing swing or cross-pressured states and districts. But, to an important extent, the U.S. system of representation encourages a focus on parochial matters among lawmakers generally. Members see themselves, at least to some degree, as attorneys for their constituencies.

Even though the U.S. system of representation does not recognize the importance of political parties in the way that PR systems do, members of Congress have nevertheless become more closely tied to their parties in recent decades. Lawmakers vote with their parties far more reliably than they did in the decades spanning the 1950s through the 1980s. The sources of this increased partisanship are many, but it has corresponded with an increasingly partisan ideological polarization in the activist base of both political parties. “The American public has become more consistent and polarized in its policy preferences over the past several decades,” writes Alan I. Abramowitz, “and this increase in consistency and polarization has been concentrated among the most politically engaged citizens.”<sup>29</sup> At the same time, the politically engaged public has also sorted itself into more ideologically coherent political parties, with fewer liberals identifying with the Republican Party and fewer conservatives identifying with the Democratic Party.<sup>30</sup> Consequently, few voters split their tickets today by voting for one party's presidential candidate and another party's congressional candidate. These trends have reduced the cross-pressures that members face as they attempt to balance

their roles as constituency representatives and national policy makers. More members can cooperate with their national party leaders without endangering the support of an electoral majority in their constituency. At the same time, a body of members responding to this more polarized activist base may have a harder time engaging in genuine deliberation and crafting workable legislative compromises.

All members must constantly cultivate the local roots of their power as national legislators. Yet Congress is one body, not two. The same members who attempt to forge national legislation in committee and on the floor must rush to catch planes back to their districts, where they are plunged into a different world of local problems and personalities. The same candidates who sell themselves at shopping centers also shape the federal budget or military weapons systems in the nation's capital. The unique character of Congress arises directly from its dual role as a representative assembly and a lawmaking body.

## DIVERGENT VIEWS OF CONGRESS

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Congress is subject to intense scrutiny, as the huge array of books, news outlets, and articles devoted to it attest. Many of its features make Congress a favorite object of scholarly attention. For one thing, it is relatively open and accessible, so it can be approached by traditional means—journalistic stories, case studies, normative assessments, and historical accounts. It is also amenable to the analytic techniques of social science. Indeed, the availability of quantitative indicators of congressional work (floor votes, for example) permits elaborate statistical analyses. Its rule-governed processes allow it to be studied with sophisticated formal models. And Congress is, above all, a fascinating place—the very best location from which to view the varied actors in the U.S. political drama.

Writers of an interpretive book on the U.S. Congress thus can draw on a multitude of sources, an embarrassment of riches. In fact, studies of Congress constitute a vast body of literature. This is a mixed blessing because all of this information must be integrated into a coherent whole. Moreover, scholarly writing is often highly detailed, technical, and theoretical. We have tried to put such material in perspective, make it accessible to all interested readers, and use illustrative examples wherever possible.

Meanwhile, a gaping chasm exists between this rich scholarly literature and the caricature of Congress prevalent in the popular culture. Humorists from Mark Twain and Will Rogers to Stephen Colbert and Anthony Borowitz have found Congress an inexhaustible source of raw material. Citizens tend to share a disdain toward the legislative branch—especially at moments of furor over, say, ethics scandals or difficult legislative fights. When legislators are at home with constituents, they often reinforce Congress's poor image by portraying the institution as out of touch with reality. As Richard F. Fenno puts it, members “run *for* Congress by running *against* Congress.”<sup>31</sup>

The picture of Congress conveyed by the media is scarcely more flattering. Journalistic hit-and-run specialists perpetuate a cartoon-like stereotype of Congress as “a place where good ideas go to die in a maelstrom of bureaucratic hedging and rank favor-trading.”<sup>32</sup> News magazines, editorial writers, and nightly news broadcasts regularly portray Congress as an irresponsible and somewhat disreputable gang, reminiscent of Woodrow Wilson’s caustic description of the House as “a disintegrated mass of jarring elements.”<sup>33</sup> A common refrain is that today’s Congress is a “broken” institution where little happens save partisan bickering.

To comprehend how the two Congresses function—both the institution and individual members—popular stereotypes must be abandoned and the complex realities examined. Citizens’ ambivalence toward the popular branch of government—which goes back to the beginnings of the Republic—says something about the milieu in which public policy is made. We believe we know our subject well enough to understand why Congress works the way it does, yet we try to maintain a professional, scholarly distance from it.

According to an old saying, two things should never be viewed up close: making sausages and making laws. Despite this warning, we urge readers to take a serious look at the workings of Congress and form their own opinions. Some may recoil from what they discover. Numerous flaws can be identified in members’ personal or public behavior, in their priorities and incentive structures, and in lawmaking processes generally. Recent Congresses especially have displayed troubling tendencies, including rushed legislation, extreme partisanship, frequent gridlock, and abdication of legislative power to the executive branch.<sup>34</sup>

Yet careful observers will also discover much behavior in Congress that is purposeful and principled and many policies that are reasonable and workable. We invite students and colleagues to examine with us what Congress does and why—and to ponder its values and its prospects.

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