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Walach's *Why Congress* and the Realities of Congressional Government

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Introduction

The structure of American government put forward by the US constitution has acted as a cornerstone of liberal democracy worldwide since 1789. It is thus unsurprising that both within and beyond the Union, the balance of power between the three branches of government has been in constant contention. One approach to this debate has been popularized by works such as Phillip A. Walach's "Why Congress," in which the author employs a historical analysis to showcase that a 'Congressional-centered' government is best able to outline and respond to the issues of American society. This theoretical framework contends that the nature of debate and deliberation with which Congress comes to resolve issues means that it is able to deliver results that are comprehensive and thorough, unlike any other body. Additionally, the size of Congress entails a diversity of opinion and interest, meaning that Congress is best able to model the nation's diversity. The competing theoretical approach is one that recognizes a genuine need for the presence of executive power encapsulated by the Office of the President. Thinkers on this side of the question outline that the executive branch is fit to handle a different type of issues, and they often question the true degree of representation to the population offered by Congress, brought about by factors such as party discipline.

This paper seeks to address the extent to which the concept of a Congressional-centered government can be considered a superior form; do believers in this form of government such as Walach adequately address not only the pathologies of Congress, but also the need for an alternative, executive manifestation of power in government? It is on this dichotomy that I draw my thesis: Congress cannot be placed at the top of American government because of its incapacity to swiftly respond to challenges, its lack of clear accountability with the populace, and a set of confounding influences that impact not only the effectiveness of its discussive nature, but also the true degree of representation of national interest. I maintain this thesis by first over-viewing improper assumptions from the believers in Congress, with particular reference to Walach's reasoning. Part II then presents a key historical case study that displays the critical importance of the presidential office before also addressing contemporary challenges that arose to bedevil Congress' effectiveness further. I finally arrive at an evaluative conclusion, suggesting important further areas of study.

I. The Case for Dominant Congressional Governance

A. The Civil Rights Act

Walach builds his theory of Congressional supremacy largely on the case of the Civil Rights Movement and the associated Civil Rights Act of 1964. For Walach, Congress played a crucial role in promoting civil rights whereby representatives and senators engaged in elaborate negotiations to craft a pioneering bill that promoted social justice and would underscore the unique role of Congress in shaping and forming the nation's policies and public discourse. In this comprehensive democratic process, substantial social change was enacted which serves testament of Congress' ability to pass meaningful legislation and progressively transform American society. To Walach, perhaps only a body with such diverse range of perspectives and expertise could have orchestrated such change. But what exactly did Congress do in this effort? I sought to investigate Walach's rationale closely.

Through the process of debate, Congress allowed for a smooth and nonviolent adoption of Civil Rights despite filibusters and repression from the South. As opposed to the brutal backdrop of the Civil War a hundred years prior, there were no 'military occupations' to tame the uncooperative pro-segregationist South and "20th century's most momentous, foundational change in social relations" took place with remarkably little social strife or violence (Walach, 2023; 70). By giving the Democratic South a voice in Congress, the opponents of the civil rights reform were not driven to extra-legal extremism (Walach, 2023; 72). As the author later notes, "A well-functioning legislature is indispensable to ensuring that in the process of navigating social changes, no group is driven to desperation" (Walach, 2023; 93). Curiously, Walach contends that the process of Southern senators' filibusters that delayed the process of passing the bill was necessary for the purpose of smoothing the 'politics of the issue' in a way that would eventually become better accepted by society (Walach, 2023; 71). This is quite feasible, because this process would have both smoothed the most radical aspects of the legislation as well as given some time for the wider public to familiarize itself with the bill. I accept that in some ways, the filibusters of the south directed all of the Senate's and indeed the country's attention on the issue of segregation playing out in Congress.

Walach contends that party competition effectively infused both parties' dialogue with civil rights:

"It was members of Congress who reacted most urgently to the groundswell of energy generated by the Civil Rights movement. Both Democrats and Republicans felt intense pressure to establish themselves as the party of Civil Rights, leading to virtuous competition between them" (Walach, 2023; 71).

Party competition and the resulting "legislative maneuvering" (Walach, 2023; 77) meant that regardless of party position on the matter, the topic of civil rights had to constantly be in focus and in discourse. The democrats under President Kennedy were forced into action circa 1963 not only by the developments of the civil right movement that mandated state response, but also by the electoral threat that the Republicans were posing in more anti-segregationist Democratic constituencies (Walach, 2023; 77). There was even a "Southern Strategy" movement by the conservative minority of the Republican party to appeal to disillusioned and segregationist Democratic voters in Southern States, which eventually did lead the Republican party to swing some of those states (Aistrup, 1996). Ultimately, Walach contends that this competition for anti-segregation votes inevitably led to cooperation in Congress as liberals within both parties realized the difficulty that was to come in defeating Southern opposition (Walach, 2023; 77). With time, robust social movements including the involvement of multiple civil rights groups and trade unions such as the United Auto Workers joined congressional efforts into mobilizing the electorate, leading into Walach's next premise.

In the wake of Kennedy's presidential victory, Congress was responsible for moving civil rights developments forward in isolation from the executive branch. Demoralized by the tedious and inconsequential congressional developments in civil rights reform circa 1959-60, and under an incentive to keep good rapport with Southern Democrats, President Kennedy vowed to not promote dynamic change in civil rights legislation (Walach, 2023; 75). Congress, however, remained responsive to the social dynamics pertaining to civil rights by passing the 24th amendment to the constitution in 1961 as a result largely attributable to activism from groups such as the Freedom Riders at the turn of the decade. Recognizing Kennedy's absence from the Civil Rights movement, congress took the baton under Representative John

Lindsay in 1963 (Walach, 2023; 76). Henceforth, the pursuit of the two-thirds supermajority as a means of overcoming Southern filibusters was not only a democratic cliché, but also helped unite the population's sentiment around the issue. Walach submits here that congress was particularly effective in its penetration of public opinion in the crucial Midwestern and Western areas of the country by, for instance, recruiting America's churches to persuade conservatives (Walach, 2023; 71). These processes isolated southern democrats in their defense of segregation, practically dooming their efforts of resistance.

B. Limitations of and Improper Assumptions about Congress

I devote this section to a scrutiny of the assumptions about the nature of congress as well as the omission of relevant details behind the Civil Rights Act that Walach falls prey to in his analysis.

Downplaying the importance of the executive branch, and in particular of the president, is where the limitations of Walach's theory begin. Walach rejects the significance of Lyndon Johnson, for instance, in the achievement of civil rights; to him it is "a grave disservice" to attribute the overcoming of the "challenges of integration" to the mere "greatness of the president" (Walach 2023, 71). This conveys to me that Walach would dismiss the role of the president in this effort no matter what their contribution would be, out of an insistence for a mechanical collectivism that instead grants praise to society altogether (because Congress is for Walach a microcosm of society). As a Senate Majority Leader, Johnson guided legislation through the Senate to play a key role in the passage of the early Civil Rights act of 1957. While this act is of little reference today, it was the first significant civil rights legislation since the reconstruction era (Dallek, 2005). Secondly, after Kennedy's return to the issue of civil rights following June 1963 (Walach, 2023; 73), Johnson set out to finish his predecessor's ambitions and deliver the bill. He connected emotionally with the nation and framed the civil rights issue as something demanding immediate attention (Dallek, 2005). Behind closed doors, he engaged in negotiation with Southern Congressmen. While there is much to be debated about presidential contribution to the civil rights reform, Walach is incorrect to dismiss this influence. He acts as if the achievement of civil rights reform was delivered solely by Congress,

casting questionability on his insistence that the Civil Rights Movement was a display of Congressional effectiveness.

Similarly to a downplayed role of the executive branch, I submit that Walach's theory might be suffering from a reverse causality error whereby it is the social movement itself, and the activism and mobilization of the populace itself, that led to developments on the matter of civil rights within congress – and not necessarily vice versa. Just like the American Civil War and the resulting reforms were largely motivated by large-scale coordinated social activism against slavery, the Civil Rights reform of only a century later cannot be boiled down into a unilateral influence of Congress on the sentiment of the people. In fact, in the mid-19th century, Northern abolitionist Republicans believed in a “Slave Power” conspiracy that was to control the government with the goal of extending slavery and providing access to valuable farm land to wealthy slave owners (Tappan, 2019). The Civil War was a war within a population split into two philosophies, and it was largely the popularization of Black American rights throughout the succeeding century that allowed for a significantly less invasive process of adopting Civil Rights later on. To me, this is actually compatible with a reactionary image of Congress portrayed by Walach; an image of Congresspeople motivated by the popularizing feelings of their constituents as opposed to by noble visions of equality. As mentioned, Walach does utilize the element of party competition and the need for a supermajority to display the Congress' agency in advancing the issue, particularly around the West and Mid-West. But the majority of the virtue that Walach grants to Congress of the early 1960s lies in maneuvering the legal roadblocks that come with altering a constitution in a way as grand as what was intended. In truth, the extent to which Congress propels discourse may be overestimated by its fanatics – especially when compared to educational institutions, the media, and the entertainment industry.

The reverse causality error of Congress' effects on the society around it goes hand in hand with Walach's fallacy of a wishful determinism with which Congress brings about change. Walach speaks to the successful efforts of building a congressional coalition, attributing it to figures such as Mansfield Humphrey, and Everett Dirksen (Walach, 2023; 82). The consideration I bring here takes the form of the question: what if

the three leaders had not been equally effective in what he sees as mobilizing the public and building the coalition; what if the constitutional roadblock proved too grave for the effort? It is clear to me that Walach covertly views Congress as more of an enabling body than one whose function is necessarily benign. In reality, there is nothing deterministic about the role of Congress – its effectiveness is based on the effectiveness of the people that constitute it. Walach does say that a key feature behind the eventual passing of the Civil Rights Act was “respecting the distinctive traditions of the House and Senate” (Walach, 2023; 92) – but this speaks more to the positive question of *what do we do with Congress?*, rather than a normative *is Congress good or bad as an institution?*. Following from this, there is no default effectiveness with which Congress can pass social reform like the Civil Rights Act. And it is perhaps for this reason that a key feature of Madison's view of Congress was the necessity for a separation of powers and the balancing effect that the executive branch has on the legislative, and vice versa. For this reason alone, the office of the president is critical in Madison's worldview. The next section deals with the need for presidential-executive power beyond the matter of theoretically mediating legislative authority; it deals with a real-world case study.

II. Kennedy and the Need for Presidential-Executive Power

A. The Cuban Missile Crisis

The Cuban Missile Crisis began when American U-2 spy planes discovered Soviet ballistic missiles being stockpiled in Cuba, with direct proximity to Florida. This posed a large threat to the United States as it meant that the USSR could threaten the majority of the nation with a nuclear blast. During this crisis, the US raised its Defense Condition level to DEFCON 2, signifying the second highest level of readiness (and, accordingly, of nuclear tension [Hankins, 2023]). Throughout the crisis, President John F. Kennedy demonstrated the critical role of the executive branch in handling imminent threats to national (in fact international) security.

The delicate and rapidly escalating nature of the Cuban Missile Crisis displayed the importance of rapid decision-making, the kind to which the executive branch is best tailored. As opposed to having to spend

much critical time on the process of debate and deliberation in a wider, bureaucratic body, Kennedy took initiative to quickly establish a naval blockade (Encyclopedia Britannica, 2018) and confer on immediate steps with a new Executive Committee of the National Security Council (Lindsay, 2012). Both of these movements were done with more haste than Congress could possibly be capable of. In Congress, a similar process would involve multiple stages, including introduction, referral to committee, committee action, referral to full body, floor debate and vote, conference committee, and finally the desk of the President (Oleszek, Rybicki, & Heniff, 2019). The Congressional process was designed with detail and deliberation in mind, and is simply inadequate for the purpose of crisis management. For this reason, times of challenges to America's security are particularly illustrative of the need for a fast-responding office of the president. The need for executive power becomes apparent when the two events under scrutiny in this paper are directly compared. The Civil rights movement was a long process of societal change through activism and discourse. The Cuban Missile Crisis, however, was an immediate emergency that required swift action, much more tailored toward the office of the President. Executive power is effective in fast and decisive crisis management by wielding ability to act quickly and utilize constitutional military and intelligence competencies to avoid direct military confrontation.

Another important feature of the executive branch is the potential for negotiating power and representation through accountability. During the Cuban Missile Crisis, Kennedy engaged in direct communication with Nikita Krushchev. This would have been immensely difficult if not impossible for Congress, as a body of hundreds of officials, to replicate. Even the speaker of the House of Representatives, a spokesperson for the legislative body, cannot be substituted for the president here. As an appointee of the majority in the House, the speaker is not entirely representative. Furthermore, the Speaker does not have supreme autonomy with regards to the movements of the legislature in the same way that the president does with the executive branch. As a result, the president can take accountability for American foreign policy; he has control over it. Kennedy's authority to engage in diplomatic negotiations and make commitments on behalf of the United States demonstrated the importance of a strong presidential role in mediating international affairs. While

some historians believe that the spirits of individuals in Congress had a meaningful effect on the attitudes of actors on both sides of the Iron Curtain during the missile crisis, other experts dismiss the role of Congress to a “zero” significance considering all of Kennedy’s actions, including ones involving The ExComm, omitted congressional participation (Hulme, 2021).

B. Anachronism in the Role of Congress

I dedicate this section to a discussion that seeks to inform the changes that have occurred to America’s society, politics, and economy in the last several decades, and I submit that these changes have bolstered the importance of the executive branch in the contemporary world. As the digital revolution has profoundly complexified the world – both by creating new challenges for the government to address and by simply increasing the population, the need for the competencies and qualities endowed upon the executive branch has increased.

Firstly, Congress of the 1960s was much more unilateral in opinion than Congress today. As Walach himself outlines, the Republican party of then did not have profound conflicting groups in Congress and was therefore able to collectively undertake a unilateral anti-segregationist movement. Even the conservative wing of the Republican party “sought to position their “Party of Lincoln” as the leader on civil rights” and, since the party’s congressional delegation entirely lacked Southerners leading up to the early 1960s, the “banner of racial progress” was taken up without fear for electoral backlash in home districts (Walach, 2023; 76). This is incompatible with today’s reality of congress which accommodates not only a myriad of discordant interests groups but also of potent external influence on the matters being discussed and on representatives’ votes. Democrats and Republicans are further apart ideologically today than at any point throughout the last 50 years, and both parties have significantly diverged from the center (DeSilver, 2022). This ‘middle ground,’ where moderate Republicans and Democrats could previously find compromise on contentious issues, has vanished. On top of this, the confounding influence of lobbying and external interest groups has intensified. Interest groups spent \$4.2 billion lobbying federal lawmakers in 2023, led by pharmaceutical and health product industries (Chaidez, 2024). Throughout the 2000s, the amount spent on

lobbying Congress and associated federal agencies more than doubled (Raphel, 2014). This sharp rise of lobbying and interest groups in Congress set the stage for the modern iteration of pressure politics, whereby the contents of legislature have become significantly less representative of the true requirements and needs of the American people. Those of disadvantaged groups whom cannot afford powerful lobbying firms are left most unrepresented. This unfortunate straying from pragmatism and proximity to the issues of the American society by Congress is supported in the fact that Congress is no longer perceived to best account for the interests of the people (Pew Research Center, 2023).

A quickly globalizing world has increased the need for accountable representation in an age of international trade. The effectiveness of a single agent, the president, as the representative of the United States has been put forward earlier in this paper. As the world becomes more interconnected, with world leaders representing their nations on regional and global summits, the need for this agent that will accountably represent American government increases. Not only this, but also consider that the rapid development of technology – particularly in communication and the realm of social media – has made the president more visible and influential in the public sphere. The ability to communicate directly with the public through various media channels allows the president to shape public opinion and garner support for policies – Joe Biden's campaign around the Inflation Reduction Act is just one example. A complexifying world has also meant that the power and competencies of the federal government have been increasing. This expansion has been driven by factors such as The Great Depression, later the Civil Rights Movement, and most recently the digital revolution with acts of congress such as the Patriot Act that profoundly increased the competence of the executive branch (US DOJ, n.d.). This means that the jurisdiction of the president has increased, and the role became even more important in overseeing and regulating the American political economy.

Conclusion

Why Congress acknowledges the dichotomous ideas of Wilsonian versus Madisonian Congress, defending the latter throughout. A Wilsonian perspective is comparable to that of many European parliaments, where majority parties tend to dominate decision-making throughout their terms. Here, compromise and debate between parties is less emphasized and the legislature is deemed to prefer a more streamlined, unified government voice. On the other hand, Walach's defense of Madisonian Congress rests on the assumption of the benign effects of a plurality of interests and the subsequent debate that this entails. This view of Congress is one that, in a stark contrast to Wilson's, compels accommodation and compromise within the legislative body. Wallach submits that Congress allows for a 'republican' character of government, suggesting that Congress can arrive at solutions to even the nation's most complex problems through robust debate and deliberation. These perspectives are common among proponents of congressional-centered government. Unfortunately, as section II.A of this paper outlines, the efficacy of the Congressional process has been compromised as a result of the changes in America's political economy throughout the recent three decades that have led to severe interplay between legislation and external interest; be that private or foreign. The institution itself thus cannot be afforded the level of trust that proponents of Congress would wish for, and the executive branch must play an important role in balancing some of the weaknesses of the institution. The case study of the Cuban Missile Crisis addresses some of those key weaknesses, such as the inability to act swiftly upon imminent threats to national security. It acts as a reminder that there is a sharp distinction between a longitudinal process of lawmaking and hasty crisis management. Closely examining the effect of an increasing public political participation on the effectiveness of Congress could prove one worthwhile area of further inquiry. Alternatively, a rethinking of the influence of external agents on the functions of Congress could move us closer to Wallach's world; a world where the interest of the American people is prioritized.

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