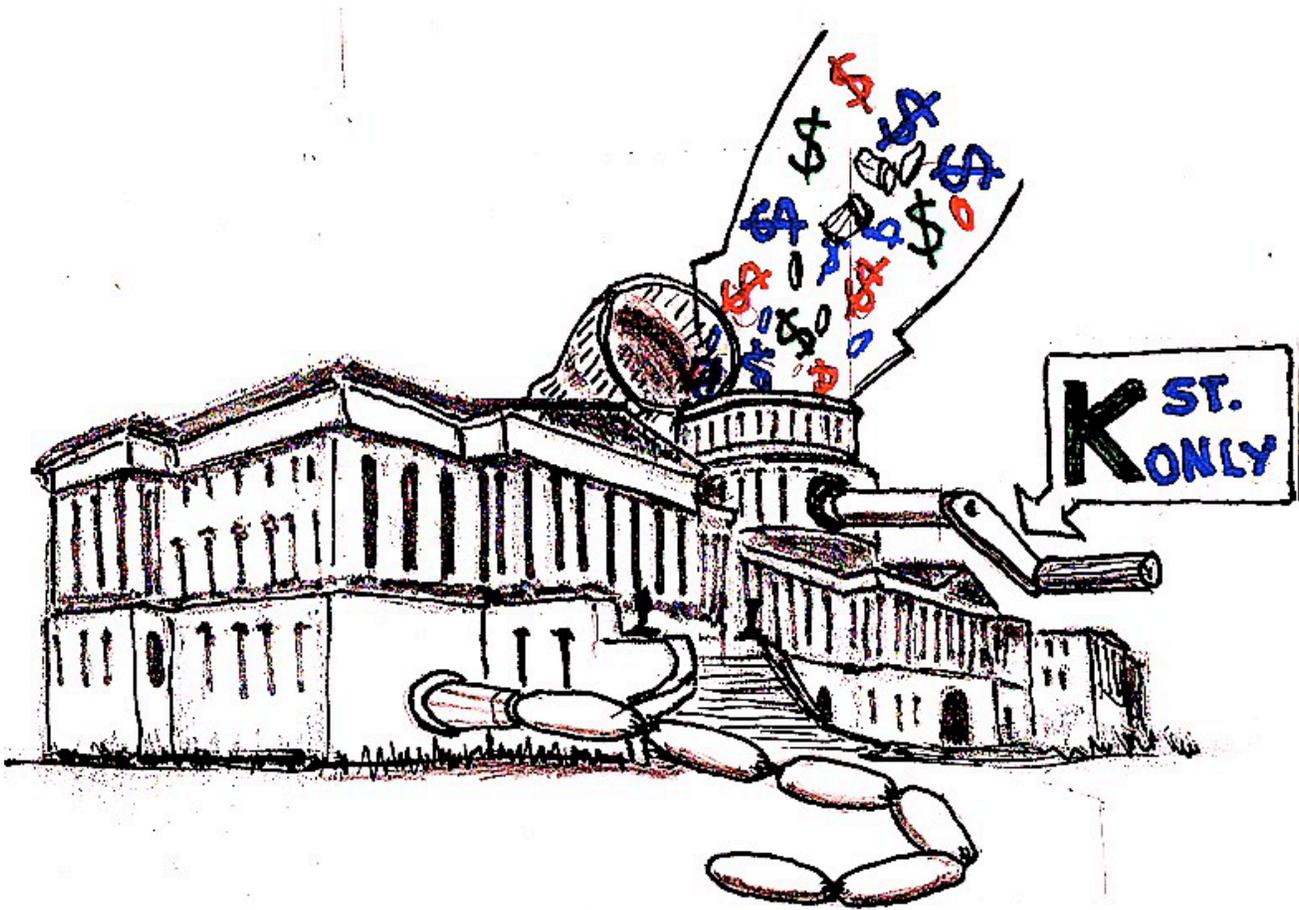


Trends and Costs in Congressional Sausage-Making



There is certainly nothing new in the assessment attributed to Otto Von Bismark that watching Congress do its legislative business is like watching sausage being made. It has apparently never been a particularly smooth or attractive process, as the conflicting needs and desires of 545 legislators are ground in with the wishes and objectives of the White House. What is different, however, is the gradual devolution of this process from the principals to their hired staffs, and from those increasingly amateurish hired staffers to the special interest outsiders who have gradually taken over based on competence and vast sums of virtually uncontrolled outside money from multiple sources. Even more surprising, the ownership of the majority of the large, successful lobbying firms has now shifted away from the ambitious, unscrupulous ex-legislators and senior staffers who still manage them, to a few of the world's largest advertising firms who apparently find them profitable: yet another American business enterprise!

Congressional Job Description

It is worthwhile to rehearse just what the Legislative Branch is supposed to do. First, it is responsible for controlling and underwriting the expenses of not only itself, but of the Executive and Judicial branches as well. Based on the recommendations of dozens of Congressional Committees, each chamber (House and Senate) drafts a) a set of laws that “authorize” the various executive departments, agencies, and courts on what and how to conduct their business, and b) a matching set of “appropriations” which detail just how much can be spent for each aspect of those activities, from personnel levels, to specific projects – including those infamous “earmarks”, the hundreds of “bridges

to nowhere”. The differing bills from each chamber must then be reconciled by “conference committees” before becoming laws to be sent to the President for signature (or veto).

Many of these activities are re-validated every fiscal year (six months shifted from the calendar year) using one-year funding levels called “discretionary” funds!. But a rapidly increasing share of the federal budget is now devoted to programs that have been designated as “entitlements”, under which the government pays “whatever is needed” to cover various specified social programs such as unemployment insurance, Medicare and Medicaid. Hence such programs as space exploration, federal contributions to State public education, and food and drug inspection, can be “dialed up/down” annually, while the amounts spent on healthcare for the poor, for instance, varies automatically with demographics, life span, etc.

But the more difficult legislative responsibilities involve the passage of laws and statutes which essentially deal with the lifestyles and ethical behavior of all Americans, citizens or not, within our borders. These vary from the (two) short-lived Constitutional amendments to prohibit/re-allow alcohol consumption, and the start/stop dates for Daylight Savings Time, to voting age and immigration laws. They also involve the myriad of regulations that control everything from speeds on federal highways, and artificial additives to foods, to federal income tax rates, and legalities of same-sex marriage. Additional measures are required from the Senate to confirm presidential appointees before they can accept and exercise their positions. Some are stalled for years.

Congressional Professionalism

It is clear that members of Congress are gradually becoming not only less familiar with the ramifications of their budget process, but even less competent to deal with the complexities of the various regulatory processes. A recent book, “An Act of Congress” by long-time Washington Post reporter Robert Kaiser spends almost 500 pages detailing the appalling inability of Congress to deal with the intricacies of the Dodd-Frank bill. It was instigated by the obvious need to rein in the financial chicanery that produced our current persistent recession (and a permanent change in US employment opportunities?). Based on the conference committee reconciliation of House Bill HR 4173 and the Senate’s S3217 in the 111th Congress of the US, Dodd-Frank became Public Law P.L. 111-203 when signed by the President on July 21st, 2010.

The entire useful “output” of the Congress consists of “bills” or “acts”, and our senators and representatives manage to produce anywhere from 200 to 600 separate ones over each two year “session”. And it is not unusual for completely separate individual topics to be “tacked on” as “earmarks” to more important bills, thus avoiding separate votes and greater publicity. Hence the hundreds of “pork-barrel” add-ons to satisfy various constituents’ demands on the home front (e.g., a new wing to a local library, a new runway for a local airport) slide through unnoticed by the public and are bartered between the members. It is often the “quid” vote for one bill’s rider that earns the “quo” vote for another, neither of which reflects the primary purpose of the act being passed.

Who Does Congress’s Work?

But the basic issues in the current legislative process go much deeper than the “normal” tit-for-tat bargains. Of far greater concern should be a) who all, with what objectives, actually prepared the language of the proposed new legislation; and b) how many of the legislators actually understood the ramifications of what they were voting for or against.

In today’s environment, it is generally acknowledged that Congressional “staffers” do 95% of the hand

and leg work, while their principals spend 95% of their time raising money for their next election.

Those few “legislative staffers” are involved in all steps of the process, from negotiating the wording, and checking it with experts and special interests, to lining up “co-sponsors” for particular legislation, to say nothing of drumming up enough support to get that draft legislation approved first by the relevant authorization, appropriations, or “ways and means” committee (which control the flow of sausage and which links form). The vast majority of congressional staffers, however, are first-job kids involved in dealing with their legislator’s constituents, from getting flags flown over the Capitol dome (for less than a minute), to arranging tickets for White House tours.

It is important to understand the demographics and the various functions of the legislatively limited staffs supporting each of the 435 Representatives (nominally 14 full-time and a few part-time each) and the 100 Senators (averaging 34 full-time each, but proportioned to their state’s population – which varies by more than 60:1, from 38M to 600K). The members can each decide how many work in their Capitol Hill office, and how many in their home offices. One should not overlook the fact that there are now 315 million Americans of every ilk to be represented, or 720,000 per House member, 3.2 million per Senator – and growing. Only a numerologist would remind the reader there are only 180,000 minutes in a 60hr/50wk work year.

Altogether, then, there are some 12,000 staffers for individual members, at most another 3000 working for the various Congressional committees (topical and leadership). They are backed up by three Congressionally-mandated, professional support agencies: the Government Accountability Office (GAO) with 3500 employees; the Congressional Research Service (CRS), and the Congressional Budget Office (CBO) with another 1000. By comparison, the total professional staff of the White House itself, numbers at best 2500.

A Real Sausage Maker

And for whimsy’s sake, America’s largest sausage manufacturer, Johnsonville Foods (JF), employs something over 1000 Wisconsinites to make 100 million pounds of sausage annually. At a nominal price of \$5/lb retail, the cost of making that much was perhaps \$400M. That company’s officials, and many more of the state’s 5.5 M population, are surely in touch with their eight Representatives, including recent VP candidate Paul Ryan. JF reported only about \$200K in lobbying efforts in 2010.

As noted above, most Congressional staffers are not involved in legislation, nor could they be: most are trying to satisfy their constituents’ needs. Only 5400 of the 12,000 odd staffers seem to have formal titles, and only 1600 of those have the word “legislative” in their title. Surely a good share of those are likely to work for the Committee staffs (of 2500), rather than individual legislators. Furthermore, the average wage of these 1600 “legislative” staffers was \$47,500 in 2009 –hardly an impressive wage, although the 300-odd “legislative directors” earned a more respectable \$72,100. According to the Census Bureau, the average salary of college-educated workers in the DC area (of all ages) was \$93,850.

On the one hand, these titled staffers are all better off than the 75,000 Americans working as slaughterers and meatpackers (BLS Code 51-3023) whose average take-home pay in 2011 was \$25,000. But on the other hand, the average wage for the first working year of law school grads in the depressed year of 2011 was \$78,600 and the median was \$60,000. In any event, no one will ever find cause to accuse Congressional staffers of being over-trained for their serious, law-making legislative duties.

No Experience Needed

Turnover for Congressional staffers is extraordinarily high. According to a 2012 Washington Times article “Most Senate staffers have worked in the Capitol for less than three years... For most, it is their first job ever, In House offices, one-third of staffers are in their first year, while only one in has worked there five years or more... Of the 186 Senate staff assistants that started in 2005, 82% had left by 2011... 13% were in the same position, and the remaining 5% had moved up only one notch”. Clearly none of these youngsters were involved in bringing Dodd-Frank to fruition. It is also pertinent to note that some 300 staffers who started on the Hill in ’05 or ’06, had already left and become registered lobbyists five years later.

The Post’s Robert Kaiser claims that certainly no more than 25 members of Congress in both chambers of Congress had any understanding of how Dodd-Frank would change America’s financial institutions, and those erudite few certainly did not get their wisdom from their staffers. That left the other 500-odd legislators that voted for or against that landmark legislation just following their Finance Committee cohorts, their party leaders, political or ideological, or possibly others influential in assuring their re-election.

What Are We Paying for Our Congress?

Though it might be difficult to certify the competence of America’s lawmakers, the overall annual expenses of staffing, maintaining, supporting, and protecting Capitol Hill (writ large) are surely substantial. According to a quick review of HR 5882 (112th Congress), American taxpayers will shell out about \$4,146,345,000 for some 21,000 full-time employees (from legislators and staffers, to guards and gardeners) to produce at most about 200 specific pieces of legislation in FY 2013. This “Legislative Branch Appropriations Act” contains dozens of specific subordinate appropriations, limitations, requirements, transfer authorities, etc.

Although some of these costs (\$M) might persist if Congress was dissolved – such as the Library of Congress (\$535M, excl. \$107M for their Congressional Research Service), the Government Printing Office (\$126M), the Government Accountability Office (\$514M), and the Botanical Gardens (\$12M) (!), the major operating costs for the House ((\$1,227M), Senate (\$862M), and Joint Committees (\$20M), the Architect of the Capitol (\$417), plus their Capitol Police protection (\$277M), their Congressional Budget Office and Office of Compliance (\$48M), and the structural and grounds maintenance of their buildings (\$430M!) could be largely eliminated – amounting to an annual marginal cost of \$3,120M for the Congress itself.

What is so alarming, however, is that it seems apparent that the major inputs to these 200-odd pieces of legislation do not originate from the Capitol Hill Sausage Complex. Many of the bills are edited versions of draft documents provided by the White House – supporting the age-old slogan about the legislative process that “the President proposes, but the Congress disposes”. But most of that editing is instigated by interested parties not on the Government payroll. Enter the lucrative big business world of Capitol Hill lobbyists.

The Real Movers and Shakers...

It is important to recognize the breadth of the lobbying business in influencing both the legislative output of the legislators themselves, and the re-election of those legislators. Both lobbyists, generally law firms, and their first cousins, trade associations, can work openly to “adjust” the language of a piece of legislation being prepared, strongly urge yea or nay votes, and broker quid pro quo linkages

between various legislators. They can also “donate” to either, or both, political party, to specific re-election campaigns, and urge their “clients” and/or their political action committees (PAC’s) to do so, or they can underwrite or encourage support for the new Super-PACs which run “independent campaigns” (mostly TV ads) for or against existing legislators, or their potential primary opponents.

According to the most authoritative source (the Center for Responsive Politics, and their “OpenSecrets.org” website), there are some 12,400 “active” registered lobbyists focusing on federal legislation, and they and their support staffs (not registered) spent \$3.3 billion of their “clients” money in 2012. According to the (required) “official” records of lobbying visits to key officials, there were over 106,000 visits to Capitol Hill (House and Senate) during the 153 weekdays that the Congress was in legislative session in 2012, plus roughly 25,000 total visits to all the major federal agencies such as HHS, DoD, EPA, DoT, DoAg, DoE, and Treasury during their 261 business weekdays.

Of that \$3,300 million spent by lobbyists, some \$2,008 million came from the twenty top industry clusters (out of 121). Among them, Pharmaceuticals & Health Products; Insurance Firms; Hospitals & Nursing Homes; Health Professionals; and Health Services & HMO’s together accounted for \$628 million. By comparison, Business Associations; Securities and Investment; and Commercial Banks kicked in only \$331 million. Much of this money was spent by hired lobbying firms.

The “top 20” lobbying firms along Washington, DC’s infamous K Street took in some \$355M in 2012, spent mostly on the salaries and office trappings for former legislators and staffers — making several times their former government salaries — to “chat up”, “help”, or “advise” their successors. And most of them (or their minions) regularly attend the late-afternoon “fund raiser” parties held by their replacements, each of which requires a suitable campaign donation for admission.

...And The Big Conglomerates...

There are clearly some connections between these lobbying outfits and the 3000-odd old-fashioned PACs: one half operated by: their concerned companies (Honeywell, ATT); industries (realtors, beer wholesales); business associations (bankers, auto dealers); or unions (pipe fitters, teamsters); the other half for individual issues or candidates. Few of these seem to contribute more than \$1-3M annually to their candidates of choice, but all of which identify their donors.

Far more threatening are the mystery gorillas now on the National Influence Stage, sanctified by one of the Supreme Court’s worst decisions on record, referred to as “Citizens United” (vs the Federal Election Committee that doubted their legality). These “Super-PACs” cannot donate directly to candidates, parties, or PACs, but can raise endless sums of money from undisclosed sources to stump for any causes, parties, and candidates as long as they don’t collude with them. In the 2012 election cycle, only two years after their legitimacy was authenticated, some 1300 new partisan groups had raised almost \$830M, and spent \$610M of it, primarily on TV attack ads. The influence of these new secretly-backed “super lobbies” on legislative objectivity is simply undeniable, particularly on the local primary processes where legislative sinners can be eliminated from further re-election by 2-10% of their local electorates.

...And the 3-Tiered Political Party Organizations

Many Americans also donate to any of the four levels of party activity. In the 2012 election cycle, \$2.1 billion went to the Democratic and Republic Parties with interests from presidential to village sheriff levels, \$725 million to the National Committees, focused on the White House, \$340 million to the House Campaign Committees, and \$360 million to the Senate Campaign Committees. Collectively,

they took in \$3.4 billion, divided almost exactly evenly between the parties.

It would not be unfair to ask, albeit as a loaded question, who elected Paul Ryan, head of the powerful House Budget Committee, to his 8th term in Congress from Wisconsin's 7th District (not including Johnsonville), after running virtually unopposed for the prior seven terms? Well, he "raised" \$9.9M, while his first well-funded opponent raised \$2.2M. Ryan raised over \$3.5M from "individuals" of which \$600K came from "small contributors", many presumably from within his own district, but the other \$2.9M from "large contributors". At least 70% of the latter appear to have come from "out of state".

Ryan got another \$1.3M from other ordinary PACs' donations to his campaign committee, but the clincher was an additional \$4.9M from his own separate "Prosperity PAC", which supported not only his own campaign, but those of other sympathetic candidates in both House and Senate, thus encouraging their support of his causes.

In fact, the other seven representatives from Wisconsin together spent just about as much as Ryan; only 2.5x as much as their collective opponents; and 66% of their donations came from within Wisconsin. Clearly, compared to his compatriots, the powerful committee chairman was re-elected by national political machines.

The money trails actually differ significantly between House and Senate, with House elections costing some 60% more than their Senate counterparts: in 2012 over \$1,100 million was poured into 435 House elections, and nearly \$700 million into 34 Senate races. In fact, the Congressional elections involved 30% more total campaign funding that did the re-election of President Obama (\$1.3+ billion). House candidates got 64% of their money from "individuals" (mostly "large donors"), the rest from regular PACs, while Senators got 85% of their funds from those wealthy individuals. (The impact of "Super-PACs" is not included here.)

Better the Devil You Know...

Of additional interest, the monies poured into re-electing 443 incumbents to their House and Senate seats came to almost \$970 million, while \$400 went to their 959 challengers (!), and the 622 starting candidates to fill the relatively few "open seats" collected \$310M. But the basic concern here is that the average incumbent senator received almost 6 times as much campaign funding as any of his/her would-be replacements (\$11.9 million vs \$2.0 million), while the typical incumbent Representative can count on 5 times as much (\$1.6M vs \$0.3M). So not only does ridiculous "gerrymandering" of voting districts make it difficult to unseat incumbents (or parties), so does pandering to the "known" legislator over the "unknown" aspirant. (However, the ability to influence the all-important primaries, prior to the elections, is not illuminated here.)

Getting Our Money's Worth?

It is beyond the scope of this superficial analysis to accurately project the total costs of our American legislative system, but informed guesses are illuminating:

Annual marginal "operating costs" of Capitol Hill (Congress) = \$3120

Annual Lobbying Costs = \$3300

Re-election costs to Individual Donors = \$1100

Re-election costs to Regular PACs = \$ 440

Re-election costs to Party Campaign Committees = \$ 600

Re-election costs to top-level Party Committees (est) = \$ 180

Re-election costs by Super-PACs (est) = \$ 200

Total \$8,940,000,000

It would certainly not be unreasonable to hazard a guess that Americans spend nine billion dollars a year to support their national Legislative Branch, and that probably two-thirds of that is raised from special interest groups of some kind, not on the federal payroll. If, in fact, the Congress's primary output is 500 "acts" of 320 pages each, and the GPO prints 200 copies of each, the output weight is about one million pounds. And the unit cost of Congressional sausage is now approaching \$10,000 per pound. On the other hand, it is only \$36 per American man, woman, and child.

For whatever this is worth, The Government Printing Office (GPO) bookstore will sell you a copy of the 4-volume, 1850-page 2013 President's Budget Document, for \$218 (+ postage), or roughly \$3.50 per pound, but that is essentially printing costs only, and that may be subsidized. Nevertheless, the cost is surely in the preparation, not the printing!

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