

Legislatures

The constitutions of most countries describe the legislature, parliament or congress as the key decision-making body in the realm, or else accord it equal status with the Executive. Yet in practice the reality is different. Few legislatures make important decisions and in many cases neither do they initiate laws. Over recent decades, writers have often drawn attention to the alleged 'decline of legislatures'. In Britain, chapters have been written on the 'passing of parliament', 'parliament in decline' or 'the loss of parliamentary control'. Yet in spite of their relative decline, in many cases they remain very significant in any democracy for they usually comprise the elected representatives who are there because they reflect the sentiments and feelings of the electorate.

In this chapter, we are primarily concerned with the nature and work of Parliament and Congress and of the members who serve in them. We also comment on the characteristics of second chambers and their role, before finally assessing the theory of legislative decline and its application to Britain and America.

POINTS TO CONSIDER

- Are bicameral legislatures a good thing?
- Are legislatures policy-making bodies? If so, in what sense?
- Consider the changing role of legislatures.
- 'Today, the functions of legislatures are more to legitimate than to legislate'. Why is this so?
- 'A key function of legislatures is to scrutinise and control the work of the executive branch'. How do Parliament and Congress attempt to do this and with what success?
- Compare the contribution of committees in Parliament and Congress.
- Compare the pay and conditions of MPs and members of Congress.
- To what extent does the membership of Parliament and Congress respectively reflect the social composition of Britain and the United States?
- Does it matter that most legislatures are socially unrepresentative of the populations they serve?
- Does the experience of Britain and the United States support the idea of 'postwar legislative decline'?

The exact number of **legislatures** across the world varies from year to year, but broadly it has been on the increase, as a number of countries have returned to democratic rule and new states have been established in parts of formerly communist-controlled Eastern Europe.

The names accorded to legislatures vary. The term Congress is used in some countries, as in America. Parliament is employed in Britain and the Commonwealth. On the continent, it is more common to speak of the National Assembly (as in France) or the Chamber of Deputies (as in Italy). Scotland has its own parliament, but Wales – with its weaker measure of devolution – has a National Assembly.

legislature

The branch of government which is empowered to make law. The term also refers to the often-elected bodies which consider public issues and give assent to measures of public policy. Sometimes they are known as assemblies or parliaments. In either case, they are forums of debate and deliberation.

Structure and purpose

Some legislatures are **bicameral** (two chamber) and some are **unicameral** (single chamber). Where two chambers exist (see box on pp. 108–9), it is often argued that the possible ‘excesses’ of the popularly elected assembly need to be balanced by the experience and wisdom of a more reflective upper house, as has been the case in Britain. However, if the second chamber is not elected, there is the danger that it will be considered undemocratic, a denial of the popular will – the more so if its membership has been chosen on the basis of heredity, as the House of Lords was for many centuries until 1999.

Many second chambers have lost much of their power, so that in Britain and France they retain only the right to revise or delay legislation. In federal countries, the second chamber is often more powerful (for instance in Canada and Germany). In such examples, the size of the country, the need for regional representation and the sometimes-sharp geographical cleavages make a second chamber seem desirable.

There are more unicameral legislatures than bicameral political systems. Unicameralism has been on the increase in recent years and Hague and Harrop note that in 2000 112 out of 178 legislatures had only one chamber.² Countries such as Denmark, New Zealand and Sweden abolished their upper house without any obvious serious effects, and as a general trend across the world the number of two-chamber assemblies is slightly in decline. They are more common in federal countries and those which are geographically extensive. It is significant that the countries which have opted for abolition are small, Sweden having about 8.9m, Denmark 4.5m and New Zealand 2.5m. In such countries, the pressure of legislation is much less than in a country the size of Britain.

SECOND CHAMBERS: THEIR VARYING MEMBERSHIP AND SIZE

Britain and America both have bicameral systems, having a lower chamber (in both cases called the House: 'of Representatives' in the USA and 'of Commons' in the UK) and an upper one, the Senate and House of Lords respectively. In Britain, as in many other large democracies, a second chamber is widely considered necessary as a check upon the lower house, the government-dominated House of Commons, but it is also useful because it shares the parliamentary workload (and so reduces pressure on the House of Commons), has a significant role in legislation (especially the task of scrutiny and revision, but also of delay) and provides opportunities for careful deliberation of matters of public policy by people many of whom are expert in their chosen fields. In America, apart from its law-making and other roles, the second chamber provides territorial representation, with each state – however large or small – being represented by two members.

At present, in both cases, members of the upper house serve a longer period in office than do members of the lower house. Composition is determined differently in the Lords from in the Senate, and there are more members. Membership of the Lords was based substantially on heredity, until the phasing out of selection through inheritance in 1999 (Phase One). The present membership (June 2003) comprises:

544	Life peers, appointed under the terms of the 1958 Life Peerages Act
92	Hereditary peers: under a compromise deal in 1999, elected from amongst their number on a party basis (they were allowed to remain until Phase Two gets underway)
24	Archbishops/bishops
27	Law lords
687	Total

Phase One is a transitional period for the House of Lords. Ministers intend that it should be followed by Phase Two, which is meant to resolve the long-standing issues surrounding its future. As yet, no agreement has been reached in the House of Commons about the form of a revised chamber. In a series of free votes, MPs rejected all the options available (Feb. 2003). If reform occurs, then the tenure of office of members will have to be decided. At present, members of the House of Lords serve for life, although serving bishops cease to be members when they lose their position. Members of the Senate serve for six years. This longer period of service provides for greater stability and continuity, as befits reflective bodies. A further degree of stability in the Senate is achieved by the use of phased election, with one-third of members retiring every two years. It was Madison's original intention that senators, serving a longer innings and taking a broader view than members of the lower house, would exhibit 'superior coolness . . . and wisdom'. The same qualities are often attributed to life peers in Britain.

Size and membership of lower houses

Legislatures range in size from the larger at one extreme (Britain has 659 members, India 545, and America 435) to the very small at the other (Iceland 73, Luxembourg 60, and Costa Rica 57. Unsurprisingly, size is related to

In Britain, the House of Commons is the more dominant chamber. The Lords has a role in the legislative process, mainly as a revising body, although new – usually non-controversial – legislation can be initiated there. It is unable to reject bills passed by the House of Commons, although it has a power of delay under the 1949 Parliament Act. This is not the case in America, where the two houses have a very different relationship and are in theory co-equal. The Senate has some distinctive responsibilities (such as in the field of foreign affairs) and also has higher status. It plays a large role in the legislative and budgetary processes. It also has an important role in checking the Executive, via its powers of checking presidential appointments, and ultimately being the body which conducts any trial for impeachment.

Various factors make the Senate a more significant second chamber than the Lords. The Constitution, with its separation of powers, requires the legislature to act as a curb upon the Executive. Also, in a presidential system, the President is not answerable to one chamber only, so that there is not the same focus of attention on one house more than the other. Strong second chambers are more often found in federal countries and those which provide for effective regional representation. In the case of America, such considerations make it the strongest upper house in the democratic world.

Membership of second chambers

Other than by inheritance or Britain's Phase One arrangements, there are four main ways of choosing members of an upper house, although of course a combination of any of these approaches is possible:

- **Direct election**, which is the most common and is used in 27 out of 66 chambers.¹
- **Indirect election** (21 chambers). Sometimes, indirectly elected houses are selected by members of local authorities, sometimes by members of the lower house. The now non-existent Swedish body was composed entirely of members elected by local councillors, whereas the French Senate is elected by a series of electoral colleges, comprising members of local authorities and deputies in each department.
- **Appointment for life** (16 chambers), as in Canada where members are nominated for life by the Governor-General in theory, but by the government of the day (Prime Minister) in practice. Nominations tend to be made on the basis of a candidate's support for the party in power.
- **Vocational representation** (1 chamber). The Irish Republic is unique among democratic countries in employing a form of vocational representation. The Senate has members elected by graduates of Irish universities, others nominated by the Prime Minister and 43 more elected from five vocational panels (Cultural and Educational, Agricultural, Labour, Industrial and Commercial, and Administrative).

population, though the proportions vary considerably in various states. Broadly, India has on average one representative for just under every two million people; the USA one per 420,000 for the House of Representatives; Germany one for 120,000; France one for 100,000; Britain one for 90,000; Switzerland one for 35,000; Sweden one for 25,000; Norway one for 27,000;

and Ireland one for 20,000. From such figures, it can be seen that smaller countries are at an advantage. The legislatures are intimate, giving members more chance to participate in the proceedings. Moreover, since these members represent fewer constituents, the bonds between people and representatives are close. For these reasons, legislatures in smaller countries are more likely to function effectively than those in much larger ones.

The work and importance of the British Parliament and the American Congress

A distinction is sometimes made between legislatures (assemblies which do not force the executive to resign, and therefore are less likely to be dissolved)³ and parliaments (which can censure the government and therefore do risk the possibility of being dissolved). The distinction has some validity, so that in presidential systems such as the United States and many Latin American countries the legislature is powerful and secure but cannot vote the President out of office (except for an impeachable offence), whereas in parliamentary systems such as those of Britain, most of Western Europe, the Commonwealth, Japan and Israel, assemblies do have the power to censure the government. Here, we use the words interchangeably.

By their very existence, legislatures perform an important representative function. They reflect the people's wishes, for they comprise the elected representatives of the voters. For this reason, they are said to be sovereign bodies, embodying the principle of popular sovereignty or 'people power'. However, constitutions usually accord legislatures a substantial array of other powers.

Legislatures have six main purposes, the last two of which we will consider in more detail.

1 Representation

This is a term with several meanings. Here, we are using the term to mean the authority to act on behalf of another, as gained through the process of election. In this sense, the elected representative acts to safeguard and promote the interests of the area represented. In Britain as in most Western democracies, representation operates via political parties. The successful candidate gets elected because of his or her party label, but he or she must seek to balance the sometimes conflicting pressures of representing the country, party and constituency, as well as being true to his or her own conscience and feelings. In America, the House of Representatives was originally seen as the body which represented the mass of the people although since the introduction of the direct election of the Senate it has lost that distinctive position. The importance attached to the representative function is

very great in America, in comparison with other legislatures. Congressmen attach the highest priority to the attitudes and concerns of those who elect them and other considerations, such as party, matter less.

2 Deliberation

Members apply their knowledge, understanding and judgement to consider the nation's affairs, especially in the process of debate. When contemplating the issues of the day, they are expected to balance their responsibilities to party and constituency with those to the nation. Writing to his constituents in Bristol in 1774, **Burke** outlined in classic style the case for a representative of the people exercising this balancing function:

Parliament is not a congress of ambassadors from different and hostile interests . . . which . . . each must maintain, as an agent and advocate . . . Parliament is a deliberative assembly of one nation, with one interest, that of the whole . . . You choose a member indeed; but when you have chosen him, he is not a member for Bristol, but he is a member of Parliament.

In a talking assembly such as Parliament, discussion occurs on the floor of the chamber in formal debate. In Congress, it centres on the committee rooms and is more detailed and less stylised.

Edmund Burke (1729–1797)

British statesman and orator.

Burke was a Whig MP until his death in 1797, but was an acknowledged and persuasive advocate of the conservative cause. He had clear views on the duties of an MP, arguing that should his deliberations ever force him to the conclusion that there is a divergence of interest between the nation and his constituency, he must always remember that he is a member of the UK Parliament first and foremost. Parliament was 'a deliberative assembly . . . where not local purposes or prejudices ought to guide, but the general good resulting from the general reason of the whole'.

3 Financial control

Raising taxation is a traditional function of parliaments, associated with the redress of grievances. In bygone days, the representatives of the people demanded concessions of their king prior to conceding the demand for extra taxes.

Lack of power to control spending effectively has been a weakness of many parliaments, for the amounts are vast, the issues complex and elected members lack the time and expertise to monitor the situation in any detailed manner. Such controls as there are operate after the event, by which it is too late to have an effect.

In most countries, financial control is an area in which the legislature is at its weakest. Governments set out their budget before the assembly and with few modifications they are passed. This is untrue in America, for the Constitution specifically placed the duty of raising of money on the House of Representatives and money spent by government departments has to be allocated under

headings approved by Congress. Flammang *et al.* observe that ‘without the agreement of members of Congress, no money can be doled out for foreign aid, salaries for army generals or paper clips for bureaucrats’.³ Similarly, the President’s federal budget is subject to congressional agreement which may not be forthcoming. Since the early 1970s, the expertise of members of Congress in handling budgetary issues has been increased, following the establishment of the Budget Office.

4 Political recruitment

Assemblies often act as a recruiting ground for ministerial office. In parliamentary systems where the government is chosen from parliament, the performance of elected representatives can be assessed. Service in the House, showing up well in debates and voting loyally with the party, are admired virtues for those who wish to tread the career path to high office. This applies less in America, for the President and his Cabinet do not derive from the chamber. It may be that presidential candidates have cut their teeth by service in Congress (Kennedy and Nixon), but as we see on pp. 73–5 this is much less true today when the route to the White House often seems to be service as a state governor.

5 Legislation

Law-making is a key function of legislatures, as the very word suggests (by derivation, *legis* means law, and *lator* means proposer or carrier, hence the idea of someone who proposes or carries law). In most cases, it is not the function where they exert most influence, for representative assemblies are by their nature often ill-equipped to generate and develop laws. In the days when Locke and Montesquieu argued that laws should be made by legislatures, the scope of law-making was much more narrow than it is today. Often it was concerned with matters affecting the family, law and ownership of property.

What changed in the twentieth century was the massive growth in state intervention in a whole range of areas of policy-making. Laws are no longer just about regulating private relationships between citizens, but they are concerned to introduce or amend arrangements for providing many services in the fields of education, consumerism, health, housing and social security, amongst many others. Often the details involved in such laws are highly complex, and there are a great variety and amount of them. They involve vast expenditure, and need the input of those who possess the relevant knowledge and technical expertise.

Such interventionism also extends to the running of the economy, where the trend to detailed economic management has grown in the post-war era. Governments are expected to produce policies for inflation and unemployment, and to regulate state and private industries. We live in an age of managed

economies and a welfare state. Against this background, it is inevitable that executives will assume a growing role, the more so as so many matters require continuous action and on occasion urgent decisions.

Hence the task of deciding what laws are needed and of preparing legislation has been largely surrendered to governments, and parliaments are more concerned with scrutinising what is proposed, making amendments and voicing objections, rather than playing a key role in the actual making of law. Members of legislatures who wish to play an effective role increasingly need to be specialists rather than generalists, and for this reason they need to be equipped with assistants and facilities which enable them to find out information quickly and to develop a genuine expertise in their subject. Only then can they hope to challenge ministers who have the resources of a government department from which they can draw support.

Law-making in Britain and the United States

Law-making is the main feature of Congress. It uses up most of the available time, a greater proportion than applies at Westminster. There is much more legislation to be handled than there is in Britain. In a typical session in Britain there may be approaching 100 public bills from the government or private members. This compares with some 1000 in America, many of which will have a short existence before their life is terminated. However, in Britain there is a real expectation that legislation introduced will pass through the House, especially if it derives from government. (The fate of private members bills is variable. A few will pass each session, less controversial ones usually having the most chance, because they do not arouse intense opposition and obstruction. The fate of controversial bills is more dependent on the attitude of the government. Ministerial acquiescence or support will increase their chances of success, not least because some parliamentary time may be made available for them.)

Most British bills become law, because ministers impart a sense of direction to the legislative programme and steer their creation through the chamber in all its stages. The party managers control the timetable of the bill and the whips will ensure that important votes are taken on party lines. Party loyalties dominate the voting and although there are examples of dissent this rarely leads to governmental defeats. From this brief review, it becomes apparent that Parliament is not the place where bills originate. It is the place where constitutional authority is conferred on bills that have come from the government departments. The initiative in introducing legislation comes from the Executive and party organisation within the House is used to see that ministerial policies pass through the chamber. This is why Wallis could describe the House of Commons as being more a 'a legitimiser than a legislature'.⁵ As Shaw remarks, 'Parliament . . . is where the merits of legislation are

discussed, but not where the laws are made. In Congress . . . there is both discussion and law-making. Parliament is a *deliberative* assembly. Congress – to the extent that any legislature can be so described these days – is a *law-making* assembly'.⁶ Indeed, Truman has written that Congress today is more nearly a legislature in the strict sense than is the national assembly in any other major country in the world.⁷

Congress is a legislative body in the full sense of the term. It passes more legislation than the House of Commons, even if more laws today derive from the Executive than used to be the case. There is no certainty that they will pass through the chamber. Executive influence in Congress is weakened by the separation of powers, an even more powerful factor when reinforced by a divided government in which different parties control the White House and Capitol Hill. If laws from the Executive are passed it may not be in the form that the President or the Cabinet team would wish. Bills can be transformed (or lapse), so that the legislature has a significant impact on the content of legislation. In Britain, the impact of the parliamentary process is often minimal. For all of the time spent in the House examining bills, the overall effect is often modest.

The differences between the role of Parliament and Congress with regards to law-making are not just in terms of the amount of bills or the overall impact of the procedure. They concern the actual process itself, the method of examining bills being very different in the two countries. In Parliament there are eleven stages, five similar ones in each chamber, culminating in the Royal Assent. The role of the second chamber can be important in modifying the content of legislation or rather slowing it down, but the key work is done in the House of Commons.

In America, legislation is sometimes introduced into the two chambers at the same time. In whichever house it begins its existence, it must ultimately pass both of them in the same wording. Most of the work is done in standing committees which, unlike the British equivalents, are specialist bodies, comprising members who may have served for some years on the committee dealing with agriculture, education and labour or public works and transportation.

In Britain, much of the discussion of a bill is done on the floor of the House, in the second and third readings, although the detail is examined by a standing committee. In America, committees are central to the legislative work of Congress as it tries to cope with the vast legislative burden placed upon it. After introduction, a bill is assigned by the Speaker to an appropriate standing committee. In the majority of cases it will get no further. The role of chairman is crucial in deciding whether or not the bill merits further consideration and if it does whether this should be in full committee or be carried out by one of the many subcommittees. At these hearings, interested parties will be present.

They may provide a written submission or perhaps be called upon to give oral evidence.

If they survive the committee hurdle, bills go to the Rules Committee which stands 'as a strategic gateway between the legislative committees and the floor of the House'.⁸ The Committee is empowered to issue a rule which will allow the bill to proceed further and be discussed by the chamber. The rule will specify the length of time available for debate and the types of amendment which can be moved. If the bill is acceptable to the House after proponents and opponents have had their say, then it is sent to the Senate which as we have said may already have been dealing with its own version of the bill. Procedure there is similar, but the process is more relaxed; there is no time fixed limit for debate and there is no Rules Committee. There are opportunities for senators to obstruct or **filibuster** the bill's progress, and senators have been known to speak for hours in their attempts to talk a bill to death. A closure can be applied only if 60 per cent of members vote in favour of it.

filibuster

A delaying strategy whereby opponents of a piece of legislation try to talk it to death, based on the tradition of unlimited debate. Today, 60 members present and voting can halt a filibuster in the senate.

Once agreement between the versions of the bill passed by the two houses has been achieved in the conference committee, the final version is sent before the two chambers for their approval before going to the White House for the President to sign. He or she may leave the bill unsigned or veto it, and Congress may override the presidential veto, although this is uncommon.

If Congress is more influential as a law-making body, it would be fair to say that it is better at obstruction than creation. This is why Shaw could write that 'Congress may be said . . . to be status quo oriented, while the Administration is action-oriented'.⁹ President Kennedy once observed that 'it is very easy to defeat a bill in Congress. It is much more difficult to pass one'. As Hague and Harrop remark: 'Because legislation is still difficult to pass even when the need for change is widely recognised, the America experience suggests that an assembly which really does control the legislative process is more of a mixed blessing than might be imagined'.¹⁰

6 Control of the Executive

Scrutiny of the work of the Executive is perhaps the key function of legislatures today, as most have lost much their law-making as opposed to law-passing role. Via this watchdog role, those in government are held to account for their actions. Their right to govern is acknowledged, but so too is parliament's right to take them to task. In Britain, opportunities for criticism and control of executive action arise in the passage of legislation, in question time, debates, votes and via the select committee system (see pp. 117–18 for more detail of committee activities).

THE WORK AND VALUE OF COMMITTEES IN THE BRITISH PARLIAMENT AND THE AMERICAN CONGRESS

Modern assemblies require a comprehensive array of committees to assist them in their work. Such is the volume and complexity of business, they are indispensable. They are used in the areas of examination of bills and of financial proposals, acting as a check upon government administration and investigating issues of current importance and concern.

In America, much of the main work of Congress is done in the committee rooms, which is why it can be described as a working assembly, whereas in Britain it is on the floor of the House that reputations are made, key issues discussed and government held to account. The British system is floor-orientated rather than committee-orientated, which is why Hague and Harrop describe the House of Commons as a talking rather than a working assembly.¹⁰

Congress developed a comprehensive network of highly specialised standing committees well in advance of the House of Commons. The Senate has 17 and the House 19, each specialising in one area of legislation and being responsible for scrutiny in that area. There are far more subcommittees. Each house can adjust the number and size of its committees from session to session, but in 2000 the House Agriculture Committee had 4 subcommittees, the International Relations Committee had 5, the Senate Agriculture, Nutrition and Forestry Committee also had 4, the Foreign Relations Committee 7 and the Indian Affairs Committee 0. Membership of committees varied between 10 and 61.

Legislative committees in Britain are non-specialist, as is apparent from their labels: Standing Committees A–H. Bills are assigned to them at random. Fewer members participate in the committee system of the House of Commons than in Congress, where every Senator serves on two committees, every Representative at least one. Because they may serve for several years on the same committee, they develop a specialist knowledge of the issues involved in their subject area and, given their more important role in the legislature, it means that members on committees exercise real influence and power. The committees are better staffed and resourced, each having a budget to employ in its service.

Chairmen of committees have often served for some years. Until the 1970s, they were appointed on the basis of seniority, whereas now seniority is an important criterion when the steering and policy committee of the parties put forward nominees on whom members can vote. In fact, the party leaderships have taken more control of the process in recent years, ensuring that loyal members gain key positions.

Unlike the position in the House of Commons, chairs of committees and subcommittees always belong to the majority party. In their period of dominance since 1995, the Republicans have limited their committee chairs to six consecutive years of service. The chairs control the order of business, and their ability to make and unmake subcommittees and hire staff combine to make theirs a very influential position. At Westminster, standing committee chairmen have no comparable specialist knowledge, powers or status.

Scrutiny of legislation in American standing committees is much more meticulous because it is carried out by specialists. Partly because of the operation of separation of powers, the party allegiance and degree of party cohesion of Congress members matter less than they

do in Britain. This means that in their consideration of bills they are willing to think beyond the convenience of those who lead the party.

Committees of scrutiny

Select committees have been around for a long time at Westminster but the system was a haphazard one, in which experiments were tried and then dropped. Those who served on them did not have the opportunity to acquire and develop any expertise, and scrutiny was often piecemeal. Of course the big breakthrough at Westminster in the committee system was the establishment in 1980 of a system of select committees, each of which focused on the work of one government department. Their task was and remains to examine 'the expenditure, administration and policy' of the department whose activities they monitored. Via their investigations, members acquire detailed information about the work and problems of departments which is essential if they are to engage in intelligent debate. They also tend to behave in a less partisan manner than is common in the charged atmosphere of the House. As a result, those in the Executive are called to account for their policies and administration by effective watchdogs who throw the spotlight of publicity on their actions. They have other advantages, among them being those identified by Philip Norton:

- the House is better informed about government work, because a number of members have developed a degree of specialist knowledge;
- the committees have a deterrent effect on the behaviour of government, for ministers know that their handling of affairs is being publicly scrutinised;
- there is more openness in government as information is placed in the public domain and ministers and their officials are cross-examined in public;
- the reports may have more influence on policy than is immediately apparent, for recommendations are often taken on board when ministers refine their proposals.¹²

There are still complaints about these committees, which lack adequate resources and are under-staffed with specialist help. They cannot match their American counterparts in terms of personnel, nor are their reports always taken as seriously. Often, there is a lack of time for debates on their reports and findings. Governments have been reluctant to countenance any strengthening of their resources and powers, being wary of their influence. The whips have a significant role in their appointment, via the Committee of Selection but their attempts to replace awkward members backfired in 2001 when Gwynneth Dunwoody and Donald Anderson were reappointed after an attempt to drop them. At the present time there are moves afoot to make the system of select committees more powerful.

As we have seen, American standing committees deal with legislation and scrutiny of a specified policy area. In addition, temporary select committees can be established to investigate particular issues, such as that which in 1986 investigated the Reagan administration's sale of arms to Iran and the diversion of the proceeds to forces trying to bring about the overthrow of the Nicaraguan government. The committee system has long been in existence and these powerful investigative bodies were for years held up by parliamentary reformers as a model of how influential British select committees could be. For several years, ministers were resistant to anything akin to the American experience, a view summed up by a leading British Conservative, R. A. Butler, in a debate on procedure.



Dismissing them as 'committees à l'Americain', he was worried that 'the activities of such a committee would ultimately be aimed at controlling rather than criticising the policy and actions of the department concerned. In so doing, it would be usurping a function which the House itself has never attempted to exercise . . . [committees] would undermine the authority of the executive.'

Committees in America are powerful and have a life of their own. Back in 1880, Woodrow Wilson remarked that the American political system did not have party government but instead 'government by the chairman of the standing committees of Congress'. The remark might now be extended to include subcommittees and their chairmen, for they have acquired an autonomy and freedom of action once reserved for the parent committees. Given their responsibility for policy and scrutiny, and their permanency, members can develop their expertise and become well versed in the issues surrounding their particular area. In effect, American committees are mini-legislatures in their own right.

Question Time is a much-vaunted British way of holding ministers responsible. Its merits – particularly those of Prime Minister's Questions on Wednesday afternoon – have been much questioned, but the fact that he and other ministers must appear before the House and face often hostile questioning helps to keep their feet on the ground and brings them into contact with the comments and criticisms which people are making about government policy. As well as advancing an alternative approach, the Opposition party has the specific role of holding the government to account, throwing the spotlight of publicity on its acts, demanding a full exposition of the ministerial case and censuring ministers when it finds their policies and activities condemnable.

America has no such institution as Question Time, nor does it have a body equivalent to Her Majesty's Opposition. The system of government is very different. Whereas in Britain ministers are members of the legislature and via the doctrine of individual ministerial responsibility are accountable for the work of their departments and their own performance, in America the President is appointed directly and the Cabinet is hand-picked according to the President's requirements and preferences. Cabinet members are not members of Congress and do not have to justify their policies before the elected representatives in Congress, though they may be summoned to appear in committee hearings. The prospect of being subjected to such investigation is bound to influence the behaviour of those who make decisions.

As we have seen, American investigative committees are powerful organs of scrutiny which are the more effective because the 'freedom of information' legislation makes it easier to gain access to key documents. They have the right of subpoena, which means they can force witnesses to appear and answer questions on the issue under investigation. In 1997 the Senate Finance Committee (a permanent standing committee) conducted hearings into the operations of the Internal Revenue Service. Temporary select committees have

in the past conducted full-scale investigations of such issues as the conduct of the Vietnam War, the problems surrounding the Watergate break-in, and American involvement in the Iran–Contra affair. The McCarthy hearings of the early 1950s are but the most notorious example of the power of such committees, which have no real counterpart in Britain. Select committees probing the Westland issue in 1986 or the behaviour of ministers in the sleaze cases of the 1990s found it difficult to ever obtain a full picture of what was happening. Even after a lengthy investigation, it can be difficult to discern what actually took place.

Congress also has the key judicial power of **impeachment**. The House decides on whether the accused official has a case to answer and if it believes that he or she has, then the trial takes place in the Senate. A verdict of guilty results in dismissal from public office. Bill Clinton survived the process in 1999, but the ability of Congress to appoint special prosecutors to probe every aspect of a President's affairs and then bring impeachment charges (and the relentless media interest this creates), make it difficult for the incumbent to concentrate on achieving his or her policy goals.

Congress has two main advantages over the British parliament whether in scrutinising legislation or in holding members to account. The first is the doctrine of Separation of Powers, which was designed to prevent undue concentration of power in one location, and which denies members of the Executive the chance to sit in Congress. The second is the absence of strong party bonds, which mean that congress members can act more as free agents, acting and voting as they think it appropriate to do; they do not feel beholden to their party leaders for their advancement.

impeachment

The process by which Congress can remove officers of the national government, including the President. The House votes on a charge or series of charges, and a trial on these charges is then conducted in the Senate.

The decline of legislatures: British and American experience

Most legislatures are relatively weak. They are often thought to be much weaker than they were in some 'golden age' of the nineteenth century. In reality, the 'golden age' theory can be exaggerated. Some nineteenth-century assemblies were easily manipulated by dominant leaders who could often get their way. Several governments always have exercised firm control over legislative arrangements. This was true of Britain, though it is certainly fair to argue that the House of Commons was less predictable in its voting patterns than it is today. Cross-voting was more common, and governments were liable to be brought down by an adverse vote in the chamber.

In his classic work written in 1921, Lord Bryce wrote of the decline of legislatures, identifying parties as the most serious threat to them.¹³ He pointed also to the increased complexity of policy-making and to the incompetence or corruption of many legislators, which also served to strengthen the executive branch. His views have been echoed by many subsequent commentators. In 1989 Petersson felt able to conclude that 'every description of the form of government of the modern state seems to end up with a discouraging conclusion about the actual role of parliament'.¹⁴ For many years, parliaments have been criticised as 'rubber-stamps' for those in power.

Legislatures do tend to be weak, not least because governments need to make urgent decisions on what are often complex items of business – perhaps a crisis in foreign policy (such as the events of 11 September 2001), a difficult discussion in the United Nations, a sudden problem on the financial markets or a leaky oil tanker polluting the coastal regions. Elected representatives inevitably find themselves responding to what has already been done. The influence of legislators at the broad policy level is therefore necessarily limited, and in matters of law-making or on financial provisions their main role tends to be one of ratification rather than of initiative or real influence. In Blondel's words: 'Legislatures do not initiate: they follow'.¹⁵ They cannot initiate because in many cases, as we have seen, the legislation often introduced by modern governments is too complex and technical, and requires preparatory work to be done by civil servants before it is ready to emerge for consideration.

Today, attention is often more focused on the executive branch of government than on the legislature. Often the latter appears to be reacting to the work of the former. In Britain and many other countries, government may be dependent on parliamentary support, but party discipline ensures that this is normally forthcoming, and as a result it is governments which dominate parliament rather than parliaments which dominate government. As Budge, Newton *et al.* point out:

It is government which can impose procedures and timetables, limit questioning of its activities, pass legislation, and, if necessary win votes of confidence. Even opposition parties tolerate governmental domination of this kind, hoping to benefit from it when their turn in government comes. The power of the government is even greater if the prime minister is free to call an election. The threat of losing seats often has the effect of reinforcing party loyalty and intimidating internal party opponents.¹⁶

The same writers go on to point out that in Britain the fact that about a third of the majority party and a sixth of all MPs are in the government further strengthens the position of government at the expense of Parliament. There is only one main opposition party, so that 'Parliament simply becomes one of the forums where opposition leaders criticise government policy without being able to defeat it'.

Where minority or coalition governments are more common, in countries ranging from Ireland to Sweden, from Denmark to the Netherlands, there is greater likelihood that parliament will exercise more influence. Governments tend to seek more cross-party agreement to get their bills through, and often seek to gain a broad consensus of opinion behind them. This search for agreement is particularly true of Scandinavian countries, and in Denmark especially parliament can be very effective. The Danish body is always liable to defeat a minority administration, and the average life of governments is around two years, half the figure for Britain or Sweden. In order to survive, Danish governments are very reliant on parliamentary acquiescence, and often tend to seek agreement over a whole range of policy areas. They build coalitions according to the issue under discussion.

In the light of the above considerations, Budge, *et al.* conclude that in Denmark, rather untypically, governments depend on parliament rather than the other way round.¹⁷ This is unusual. But it is generally true that wherever coalitions are weak and quarrel internally, much more importance is attached to negotiations within parliament than where governments are confident of winning legislative votes. Generally, coalitions are weaker the more parties they include.

Broadly, the more powerful the government the weaker the parliament, but a weak government does not necessarily mean a strong legislature. The situation varies considerably, and on a broad spectrum we may include the following European examples:

Strong parliaments				Weak parliaments			
Denmark	Norway	Netherlands	Germany	Switzerland	UK	France	
	Sweden	Ireland	Portugal	Poland	Spain	Russia	EU

Source: Adapted from Budge, Newton *et al.*, *The Politics of the New Europe*, Longman, 1997.

In America, Congress – with the different constitutional status accorded to the legislature – clearly has greater power than other assemblies or parliaments. On the spectrum above, it would be placed to the left of Denmark, as the ‘strongest of the strong’.

As a result of the growing trend towards executive power, some parliaments are rather compliant. Even so, Hague and Harrop warn against generalisation, and conclude that:

To speak of the decline of assemblies in an era of big government is too simple. In several ways, assemblies are growing in importance; as arenas of activity, as intermediaries in the transition from one political order to another, as raisers of grievances and as agencies of oversight. The televising of proceedings in many countries is making assemblies more, not less central to political life . . . [Moreover] in the assemblies of Western Europe, backbench members are now more assertive; party leaders can no longer expect well-educated and well-researched backbenchers to be loyally deferential.¹⁸

The same writers point out in a later edition that other legislatures have benefited from American experience. In particular, 'Congress led the way in equipping assembly members with the resources to do their jobs professionally . . . throughout the democratic world, backbench members have become more assertive: party leaders can no longer expect career politicians to be totally deferential. Specialised committees, and members with a driving interest in policy, are increasingly successful in contributing to political debate'. They divide assemblies into various categories: Active, Reactive, Marginal (e.g. legislatures in many communist states where the assembly is but a minor partner in policy-making) and Minimal (e.g. one-party African states where the assembly is a rubber stamp under executive domination). The US Congress is described as Active, an assembly which 'makes policy autonomously', whereas Britain is in the second category, a Reactive Assembly, which 'reacts to but can influence government policy'.

The performance of the American Congress is much criticised by American commentators who often lament its lack of effectiveness and in particular its slowness to act. As Wallis has explained, 'in the absence of firm control and leadership, Congress is ill-equipped to establish priorities which can then be readily translated into action'.¹⁹ It does not perform its legislative and investigative functions as impressively as many would like, and at times it has seemed to surrender too much initiative to the White House.

Relations with the presidency are an important aspect of congressional power and influence. Writing in the 1880s, Woodrow Wilson (later himself to be a 'strong' President) observed that 'in the practical conduct of the federal government . . . unquestionably, the predominant and controlling force, the centre and source of all motive and of all regulative power, is Congress'. With only a very few other exceptions, greater power resided on Capitol Hill than in the White House right down to 1933. Then for many years Americans became used to a more assertive presidency. It seemed that Congress could not act effectively in an age when federal activity had expanded so rapidly, and most Presidents were only too willing to step in to the vacuum and seize their chance to lead. But since the early 1970s, when Congress finally decided to assert itself, Presidents from Jimmy Carter to Bill Clinton have found relations with Capitol Hill difficult to manage, and there has been talk of a 'tethered' or 'restrained' presidency and an emphasis on presidential weakness rather than strength.

In other words, congressional influence has varied over time. It is now a more powerful body vis-à-vis the White House than it was at the beginning of the 1970s. When the Founding Fathers devised the Constitution, it was always intended that Congress would act as a check upon the influence of the other two elements of government: the executive and the judiciary. Some recent Presidents have been only too aware of its ability to obstruct their efforts to implement their programme.

The tendency towards the 'decline of legislatures' is certainly less true of presidential systems. Congress has more opportunity to modify proposals than most assemblies. But its main strength has usually depended more on blocking or frustrating presidential ambitions, or scrutinising the performance and membership of the Administration, than in actually in determining policy. The power is one of delay rather than of initiative.

Elected representatives in Britain and America: their role

Elected representatives have a variety of different responsibilities. They have loyalties which often conflict and different members will reach differing conclusions about where their main duties lie. They have an obligation to the nation, to their constituents, to the party whose label they employ, to the pressure groups which they may represent and to themselves, their own consciences.

In most democracies, elected members are creatures of their party; parties are the vehicles through which they entered the legislature. Without the label, they would almost certainly not have been elected. They were nominated by a party organisation, elected on a party ticket, pledged to a party line. They are expected to give support to the party in the chamber and most do so without much complaint. They accept the constraints of party discipline, knowing that there are opportunities in which they can vent their concerns other than in the voting lobbies.

Like other elected representatives, MPs also have responsibilities to the country and especially to their constituents and any constituency interests. As MPs they are expected to play a full part in the proceedings of the House, attend regularly, speak and vote in debates and serve on committees. They should also try to view issues from a national as well as from a party and constituency point of view. Today, they receive a mass of correspondence from aggrieved constituents and especially deal with welfare matters such as social security benefits, housing allocation and educational provision. Some MPs specialise in handling such problems and have made a name for themselves as good constituency MPs.

Congress members have similar responsibilities, although the priorities they attach to them are often different. In virtually every case, they were elected on a party label, but once in the House or Senate loyalty to party does not have the same hold over their activities as it does in Britain. Committee and constituency pressures are much greater. The representative function is all-important, for Senators and Representatives have always attached high priority to the attitudes and concerns of those who elected them.

Congress members – especially members of the House who only serve for two years – place much emphasis on getting re-elected. Mayhew distinguished three types of behaviour in which they might indulge to enhance their prospects: self-promotion, credit-claiming and position-taking.²⁰ In each case, the aim is to ensure that constituents view them as the right person for their congressional district. ‘Pork barrel’ politics have always been a feature of American politics, for the success of politicians in bringing home the pork or bacon (gaining advantages or concessions for the district) will substantially affect their chances. They know that their prospects of survival will depend to a large extent on their ability and effort, and so they spend much of their time in assessing and acting upon the wishes of those who sent them to Washington.

Taking care of constituents amounts to more than gaining pork or advantages. It also involves acting as a kind of ombudsman, taking up grievances and sorting out problems. Bailey concludes that ‘the increased emphasis on constituency service has transformed members from national legislators to narrowly focused ombudsmen’ and sees dangers in a situation in which Congress is ‘filled with ombudsmen rather than legislators’.²¹ It encourages short-term thinking rather than a concern for what is in the best interests of the nation over the longer term. Because of this, the emphasis on representation can be said to be at the expense of good policy-making, and Congress is often criticised for its failings in terms of efficiency and in representing the national interest.

There is no easy answer to the question of which is the most important responsibility of congress members any more than there is for MPs. In a country where so many live at great distance from Washington, people expect that the representatives they sent to the federal capital will voice the feelings of the folks ‘back home’ and deliver them tangible benefits. Congress members are alive to this and a survey conducted in 1977 showed that 52 per cent of the 140 representatives interviewed saw their tasks as being to represent their ‘district only’ or ‘nation and district’. 45 per cent thought that their duty was ‘to the nation’ and 3 per cent were unsure; party was not a response any of them were invited to stress.²² Just how they react will depend on the issue. On some topics there is no clearly expressed constituency view and members can argue the national or party case, or feel free to follow the dictates of conscience. But on many more topics there is a local interest to consider and this may influence their prospects for re-election. Congress members are constantly looking over their shoulder to the people who put them there. They also have to bear in mind the wishes of the lobbyists and Political Action Committees who gave support to their campaign.

Note: Figures for the US in the following subsection relate to the 108th Congress (elected in November 2002) unless otherwise stated.

The social backgrounds of members of legislatures

In general, legislatures tend to be overwhelmingly male, middle aged, middle class, and, in North America and Europe, white. Berrington points out that ‘almost every study of legislators in Western democracies shows that they come from more well-to-do backgrounds, are drawn from more prestigious and intellectually satisfying backgrounds and are much better educated than their electors.’²³

Working-class representation is low in many countries, so that representatives of the middle and upper classes predominate. As a broad trend, parties of the right tend to draw more heavily on business and commerce, whereas parties of the left have many professionals within their ranks, especially from the world of education. For both right- and left-wing parties, law has always been a useful background for political service, particularly in the United States. It has lost some of its former impact today, and professions involving communications, such as newspaper and television journalism and public relations, have increased in their representation.

In many democracies certain political families always seem to have one of their members in the legislature. In India, the Gandhis and Nehrus have always been well represented, just as among the British the Soames, Hoggs and Benns, and among the Americas the Kennedys, Gores and Bushes have provided representatives in two or more generations. In some families there is a tradition of public service, and at some level – local or national – many members get involved in political activity.

In America, work on Capitol Hill was always regarded as a full-time activity. Members are not allowed to earn from outside an income more than 15 per cent of their congressional salary. Pay and conditions are good: more of an incentive to full-time membership than they are in Britain. There was never the same idea of members of the privileged classes going to Westminster as a social activity in the afternoon and evening, after a day’s work elsewhere. The part-time British politician is now in retreat, a process accelerated by the Labour landslides in 1997 and 2001. More common today is the career politician who may have begun life working as a research assistant and then worked in the party organisation (‘political staffers’) or served on a local council before entering Parliament. Such people are committed, well versed in political issues and understand their party and those who work within it. However, some would argue that **career politicians** lack the sense of broad perspective that comes from having done another job. They have not inhabited the ‘real’ world of ordinary people and may not always possess the judgement that comes from

career politicians

People committed to politics which they regard as their vocation. They know little else beyond the worlds of politics, policy-making and elections.

knowing about the preoccupations of people from all walks of life – in other words, what ‘makes people tick’.

In America, it has long been the case that congress members have served in some other political activity. They may have been state administrators or legislators, or served as county, city or town officials. Some will have been judges or governors, others Representatives, before they bid for a Senate seat. Shaw found that in the early 1960s 98 per cent of Senators and 88 per cent of Representatives had such a political apprenticeship in public offices, a far higher figure than at Westminster.²⁴ Far fewer British MPs have served in local government, proportionately more on the Labour side.

Female representation in legislatures

For several years, the United Nations has taken the view that for a legislature to be considered gender-representative, there should be at least 30 per cent of women in the elected chamber. By 2000, seven Western European countries had reached the target, although the number of women has increased in most assemblies over the last decade. The position is patchy, as the table indicates:

Female representation in the ‘top ten’ countries and in America

Country	Year of last election	% of women MPs	Electoral system
Sweden	1998	43	List PR
Denmark	1998	37	List PR
Finland	1999	36	List PR
Netherlands	1998	36	List PR
Norway	1997	36	List PR
Germany	1998	31	AMS – Hybrid
New Zealand	1999	29	AMS
Australia	1998	22	AV
Canada	1997	20	FPTP
Britain	1997	18	FPTP
World average*	2000	14	
America	1998	13	FPTP

Source: Table adapted from R. Hague and M. Harrop, *Comparative Government and Politics*, Palgrave, 2001, using information provided by Inter-Parliamentary Union 2000.

Notes: Figures are for lower houses in two chamber countries. * figures calculated from countries for which data available.

Both Britain and America have lagged far behind the rest of the world in the representation of women in the national legislature. In 1995, UNICEF found that Britain came 18th in a list of 22 industrialised countries,²⁵ and the Inter-Parliamentary Union put Britain in joint 65th place in its list of women MPs world-wide. First was Sweden, with 40.4 per cent, followed by the other Scandinavian countries and Holland. However, many developing countries had a better record than Britain. Prior to the 1997 election, Britain and the USA had a lower percentage of female MPs than African states such as Mozambique and

South Africa (both on 25 per cent), and Namibia, Uganda and Chad, and South American countries such as Cuba (23 per cent), Argentina (22 per cent) and Nicaragua (16 per cent). Women also fared better in some Asian nations such as China (21 per cent), North Korea (18 per cent) and Vietnam (18 per cent). While some of the countries included in the list were hardly known for their democratic credentials, it is surprising that Iraq (on 11 per cent) could claim to have a better record on the representation of women than Britain. More women were also elected in many of the new Eastern European democracies. In Slovakia 15 per cent of MPs were women, in the Russian Federation and Poland it was 13 per cent, and in Hungary 11 per cent.

Clearly, the representation of women in national parliaments varies considerably. They have fared badly in the USA, and in some European countries such as France, Greece, Ireland and Italy (all Catholic or Orthodox in religion) representation has traditionally been low. Scandinavia has the best record, and there are several possible explanations for this:

- it could be a reflection of a cultural and legal framework which is generally more sympathetic to female advancement;
- it could be a result of their use of party list proportional systems, by which the parties present lists of candidates to voters rather than individual candidates;
- it could reflect the strong commitment of Scandinavian parties to promoting women as candidates, which encourages women to come forward.

The situation is confusing, for in the USA the Women's Movement has been stronger than in Scandinavia, yet women are less well represented. Again, all European states use some form of proportional representation, but this has not always produced an outcome favourable to women, as the experience of Italy indicates.

Female representation in Britain and the United States

In both countries, women made only incremental gains in the 1970s and 1980s. The situation steadily improved through the 1990s. In both countries, the number of women sharply increased in 1992. In 1997, there was the highest ever intake of women at Westminster (120, of whom 101 were Labour and 13 Conservatives). In the 2002 mid-term elections, more American women were elected to the House (59) and to the Senate (13) than ever before. In June 2001, 118 women were elected to the House of Commons and the number of women in the reformed Lords at the same time was 111. In the case of the three elected chambers, women have more often been elected for the more progressive of the two main parties: Labour and the Democrats. The same is true for members of ethnic minority groups (see p. 129).

What explains the under-representation of women in both countries?

There are some common factors and some which apply more to one country than the other:

- Women are under-represented in the 'top jobs' of many areas of national life, from the management of 'big business' to finance, the civil service to the church, the armed forces to the law. In the circumstances, it is hardly surprising if they are under-represented in politics.
- Those who hold political office are often elected by First Past The Post which is less conducive to the election of women and minority groups. In choosing only one candidate, it is sometimes considered better to play safe and choose a candidate unlikely to lose any support.
- Interest in and more particularly opportunity for becoming an elected representative is limited by domestic home-making and child-rearing responsibilities.
- Politics is often perceived as an aggressive and often macho preoccupation and many women might be put off by the hurly-burly, shouting and abuse which characterise some legislatures.
- Discrimination – some people do not wish to see women elected, seeing politics 'as a man's world', with men being more suited to political activity (terms such as 'less emotional' are often bandied about!).
- The fear that women may lose votes, by comparison with male candidates.

What is significant is that in the British Conservative Party, it has often been older middle- and upper-class women on selection committees who have been most reluctant to choose women, a common early question to would-be candidates often related to whether they have any children and who is looking after them. Some local Conservatives have often expressed the view that in choosing a male candidate, they are really getting 'two for the price of one', for the wife of a married man may be able and willing to help on the social side of political activity (staging garden parties and fund-raising events, speaking to local gatherings of women's organisations, etc.), whereas the husband of a political wife may have a job of his own which prevents him from being such a source of support.

In both countries there is a tendency for elected representatives to serve for a long period because of the existence of safe seats. Members serve an average of 20 years in the House of Commons, 12 in the House and 11 in the Senate, according to one study.²⁶ (In America the incumbency factor works in favour of male re-election to the Senate). It is difficult for women to achieve a breakthrough, because the low turnover means that few vacancies are created.

Finally, what can make a difference to the level of representation of women is the use of positive discrimination in some form. Following the 1992 election, Labour used quotas to ensure that there were women-only shortlists in some

constituencies, as a short-term means of redressing the balance. Inevitably, the effect was to raise the proportion of women among new recruits to the following election. As New Labour won a landslide in 1997, it meant that many women were elected. Labour's method eventually fell foul of the courts in the **Jepson case**, but ministers intend to legislate to ensure that in choosing candidates the provisions of the Sex Discrimination Act do not apply. In other words, the use of quotas or other methods of advancing the female cause would be acceptable again, should any party wish to employ it. All main British parties express concern about the level of female representation. There has been increased debate within the Conservative Party as to whether it is appropriate in some way to give it a boost, perhaps even by forcing some associations in 'safe' seats to choose women as their candidates.

Jepson case 1996

In 1995, Peter Jepson took the Labour Party to court, claiming that the process for selecting candidates was discriminatory. He argued that he had been excluded from seeking selection in certain constituencies, purely on the basis of his gender. This was, in their view, contrary to the Sex Discrimination Act, 1975. The court found against the party in January 1996, ruling that the exclusion of men from certain selection contests was unlawful. The decision was, in effect, later confirmed by a judgement of an Employment Appeal Tribunal.

Ethnic minority representation

Ethnic minority representation in Britain is low. Following the 2001 election, 12 out of 659 members come from the black and Asian communities, including 2 Muslims and 3 Sikhs; 21 Jews were elected. African-Americans and Hispanics are similarly under-represented in the 108th Congress, there being no representation of either group (some 72m in the USA) in the Senate and 39 and 25 respectively in the House out of 435 members. Jews (5 per cent of Congress) and Catholics (25 per cent) are better represented than in the past, but not on the scale in which they are represented in the population at large.

Age

Elected representatives still tend to be middle aged, so that those elected usually attain their position only after doing some other job and making a mark in their chosen career. This can be said to provide them with experience of life, but it also means that the voice of young people is neglected, causing some to feel alienated from the political system. In Britain, after 2001, the average age of Conservative members is 48, the figure being slightly higher for Labour (50) and lower for the Liberal Democrats (47). Four years earlier Labour had ten members who were under 30 at the time of the election and a lower average than the Conservatives: 48 against 50. Low Labour turnover in 2001 meant that the overall age was boosted as existing members were now older. In the

new Scottish Parliament, the average age is lower than at Westminster; 45 in comparison with 49.1 (the latter figure is that for the three main parties).

MPs tend to be younger than American Representatives and Senators. To enter the House a Representative has to be 25, a Senator has to be at least 30. The average age of members of Congress is usually in the early 50s, with senators averaging about five years older than Representatives (currently 59.5 per cent as against 53.9 per cent).

Social class: occupational backgrounds

As for the middle-class nature of representatives, in some states this is now more apparent than was once the case. For instance, the British Labour Party evolved as a party to represent working people in Parliament, and in its early years it always contained among its ranks a large trade-union element. From the 1960s onwards, the trend towards middle-class representation grew, with an influx of academics from the universities and polytechnics. In the Blairite party of today there are many members drawn from the worlds of public-sector professionals, teachers and political staffers. The percentage of Labour MPs drawn from a manual working-class background has taken a sharply downward turn, now being at its lowest ever. In its early days, the Parliamentary Labour Party had 83 per cent working-class membership (1918); since 2001 the figure is 12 per cent. Manual workers are but a small minority in the Labour Party, as they are in most countries, even those where socialist parties are strong.

American workers have never been keen to go to Capitol Hill themselves. They never felt the same for working-class representation in the legislature that motivated trade unionists and other working people in Britain at the beginning of the twentieth century, perhaps because feelings of class consciousness were never so acute. More affluent than British workers, they seemed more content to elect representatives of one of the main parties, particularly the Democrats.

Labour's changed composition over recent decades reflects what has been happening in many other countries. Those who dominate legislatures tend to be lawyers, managers and professional workers such as teachers. In North America, lawyers predominate in both Canada and the United States; in Western Europe they are often around a quarter of the total. Teachers are numerous in Western Europe, and businessmen and managers are well represented. Similar patterns apply in Asia, the Middle East and in South America. In communist states, teachers and white-collar employees have tended to replace working men and trade unionists.

The legal background is now less important than it was in America, but still a greater proportion of congress members have a legal background than do MPs.

Law attracts people interested in politics; after all, lawyers work in the law and parliaments make law. Their strong representation is in many ways unsurprising. In particular, law provides a flexible work situation for candidates as they wage their campaign. They can also leave their job with relative ease and return to it as they wish, their experience of having served as an elected representative almost certainly increasing their public visibility and possibly the earnings they can then command. About 40 per cent of members of the 108th Congress are lawyers, compared with around 10 per cent of MPs.

Business and banking are also common backgrounds for legislators. Business people are often members of private or family-owned companies, in which another member of the family can keep the enterprise going whilst their relative takes a place in the chamber. It is more difficult to get on and off the corporate ladder without losing ground to rivals within a large firm. Business people make up about 35 per cent of Congress, and half that figure in the House of Commons.

Overall, congressional membership is more heavily skewed to the middle and professional classes than the House of Commons, which itself is very unrepresentative of the British people. The Senate has sometimes been called a 'millionaire's club', which may be an exaggeration, but the proportion of millionaires and nearly millionaires is high. In the House of Representatives, too, members have generally served in occupations with substantial incomes (well above the national average) and of high esteem.

Education

On average, congress members have a higher educational attainment than MPs, although to make the comparison raises difficult issues about the standards of education in either country. Most congress members have a college degree and many have graduate degrees (70 per cent in the 108th Congress) or some qualification such as a degree in law (JD) or business (MBA). At Westminster, an ever-rising number of MPs have attended a university or – as they were then called – polytechnic. A very high proportion (440 members) of the three main parties have a degree and in particular the percentage of Conservative graduates has never been higher (81 per cent). The Conservatives continue to have a large number of members who have been to public school (109 out of 165), although the Old Etonians are in retreat within the party (15 at present).

Should parliaments be a microcosm (mirror image) of the nation? In particular does the under-representation of women and members of ethnic minorities in Britain and the United States really matter?

In every democracy, the legislative chambers – upper or lower – are socially **unrepresentative** of the nation at large. Indeed, in a democracy it would be

virtually impossible to get an elected house which is a microcosm of society. Election results are at the mercy of the electorate. Moreover, the over-representation of people who are middle aged, highly educated, white and male is hardly surprising, given that the people who come forward for election usually have those characteristics.

unrepresentative

In this sense, untypical of a class. Parliaments do not provide a fair representation of the community at large. In other words, membership does not mirror or is untypical of the characteristics of the persons represented.

In certain respects, many people would be relieved to know that level of educational attainment is higher among elected representatives than the population at large. Members deal with complex issues of public policy and it is essential that they are literate, as it is that they are able to express themselves fluently in speech and on paper. Even if illiterates wanted to stand – which is unlikely – they would probably be unable to cope with the type of work involved. Neither would it usually be considered a good thing if there was an exact representation of people who are in some way inadequate, bewildered or suffering from serious emotional disorders.

More serious, is the under-representation of women and ethnic minorities in Parliament, Congress and other legislatures.

‘Yes! Under-representation matters for several reasons’

It is dangerous in a democracy if groups with less wealth and power are under-represented, not just women and members of ethnic minorities, but also young people and members of the poorest section of the community. If they feel excluded and see their elected representatives as being something of an out-of-touch elite, there is a real danger that they will regard the legislature with some contempt and turn to other forms of political action to get their message across. The election of a more socially representative assembly would strengthen its legitimacy in the eyes of the public, reducing the risk of law-breaking, violent protest and of alienation from the democratic process.

Again, as long as certain groups are under-represented, there are likely to be fewer debates on issues affecting them, and the quality of debate may be poor as many members do not take the matters under discussion seriously. As a result, full scrutiny by the media of the impact of government policy on such groups may be largely absent from the political process.

The election of more women is particularly important, for as a majority group in the country they have long been seriously under-represented at Westminster and on Capitol Hill. Many highly competent people of large minority groups have also been denied the chance to fulfil their potential. Legislatures need the services of the most able people available, but at present much talent goes unrecognised. This is unfortunate, because the more that get elected, the more

role models there are to encourage others of their own type to come forward and see politics as a realistic, attractive career option.

All the mainstream parties talk of their aspiration to achieve a society in which people are able to progress on merit. They claim to dislike discrimination and to wish to encourage equal opportunities. It is therefore hypocritical for the legislature not to reflect these worthy principles in their composition. Achieving more balanced representation in Congress and Parliament would be an inspiring signal to those striving for equal opportunities in other workplaces and institutions.

'No! Under-representation does not matter'

In a representative democracy, we select MPs broadly to reflect the interests of their constituents. To achieve this, it is not necessary for Parliament to be a mirror-image of British or American society. The system is supposed to produce representation of people's political views. It is not essential or realistic to expect that membership will exactly be in proportion to the size of all the various groups within society, from 'teenage Rastafarians to eighty year old organic gardeners'.²⁷

MPs should be able to represent the views of all their constituents, and it is not necessary to belong to a particular group or interest to put a case on their behalf. It was, after all, a male Parliament and Congress which eventually voted to extend the franchise to women. MPs and congress members exercise their best judgement on what is right for the whole community, and to do this they do not need to be socially representative – only to possess an ability to empathise with the needs of all sections of the population. You don't have to inhabit a slum dwelling to appreciate that slums need to be cleared, even if your recognition of the full horrors might be more acute if you do so. Many MPs have taken up the problems of the poor in inner cities, in the same way that Senator Edward Kennedy (born into one of America's wealthiest families) has for years championed the underprivileged. Neither do you need to be a woman to understand that discrimination against women is hurtful, wrong and damaging to society.

Furthermore, women and other social groups are not homogeneous. They do not all possess the same needs and views. Some women are pro-choice on abortion, others are pro-life. They may have widely different views on divorce as well, and on a range of issues their political outlook can be as diverse as that of men. Class, employment, age, locality and lifestyle may be more important in determining political views than gender or race. For this reason, it is impossible to represent all women or minority peoples as a group, even if one wanted to do this.

Above all, what we need are competent and caring people to represent us. The personal ability and party allegiance of any candidate should be the main determinants of who gets elected. To draw attention to irrelevant factors such as gender in deciding on the selection of candidates may be unfair and result in reverse discrimination against the most suitable candidates for the job.

The pay and conditions of legislators

For many years it was customary for British MPs to lament their inadequate facilities. Many of them found that the vast size and splendour of their surroundings were poor compensation for the conditions in which they had to operate. It was common for both members themselves and academic and journalistic commentators to make adverse comparisons with the situation in other countries. On matters of pay too there was general dissatisfaction until comparatively recently, although in recent decades the level of remuneration has considerably improved. In 2002, an MPs had a salary of £51,822, as well as a range of allowances for office help, staffing and accommodation. Some members still often voice criticism of the lack of constituency help they receive, whilst others feel that they could do with more research assistance at Westminster. Most MPs employ a couple of people to help them, and also make use of the services of unpaid research assistants. The lack of office equipment and particularly of information technology services are frequently condemned, for the House makes no central provision for such facilities. Poor facilities are often mentioned by MPs who have had previous experience of the business world where they came to take good provision for granted.

Legislatures in Britain and the United States: a summary

	<i>Britain</i>	<i>United States</i>
Unicameral or bicameral?	Bicameral.	Bicameral.
Size	House of Commons 659. House of Lords 687.	Representatives 435. Senate 100
Method of selection	Commons: direct election. Lords: mainly appointment.	Representatives and Senate: direct election.
Nature of membership	Both unrepresentative: too few women and minorities.	Both unrepresentative: too few women and minorities.
Status of chambers	Commons: significant. Lords: secondary role.	Theoretically equal, but Senate has higher prestige.
Type and role of committees	Standing (non-specialist) for legislation: select for scrutiny.	Standing (specialist) for legislation and scrutiny: select for special enquiries.

Such inadequate rewards and conditions of work were perhaps justifiable when the task of being an MP was widely regarded as being a part-time occupation. Today, however, many members take the view that it is impossible to do two jobs well, and that in trying to reconcile employment in commerce and industry with membership of the House, there may be a conflict of interest. In other words, pay and allowances need to be appropriate for those who wish to work full-time at Westminster, as most MPs do.

It remains the case that, in comparison with other legislatures, elected representatives in Britain are relatively deprived, for pay and facilities elsewhere are often considerably better than those in the Mother of Parliaments. In terms of accommodation, equipment, staffing, library assistance and other amenities, American congress members are notably better placed. Senators have up to 30 staff serving them and Representatives around 25. (Of course, in both cases they service a much larger geographical area than do MPs.) Pay is markedly higher at \$150,000, and perquisites are more lavish in terms of offices, equipment, staffing and other amenities. In particular, library assistance for congress members is far superior to such assistance at the House of Commons. The Library of Congress is the largest in the United States and attached to it is the Legislative Reference Service. Senators and Representatives can benefit from these research facilities, which are far more advanced and much better staffed than the research division of the library at Westminster.

	<i>Britain</i>	<i>United States</i>
Law-making	Commons has main role, Lords does work of revision: most bills pass and impact of process limited.	Key legislative role for both houses, though relatively few bills pass into law: lack of party support.
Watchdog role, investigation	Questions, Opposition and select committees.	Powerful investigatory committees: no Question Time or official Opposition.
Relative power	Loss of power: talk of 'Parliament in decline' and need for reform.	Most powerful legislature in world, though often talk of 'congressional paralysis'.
Pay and facilities	Pay low by European standards: conditions poor.	Generous pay and excellent facilities, especially staff support.

Conclusion

In liberal democracies, governments have often succeeded in muzzling parliamentary powers, and Britain is no exception, for the reasons described. Yet legislatures are not without influence, and can still play an important role. They may not have the power to initiate, lacking as they do the necessary technical competence. But they can play a part in starting up a great debate on policy issues which can be taken up elsewhere, particularly in the media.

Philip Norton has stressed that there needs to be a wider focus than mere concentration on parliament's role in the making of public policy.²⁸ He regards the British Parliament as 'not just significant', but also as 'indispensable'. He points out that legislatures today are multi-functional, their task of 'manifest legitimation' (giving the formal seal of approval) being a core defining purpose. But also in articulating interests, redressing grievances, recruiting ministers, mobilising and educating citizens and acting as a safety-valve when tensions in society arise, they perform an invaluable role.

The experience of America is rather different. It is the most influential legislature in the world, even if at times there has been an ebb and flow in the power relationship it has with the presidency. If the White House and Congress are under the control of different parties, then elected representatives may be particularly keen to curb presidential aspirations.

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USEFUL WEB SITES

For the UK

www.parliament.uk House of Commons Information Office. A useful source of information on many aspects, including lists of women MPs etc. Produces valuable factsheets.

www.explore.parliament.uk Help with resources, including videos, virtual tour of Parliament.

www.scottish.parliament.uk Scottish Parliament. Help with queries and resources.

www.wales.gov.uk National Assembly for Wales. Help with queries and resources.

www.democratic.org.uk Democracy UK. Information on Parliamentary Reform.



For the USA

www.thomas.loc.gov Thomas (named after Thomas Jefferson, the Library of Congress). The congressional site which offers a comprehensive look at Congress in the past and today; useful information about current activities.

www.house.gov House of Representatives.

www.senate.gov Senate.

Both give valuable details about the work of both chambers, reports about current legislation, the activities of congressmen, their conditions etc.

www.vote-smart.org Vote Smart. An easy-to-understand guide to current legislation going through either US chamber.

www.rollcall.com The newspaper read by those working on Capitol Hill: information re. congressional politics, including news and analysis.

SAMPLE QUESTIONS

- 1 Why is the upper house in Britain less powerful than the Senate in the United States?
- 2 Does bicameralism operate more effectively in the United States than in Britain?
- 3 Compare the effectiveness of the law-making process in Britain and the United States.
- 4 Compare and assess the effectiveness of the ways in which Parliament and Congress seek to control the work of the Executive.
- 5 Has the American government more to fear from the scrutiny of Congress than the British government from that of the House of Commons?
- 6 Is it true that the real work of Congress is done in the committee rooms? How does the American committee system compare with that in the British Parliament?
- 7 Why are congressional committees more powerful than those of Parliament?
- 8 Why is Congress a more powerful legislature than the British Parliament?
- 9 Explain and discuss the view that MPs and congress members are subject to very different pressures.
- 10 Compare the background and roles of MPs and congress members. What might an MP like and dislike about the American legislature?
- 11 Discuss the view that senators and representatives are better paid and better equipped to fulfil the tasks demanded of them.
- 12 Consider the importance of socio-economic background when assessing the performance and effectiveness of members of Parliament and of Congress. What barriers prevent the development of a more representative cross-section of the populations of Britain and the United States from getting elected?
- 13 Could British parliamentary reformers benefit from an acquaintance with the experience of the US Congress?

