

The House of Commons avoids the “gridlock” to which the US legislative process is prone, but at the price of inhibiting rigorous scrutiny of the UK executive’ – Discuss

This essay will examine how two institutions, namely the House of Commons and Congress, which are supposed to serve the same process, differ widely in the way they implement and scrutinise proposed bills. The essay will examine the relationship between the legislature and the executive; the importance of the party; and the constitutional arrangements which give each legislature very different characteristics.

The French philosopher Montesquieu said that there could be no democracy unless the three branches of government, legislature, judiciary and executive, were separate bodies, which acted as checks upon each other; preventing concentration of power in one branch. Alexander Hamilton, one of the Founding Fathers of the US constitution, shared Montesquieu’s opinion and famously said that “[we] must counter ambition with ambition” . As a result the US constitution contains a system of separation of powers, designed, at least in theory, to ensure democracy through equally powerful branches of government. The term ‘gridlock’ refers to a situation where legislative decisions are effectively halted because there is so much contention and too many interests to satisfy. The separation of powers creates a situation where gridlock is becoming increasingly common.

The Congress is a bi-cameral legislature consisting of the House of Representatives (435 members) and the Senate (100 members). Congress has profited from a division of labour through the creation of Congressional Committees. These Committees are where the real decisions are made. “So that it is not far from the truth to say that Congress in session is Congress on public exhibition; whilst Congress in its committee-rooms is Congress at work.” – Woodrow Wilson . A \$1.7 trillion annual budget and congressional decentralization through the committee system allows lawmakers to specialize and make decisions on a wide range of complex topics. This is very different to the House of Commons (HoC), which has a much smaller budget and a less rigorous committee system. The rigorous nature of the Congressional committee system (CCS) could be seen as advantageous since it allows detailed legislation on potentially complex topics to be written. However, the composition of the committee may not be unbiased, and once the legislation has been drafted it must be ratified by the rest of Congress.

Since the CCS is so important to the US legislative process the membership of the committees requires careful consideration. The composition, range of interests, and the scope of their policies are determined by the members. If a committee were full of like-minded people that were not socially representative of the people the policies concern, then it is feasible for the democratic process to be undermined. Furthermore, the quality of the resulting bill is highly dependent on the ability of the committee members. To counter these potentially negative influences the bill must be ratified by Congress once it leaves the Committee phase.

With 535 members of Congress it can be very difficult to obtain the necessary consensus for a bill to be ratified. Party discipline is not as strict as in the UK. This means that even a party majority in both chambers of Congress cannot guarantee the safe passage of a bill. It could therefore be said that Congress is potentially less partisan than the HoC, and as such is capable of making decisions based on the quality of the bill instead of partisan alignment. To further complicate the situation, the president also has input in the legislative process. The president can use his power of veto to stop a bill passing through Congress. Recent presidents such as Clinton and Bush senior have made strategic use of the veto. The president can also put bills before Congress. However, it is much more difficult for the president to set a specific policy agenda than it is for the prime minister.

As a result of the separation of powers (SoP) outlined in the US Constitution, Congress acts as a check upon the executive by scrutinising and, where necessary, re-drafting presidential bills. Furthermore, the president acts as a check on Congress by his power of veto. The SoP is continued within Congress via a division of labour through the CCS, which allows detailed decisions to be made on complex topics, before the bill is returned to Congress for ratification. Based on this it could be argued that Congress acts as an effective legislative body because it ensures good quality bills are passed. For example, Clinton’s healthcare reform plan of 1995 was rejected because it was not thoroughly thought out. In this instance, Congress prevented bad and costly legislation affecting the lives of millions. However, the legislative process is clearly a complex and contentious one, with many actors vying for influence and power. At times this can limit the responsiveness of government and the effectiveness of the executive to deliver its policy platform (manifesto), and lead to Congress being gridlocked. This is a major difference between the UK and the US, since the UK government are voted in with a mandate to fulfil their electoral manifesto.

The HoC does not suffer from gridlock because the heart of UK politics is very different from US politics. Firstly, the constitutional arrangements in the UK are very different. Unlike the US, which has an entrenched constitution that outlines a separation of powers (SoP), the UK has an uncodified constitution, which does not outline a true SoP. The uncodified nature of the constitution, combined with the executive being a part of the legislature, gives rise to a system that gives great flexibility and legislative power to a government with a strong parliamentary majority.

The House of Commons (HoC) is also part of a bicameral legislature, the other half being the House of Lords (HoL). There are 659 members of the HoC, who represent the different constituencies from around the country. General debates, questions to and statements from ministers, and certain stages of legislation take up full

meetings of the House , but like Congress, much work is done in committees.

There are two types of committee, namely standing committees and select committees. Standing committees consider the technical aspects of the legislation. After a bill has passed through the full House twice it will return to the standing committee for a clause-by-clause review. This would appear to be a very thorough method of reviewing proposed bills, but the composition of the committee greatly reduces the scrutiny of this process. Each committee is selected to reflect the balance of parties within the HoC. This means a government with a parliamentary majority will usually have a majority on the committees. Since party discipline and cohesion are very strong in the UK, the government can exert great control over the committee review process by forcing its members to act in a certain way; thus avoiding the possibility of gridlock.

Nevertheless, the HoC can scrutinize the executive through Select Committees, which consider general political issues that are wider than a particular piece of legislation. Select Committee (SC) members are selected to serve for a Parliamentary session, and are sometimes chaired by an opposition MP. Involving the opposition in the system is an attempt to counteract the power of the government. Unfortunately, this is not enough to weaken a strong centre with clearly defined party cohesion, which is a principle that runs through the heart of UK politics.

Party cohesion is maintained by the party whips who give members instructions on how to vote and ultimatums and if they act differently. Conventions make up a large portion of the UK's uncodified constitution. One such convention, namely collective ministerial responsibility, states that Cabinet members must publicly defend any government policy, even if they privately disagree. To 'get its business through' (get bills ratified by the HoC), which only requires a simple majority vote in Parliament, the government can enforce such conventions and party rules to ensure its members vote accordingly.

As such, when the HoC is dominated by a strong government there is not much opportunity for Parliament to improve legislation independently of what the government will accept. This means that most government bills pass as they were originally drafted. It could be argued that bad policies can result because it is so easy for a strong government to pass legislation, whereas it is harder in the US to pass ill-thought-out legislation because the process is much more rigorous.

But, the US Congress can appear unresponsiveness at times because of the level of scrutiny. The flexibility of the UK legislative process, combined with the 'organic' nature of the constitution, empowers the government with the ability to make decisive policy choices that can have an immediate effect on the general public. For example, post 9/11 the government was able to pass anti-terrorist legislation very quickly. Other notable examples include the devolution of power to Scotland and Wales. Such fundamental institutional changes would have been much harder to achieve in the US, because so many interests would have to be considered.

In conclusion, it can be seen that both institutions have positive and negative aspects with their approaches to the legislative function of government. However, it is unfair to say that the HoC is any less effective at scrutinising the government than the Congress. The real answer is that both institutions place an emphasis on different areas of the legislative process; the Congress placing much emphasis on scrutiny; whilst the HoC places more emphasis on effective delivery of policy. The result is two institutions which go a long way to ensuring democracy, but will only ever be truly effective at all aspects of the legislative process if they synthesise their good qualities together.