

INSIDE CONGRESSIONAL
COMMITTEES

FUNCTION AND DYSFUNCTION
in the
LEGISLATIVE PROCESS

MAYA L. KORNBERG

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WHO ARE THE WITNESSES?

Chapter 1 provided an understanding of how witness panels are created, and this chapter surveys some basic trends in the kinds of voices committees hear from. As with other components of contemporary hearings, this is an underexplored topic. Over three decades ago, Marc Landy, Marc Roberts, and Stephen Thomas evaluated the quality of debate on environmental policy in the 1970s and 1980s.¹ They used a normative unstructured framework to assess how media coverage, Environmental Protection Agency (EPA) statements, and congressional debates informed policy makers, and they concluded that environmental policies were directly damaged by distorted evidence.

I explore the evidence presented to members of Congress today. Who do they hear from in committee hearings, and what is the quality and diversity of information presented? To answer these questions, I gathered data on the witnesses, their professional backgrounds, the language they use when addressing committees, and how they compare to the other witnesses on their panel.

PROFESSIONAL BACKGROUNDS

The first important feature of the witnesses is their profession. While there has been research addressing witness testimony, there is a dearth

of comparative work on witnesses’ professional background.² Jonathan Lewallen tracked the number of witnesses testifying in each hearing and found that “committees heard from an average of fifteen witnesses across five panels in legislative hearings in the early 1980s, but between six and eight witnesses on average on two panels in the 2010s.”³ He argues that the declining number of witnesses shows that members of Congress are exposed to fewer sources of information.

My analysis of the professions of the witnesses explores precisely what sources of information members of Congress hear. I chose to focus this part of the analysis on five committees in the sample representing different kinds of policy areas and professional communities in order to assess how professional breakdown might vary by committee and committee policy jurisdiction. I also chose only hearings during the 114th Congress that pertained to substantive issues (excluding nominations hearings). This allowed for a more comparable data set across committees because some have more nominations hearings than others. The professional classification itself proved straightforward because all of the information about the witnesses’ professions is accessible on the committees’ websites. For the House Science, Senate Commerce, House Agriculture, and Senate Foreign Relations committees, the witness categories were as follows: nonprofit, government, academia, lobby/association, private sector, and other. Figure 2.1 shows, for the 114th Congress, the witness list for each of these four committees, broken down by profession.

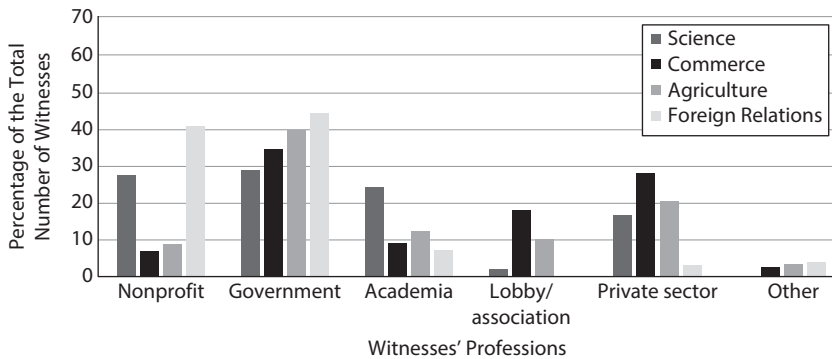


FIGURE 2.1 Professions of witnesses before four congressional committees during the 114th Congress, as a percentage of the total number of witnesses.

Source: Original data set created by the author.

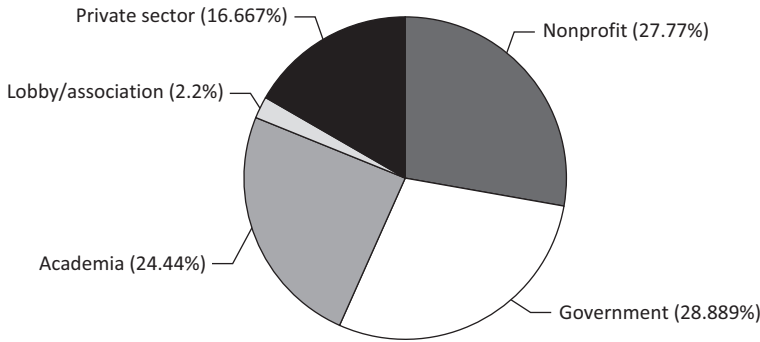


FIGURE 2.2 Professional breakdown of witnesses before the House Science Committee.
Source: Original data set created by the author.

For the House Veterans Affairs Committee, the professional categorization was adjusted because of the unique specialization of the committee and the resulting skew toward military and veteran witnesses. The professional categories were as follows: veterans affairs/military (representing witnesses who came from the Department of Veterans Affairs or the U.S. military), private sector, nonprofit, lobby/association, other, and government (nonmilitary) (representing all other government witnesses). Figures 2.2 to 2.6 present pie charts showing the professional breakdown of witnesses before each of the five committees.

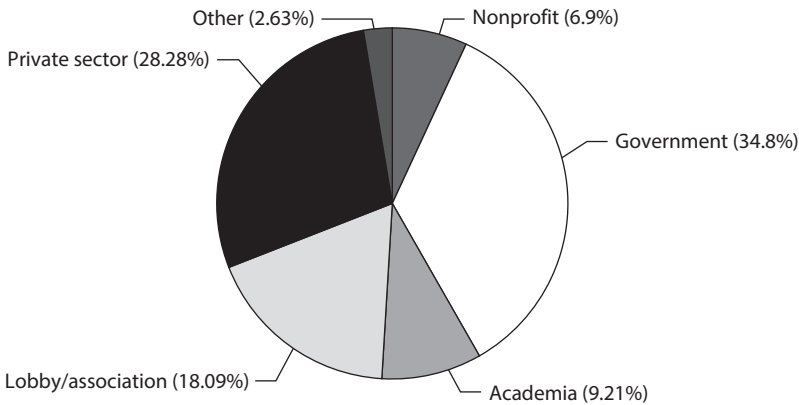


FIGURE 2.3 Professional breakdown of witnesses before the Senate Commerce Committee.
Source: Original data set created by the author.

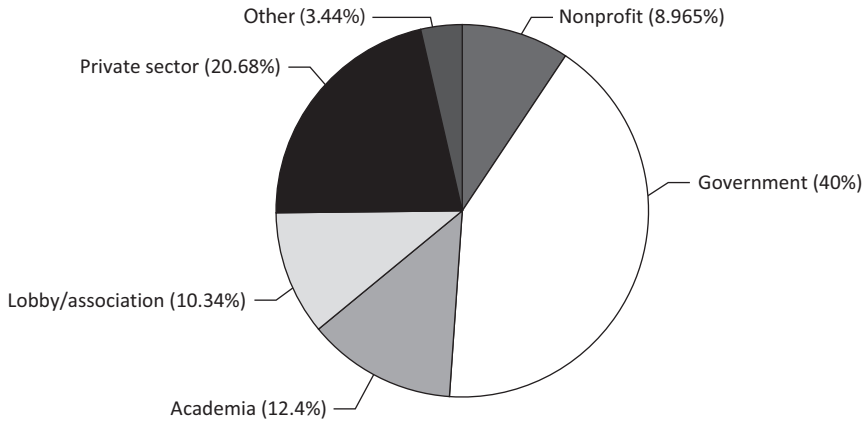


FIGURE 2.4 Professional breakdown of witnesses before the House Agriculture Committee.
Source: Original data set created by the author.

The pie charts emphasize the pronounced variance in the professions between the four committees. Some of the divergences are expected given the differences in the subject matter specialization of the committees. The House Science Committee hears from the most academics, with about 25 percent of its witnesses coming from academia (compared to 8 percent

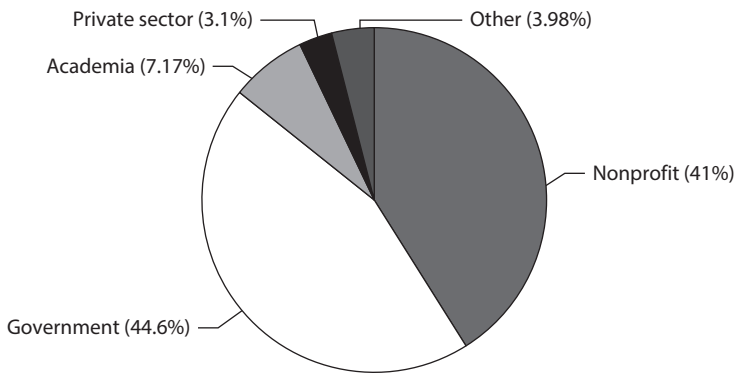


FIGURE 2.5 Professional breakdown of witnesses before the Senate Foreign Relations Committee.
Source: Original data set created by the author.

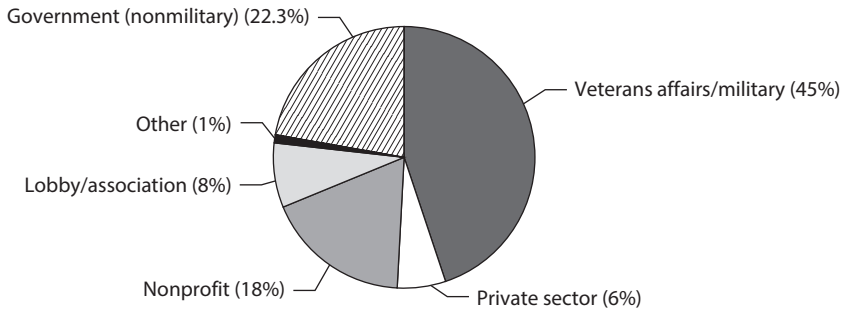


FIGURE 2.6 Professional breakdown of witnesses before the House Veterans Affairs Committee.

Source: Original data set created by the author.

to 12 percent in the other three committees). This is reasonable to expect given their jurisdiction over the National Science Foundation and their specialization in scientific topics. On the other hand, nearly 33.3 percent of the Senate Commerce Committee witnesses come from the private sector, compared to 3 percent to 20 percent in the other committees. This is also natural in view of their subject area.

Analysis of the professional breakdown of witnesses testifying before the Veterans Affairs Committee further underscores that witnesses' professional backgrounds vary greatly by committee jurisdiction. As illustrated by the pie chart in figure 2.6, almost 50 percent of the witnesses are either members of the Department of Veterans' Affairs or the U.S. military. It is also important to note that across all other categories, an overwhelming majority of the witnesses were still from organizations relating to veterans' affairs of the U.S. military. For example, nearly all the nonprofit category represents organizations such as Wounded Warriors Project, American Legion, Disabled American Veterans, Veterans of Foreign Wars, Vietnam Veterans of America, and many similar organizations. The lobby/association category is also largely comprised of organizations like Blinded Veterans Association, the National Guard Association, and similar organizations. The House Veterans Affairs Committee has a uniquely narrow topical focus and thus a fittingly narrow band of professional sectors represented on its witness panels. Whereas committees like Science

or Commerce hear from many different professional sectors, the House Veterans Affairs Committee hears mostly from veterans or those working with veterans.

All of the committees heard from a large number of government witnesses. The agencies these witnesses represented varied based on the agencies under each committee's jurisdiction. The Senate Foreign Relations Committee heard from the State Department, the Senate Commerce Committee heard from many port authorities, the House Science Committee heard from the National Science Foundation, the House Agriculture Committee heard from the Department of Agriculture, the House Veterans Affairs Committee heard from the Department of Veterans Affairs. All committees heard from government witnesses at least one-third of the time. This holds true even though this data set did not include hearings about nominations to government positions and focused only on hearings on substantive issues. The House Veterans Affairs Committee heard from government witnesses the most (67 percent of witnesses were government or military personnel). The predominance of government witnesses is not surprising given the responsibility of committees as oversight mechanisms as well as the large number of hearings involving legislation about government agencies.

The nonprofit category of witnesses included think tanks and charitable organizations. There was also variation in the types of nonprofits represented in the witness pool, which is not accounted for in the graphs. For example, the Senate Foreign Relations Committee heard from many think tank experts. It has a relatively low number of academic witnesses, perhaps because it draws on think tanks rather than academia for subject matter expertise.

The witnesses categorized as "other" were not listed in committee documents with a profession or organization. Some were listed with previous professions, for example, retired members of the military and others simply with the name of their town. These witnesses were likely not there to share professional expertise but rather to tell their personal stories. Examples of witnesses that were categorized as "other" in this analysis include writers, recipients of food assistance, a plaintiff in a lawsuit, former National Aeronautics and Space Administration (NASA) astronauts, and former airline captains. This category included only a handful of witnesses (2 percent to 4 percent) for each committee.

A striking finding is that the Senate Commerce and House Agriculture and Veterans Affairs committees heard from many witnesses who spoke on behalf of an association or lobby, whereas the Senate Foreign Relations and House Science committees had almost none of these witnesses. These types of witnesses can represent an entire sector. An auto industry lobbyist referred to association witnesses as “ambassadors for companies without having to put a company name on it.” As explained in chapter 1, lobbyists provide information throughout the legislative process, including appearing as witnesses. This builds on the findings explained in chapter 1, suggesting that they may be more influential in certain policy areas or committees. This and the other differences in profession may have implications for the types of testimony given and therefore the type of hearing and its effects on members of Congress.

LINGUISTIC INQUIRY AND WORD COUNT ANALYSIS

A second component of the witness voice is the language that witnesses employ. I analyzed the witness testimony using Linguistic Inquiry and Word Count (LIWC) language analysis software. This computerized text analysis software assesses different psychological dimensions of text. It utilizes the dictionary method of text analysis, which rests on the assumption that the sentiment of a text can be determined from the sentiment of the words in a text. LIWC reads pieces of written or transcribed text and uses an existing dictionary to look for the incidence of certain words that convey different sentiments. It relies on a set of dictionaries that were created and honed over years by Yla R. Tausczik and James W. Pennebaker and their team to identify the various emotions and social styles contained in a given piece of written text. The dictionaries were developed using judges to categorize and cross-validate text.⁴ Like other computerized text analysis software, LIWC is not perfect. It ignores irony, sarcasm, idioms, and context. Still, it is useful in making sense of a large volume of texts and has been used widely by academics in social psychology, health, and political science.⁵

Automated text analysis methods have also been used specifically by scholars of Congress to increase the scope of data on legislatures.⁶ In their

automated analysis of 118,000 congressional speeches, Kevin Quinn et al. explain that human-human or human-computer intercoder reliability is around 70 percent to 90 percent, whereas the automated approach they suggest is 100 percent reliable and replicable. Any extrapolations based on methods that are 100 percent reliable will doubtless be more forceful.⁷ However, language analysis has yet to be applied widely in political science or in the study of Congress in particular. This application is therefore a new use of this software.

The sample of text that I tested comprised 1,364 pieces of written testimony drawn from 456 hearings held in the eight committees (the testimony was taken from each committee's website). I first tested the sample on the LIWC summary dimensions: analytical language and clout. The LIWC manual states that these summary variables are "derived from previously published findings from our lab and converted to percentiles based on standardized scores from large comparison samples."⁸ It should be noted, however, that the explanation ends there, and the creators of LIWC acknowledge that the summary metrics are the only "non-transparent dimension" of the software.

The first summary dimension, analytical language, captures the degree to which speakers employ language that suggests formal, logical, and hierarchical thinking patterns. People who score low on this dimension are likely to use a more narrative style, focused on the present. This metric has been used in a wide range of subjects, for example, to assess the analytical level of Facebook posts by pro- and anti-vaccine activists.⁹

Clout aims to capture the speaker's confidence. The metric was developed based on studies of personal interaction.¹⁰ One such study, conducted by Ewa Kacewicz et al. in 2014, examined language used in a variety of social interactions (emails, informal chats between participants, a decision-making task in which they were randomly assigned to leadership roles, and even letters written by Iraqi soldiers who served under Saddam Hussein). This diverse set of data sources allowed them to look at trends in confident language across different kinds of linguistic situations, communication styles, and cultural contexts.¹¹ This variation is accounted for in the LIWC metric. Clout also captures expertise. For example, Meina Zhu et al. found that students' clout scores improved during a course as they gained knowledge and understanding of the subject matter.¹² In

addition, clout has been used as a barometer for social status and leadership.¹³ Higher clout scores are linked to higher social status.

In order to further understand the results, I look at them in the context of the average scores of different types of written information presented in the LIWC manual. The manual explains that the sample comprises writings of over 80,000 writers from the United States, Australia, England, Canada, and New Zealand. Table 2.1 presents the average analytic and clout scores for the LIWC sample of blog writing, expressive writing, novels, natural speech, *New York Times* articles, and Twitter posts. These are distinct forms of written information and hence they present a useful comparison.

In addition to the summary variables for the psychological dimensions, I explored linguistic characteristics further by using LIWC word counts of specific psychological processes. LIWC has specialized dictionaries for words conveying certainty (i.e., *always, never*), tentativeness (i.e., *maybe, fairly, perhaps*), and insight (i.e., *think, how*). For these categories, LIWC gives a score representing the percentage of total words that fit into each dictionary category. I use these word counts as additional evidence about the complexity and certainty of witness testimony. These same indicators were used by Ryan Owens and Justin P. Wedeking in their analysis of the complexity of U.S. Supreme Court opinions between 1983 and 2007.¹⁴

Certainty and tentativeness are of particular interest in witness testimony because scholars have identified them as deciding factors in the use of evidence in policy making. In his study of the use of evidence in British policy making, Alex Stevens identifies “uncertainty” as a major

TABLE 2.1 LIWC analysis of different types of written language

Category	Expressive			<i>New York</i>		
	Blogs	writing	Novels	Natural speech	<i>Times</i>	Twitter
Analytic	49.89	44.88	70.33	18.43	92.57	61.94
Clout	47.87	37.02	75.37	56.27	68.17	63.02

Source: James W. Pennebaker, Ryan L. Boyd, Kayla Jordan, and Kate Blackburn, “The Development of Psychometric Properties of LIWC2015,” University of Texas at Austin.

reason that policymakers eschew academic research. He explains that policy makers were averse to uncertainty and preferred information in which the bottom line was clear. He writes that civil servants are taught to communicate with their superiors through “killer charts,” constructed “by choosing data carefully and by restricting the number of cases and categories that were shown. The policy implications of the data should be immediately apparent from the graph alone.”¹⁵ Adnan Hyder et al. conducted a cross-national study in Argentina, Egypt, Iran, Oman, and Malawi using data from eighty-three interviews with policy makers in these countries, and they too discovered that the poor packaging and communication of research were major impediments to its uptake.¹⁶ Several of the interviewees explained that researchers should be taught to convey complex information clearly and concisely, even when such a distillation of laborious and lengthy studies may seem irreverent and painful. Given these findings with regard to the importance of the levels of certainty and complexity used to convey information, I take a closer look at these aspects of witness testimony.

The results of the LIWC analysis for eight congressional committees are summarized in figures 2.7 and 2.8. Figure 2.7 presents the summary score metrics on a scale of 1 to 100 (low to high). These are summary scores constructed by the LIWC rather than raw instances of word usage. Figure 2.8 presents certainty, tentativeness, and insight scores as incidence of raw usage.

A number of interesting trends emerge about the committees in general. First, all of the committees have similar summary metric scores, with little variation. All of the committees receive high analytic language scores, suggesting that the witnesses are in fact presenting analytical and logical testimony. The average analytical score is 93.7, and the levels for all of the committees are similar to the analytical language in *New York Times* articles. This is an important finding in the context of the wider debate about the information presented to congressional committees.¹⁷ In the subsequent chapters, I will explore in greater detail the degree to which congresspeople listen to witnesses and how they are affected by this information. Nonetheless, the high analytical scores of the testimony are noteworthy in and of themselves. Contradicting the argument that Congress does not access quality analysis, they point instead to highly logical and analytical information presented to Congress.

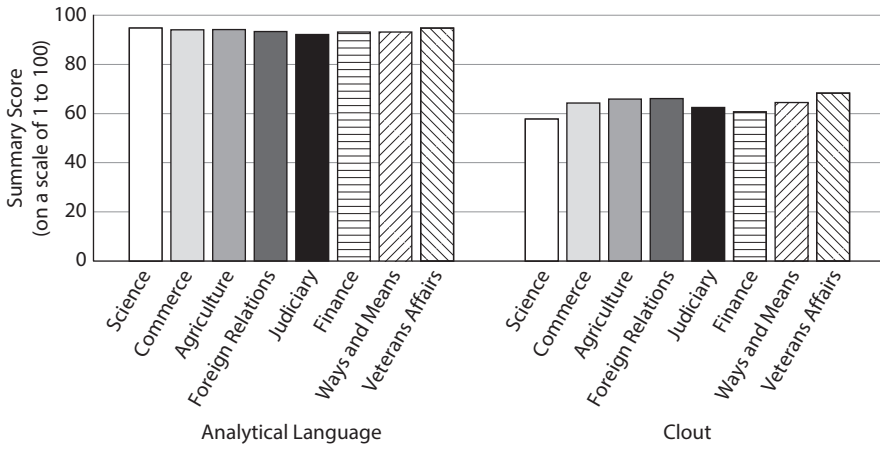


FIGURE 2.7 LIWC Analysis of summary metrics.

Source: Original data set of LIWC scores constructed by the author for the purpose of this study.

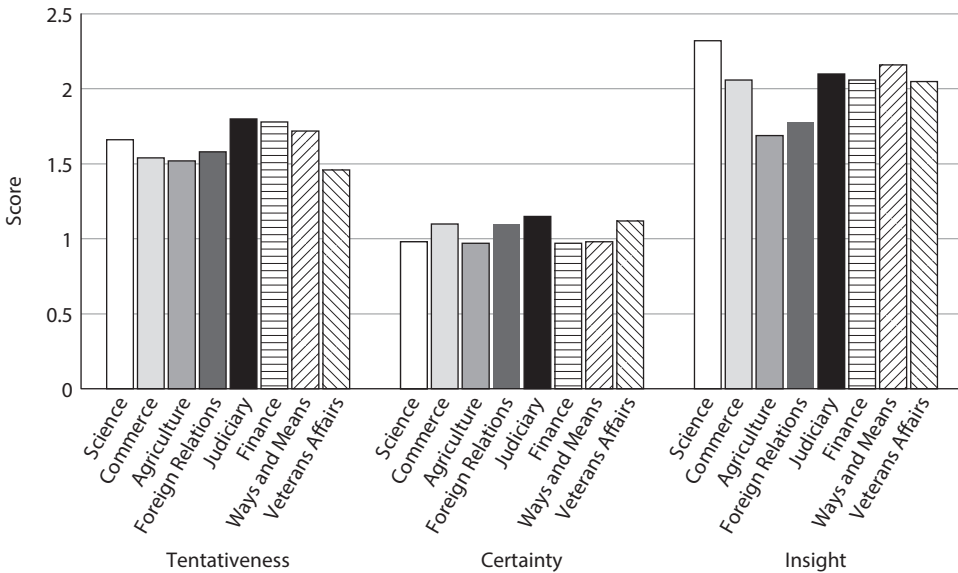


FIGURE 2.8 LIWC analysis of psychological processes.

Source: Original data set of LIWC scores constructed by the author for the purpose of this study.

All of the committees also receive similar clout scores (the average clout score is 63.7). The score lies between the confidence of pieces that people publish with a specific idea to espouse (a Twitter post, an article, or a full-length novel) and less pointed pieces (natural speech, expressive writing). This is logical in light of the space that witness testimony occupies: somewhere between a formal predetermined piece and a free-flowing statement. The clout scores indicate that witnesses exhibit a certain degree of confidence, status, and expertise in their speech.

CAUTIOUS SCIENTISTS

The House Science Committee has one of the highest levels of tentative language and the second lowest level of certainty. The tentativeness and certainty scores appear logical inverses of each other in all of the committees. The science committee scores may seem surprising because some would expect that scientific facts are conveyed with high levels of certainty. In addition, the House Science Committee has a high level of insightful language and a correspondingly high analytical score.

These findings may be explained by the profession of the witnesses. The House Science Committee heard from the largest number of academics. One academic witness I spoke to lamented the confusion regarding what type of language to use. He stressed that academics communicate with a different tone and demeanor than politicians and so what they say may be lost in translation. A congressman on the House Science Committee and former physicist explained that, as a scientist, he goes through the scientific references in the written testimony in great detail and is able to understand the professional academic jargon of the academic witnesses much better than his nonacademic colleagues. He regretted that, although he could understand the scientists' buzz words, scientists do not simplify in order to make their explanations more accessible. Another former House Science Committee staffer echoed this sentiment, recalling that the witnesses who stood out to her during her decade on the committee were those scientists who "answer questions directly and speak to you like a human." The aforementioned congressman and physicist explained that a "typical scientific presentation presents data and then a conclusion. As politicians, we have to lead with the conclusion . . . unlike in science

where you say, ‘How do I get to the truth?’ It’s much more like law, where you say, ‘How do I convince the jury?’” His statement underscores the dissonance between lengthy academic explanations and pithy political presentations. Given that the scientific method is grounded in questioning and casting doubt, it makes sense that its advocates use tentative and uncertain language. Convincing the jury entails speaking with certainty. Witnesses from other professional backgrounds, such as the private sector, adept at selling their ideas, may indeed appear more self-assured than academics, who are trained as cautious truth seekers.

CONFIDENT SPEAKERS

The Senate Commerce Committee and House Veterans Affairs Committee have relatively high clout and certainty and low tentativeness scores. This may also be explained by the witnesses testifying. The Commerce Committee heard from many private sector witnesses and lobbyists. As explained in chapter 1, lobbyists may be more adept at testifying and therefore appear more confident.

Another interesting point in the context of the breakdown by profession are the unique characteristics of the House Veterans Affairs Committee. It has the highest clout score (68.32) and the correspondingly lowest tentativeness score (1.46). It also has the highest level of power language (references relevant to status, dominance, social hierarchy) and the use of first-person pronouns. This is consistent with work showing that people with higher social status are more self-oriented and use more first-person pronouns.¹⁸ In the aforementioned five Kacewicz et al. studies, the team found that people with higher social status used more first-person plural and fewer first-person singular pronouns (in fact one of their studies even drew on letters written by soldiers). The Veterans Affairs had a very high proportion of witnesses from military backgrounds.

These findings suggest a connection between a professional background related to the military and speech exhibiting higher social status and confidence. Former U.S. Marine and text analytics expert William Marcellino’s analysis of discourse of Marine officers identified their speech as “highly certain” and found they frequently use first-person pronouns.¹⁹ This assessment is substantiated by the firsthand account of a veteran

who has testified before the House Veterans Affairs Committee. She said, “I’m a veteran, and one of the things that I’ve had to learn coming back into the civilian workforce and engaging on the Hill is, you know, in the military, you’re very blunt and curt. . . . And I’ve had to learn to kind of gentle and be more personable in my correspondence and relationships on the Hill.” Marcellino explains that “marines learn a way of speaking that has life and death stakes for them, and repeat that performance over their careers, even when speaking outside of their community to civilian audiences. Their values are implicated in their way of speaking, and thus when they speak in public deliberative forums, the epideictic dimension of their speech can be problematic.”²⁰ This further underscores the power of professional culture in shaping language. Marines, veterans, scientists, and CEOs come to testify before a committee after “learning a way of speaking . . . and repeat that performance over their careers, even when speaking outside their community.”

Taken together, the LIWC results further illuminate the kinds of evidence that congressional committees hear and the variations across topic, professional background of the witness, and committee.

BALANCE

Witnesses testify on a panel with other witnesses, and to assess the voice Congress hears, it is also necessary to step back and look at the panel as a whole. The conversations with staff members illustrate the importance placed on the witnesses as a group and the “balance” of the panel. The inclusive “voice” that Congress hears is the amalgamation of the witnesses on the panel. To assess this feature of hearings, I again employed the dictionary method of sentiment analysis. This time, rather than relying on existing software, I created original “balance” scores, with the use of a “dictionary” of positive and negative words. I used Minqing Hu and Bing Liu’s opinion lexicon of 6,800 positive and negative words to determine the proportion of positively and negatively charged words in each testimony.²¹ I computed balance scores at the level of committee hearings. I first scored each individual hearing transcript based on the numbers of positive and negative words. Then I scored each hearing based on the

number of predominantly positive transcripts (those with more positive than negative words) divided by the total number of testimonies in that hearing. The method of constructing balance scores is novel and has not been used before to characterize committee hearings. The final data set consists of 456 hearings conducted in the eight committees during the 112th to the 116th Congresses. Each hearing included between one and nine witnesses, averaging around three and a half witnesses per hearing. (See appendix C for a full breakdown of data set of hearings by term and committee.) The balance scores allowed me to see how the witnesses compare to one another. Chapter 1 explained how the witness panels vary in setup. Sometimes staffers seek to balance out the other side's arguments. Other times, majority and minority staffers construct a balanced panel together. The balance scores help to answer the question: Are members of Congress really hearing the balance of perspectives that the staffers seek in their selection?

Table 2.2 and figure 2.9 present summary statistics for balance scores by committee (highest to lowest). A number of interesting trends in balance scores emerge. The average balance score for all eight committees for the 114th Congress was quite high, at 0.80. This is a high score on the

TABLE 2.2 Average committee balance scores

House Agriculture Committee	.95
House Veterans Affairs Committee	.87
Senate Commerce Committee	.87
House Science Committee	.85
Senate Finance Committee	.85
House Ways and Means Committee	.81
Senate Foreign Relations Committee	.76
Senate Judiciary Committee	.54
Average balance (all committees)	0.8
Average number of witnesses	3.5

Source: Original balance score data set constructed by the author for this study.

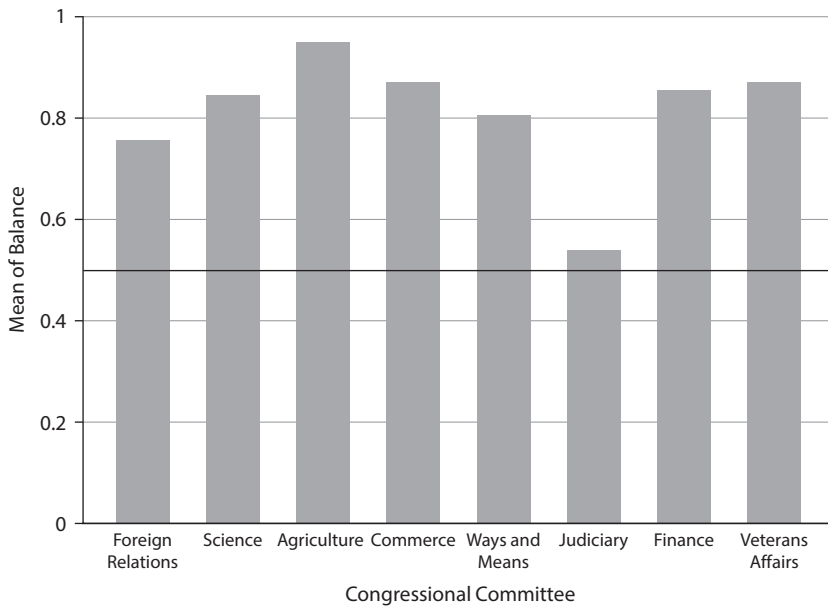


FIGURE 2.9 Average balance by committee.

Source: Original data set created by the author.

balance score spectrum because a score of 1 would signify that all the witnesses spoke in favor of the issue at hand. If the hearings were perfectly balanced, one would expect a 0.5 balance score. As referenced in chapter 1, the presence of positive sentiment is taken as an indication that the testimony is supportive of the legislation discussed. A testimony with primarily negative sentiment indicates that a speaker is opposed to the legislation. An average balance score of 0.80 indicates that Congress is hearing more from witnesses with a positive perspective on a given issue. This makes sense given the aforementioned trends in the witness selection. The official rules of both chambers specify that the majority controls the hearing agenda and invites all but one witness. As a result, it would follow that the majority chooses topics that they want to support. Even taking into account the practice of joint lists, the skew toward witnesses who support a given policy makes sense. In their analysis of witnesses testifying before committees, Jack Van Der Slik and Thomas Stenger asked 1,200

witnesses about the purpose of their testimony. They conclude that “of those who identified their purpose, only 5 percent came to oppose change in policy. Another 38 percent came as advocates of change.”²² The average balance scores in this study corroborate this finding in a contemporary context, underscoring the skew toward witnesses who speak in support of a policy. Nevertheless, the balance score is under 1, illustrating that, on average, there is at least part of the panel that has an opposing view. This suggests that there is at least some range of perspectives in the hearings.

As a robustness check, I also used the LIWC average positive and negative emotion scores. These two scores represent raw incidence of word usage based on the LIWC dictionary of positive and negative words. This is a different dictionary from the Liu and Hu dictionary used in my own sentiment analysis and so it is useful in cross-validating my results. I took the proportion of the average incidence of positive words divided by the average incidence of negative words for the entire set of witness statements for each committee. The average LIWC scores are given on a committee level rather than for each group of witness statements in a hearing, and therefore they may be slightly less accurate. Still, the results largely confirm the results of the balance score analysis. As with my own balance scores, the House Agriculture Committee had the highest proportion of positive relative to negative words (3.24), followed by the House Veterans Affairs Committee (3.05) and the Senate Commerce Committee (2.97). The lowest two scores were the Senate Foreign Relations Committee (1.79) and the Senate Judiciary Committee (1.65). These findings validate the ranking of the committees by my balance scores, as well as the skew toward positive emotion. Even the most proportional score (the Senate Foreign Relations Committee) had nearly twice as many positive words as negative words.

This initial analysis of balance scores points to two important conclusions. First, it shows that the balance of voices on a witness panel varies substantially by committee. Second, balance score results indicate that there is some, albeit a relatively small, degree of balance on witness panels. The balance scores tell the story of how the witnesses on a panel compare to one another, an important component of assessing the voice Congress hears. The following chapters will delve into balance scores in greater depth to explain the relationship between committee culture, chamber, policy topic, chairmanship, and balance, and will rely on balance scores to further explore committee deliberation.

CONCLUSION

This chapter answered the question: Who does Congress hear in committees? I used a variety of methods, including language analysis and examination of witness backgrounds, to address this question from various angles. The data presented are all original and were collected and analyzed entirely for the purpose of the study. Text analysis methods have not been previously applied either to congressional committees in general or to witness testimony in particular. This chapter also introduced a new method for analyzing whether committees are hearing a diverse set of opinions on the witness panel, a question left unanswered by previous work on the topic.

Several trends emerged. In light of work in evidence-based policy making on the lack of access to high-quality research by policy makers,²³ the high number of academic and think tank researchers who come to speak and the analytical language used would suggest that there is indeed access to high-quality research. The LIWC analysis shed light on how language varies based on the committee and professional training of the witnesses. Contrary to the narrative of entirely partisan information distorting Congress, my study finds that witness panels exhibit some degree of balance. Chapter 4 will show how the balance scores introduced in this chapter vary based on relationships between majority and minority factions and partisanship of topics. These findings are central to understanding the nature of information presented in committees in Congress today.

4

HOW CONGRESS LISTENS

The Different Hearing Types

Congress in session is Congress on public exhibition, whilst Congress in its committee rooms is Congress at work.

—WOODROW WILSON¹

You can lead a man to Congress, but you can't make him think.

—MILTON BERLE²

This book explores the function of committees in today's Congress. Chapters 1–3 asked what and who Congress hears. Chapters 4–7 build on these findings to examine the functions of committee hearings and whether and how they might still matter. Each chapter will focus on the core functions of hearings, utilizing several key parameters to explain when each kind of hearing is most likely and showcasing several illustrative examples of hearings where each function is most likely. This book argues that these parameters are necessary, but they are not sufficient to create a perfectly deliberative or educational hearing. They can be used to explain partly when different hearing functions may be more likely rather than as clear-cut rules. It is also important to note that functions can coexist, and no hearing fits one function perfectly. However, certain parameters can

TABLE 4.1 Theoretical framework

Function of hearings	When are these types of hearings most likely	Possible effects
Deliberative forum	<i>Partisanship:</i> Bipartisan committees, bipartisan topic <i>Structure:</i> Senate	Legitimization, collaboration
Educational platform	<i>Partisanship:</i> Bipartisan topic <i>Structure:</i> Senate, desirability <i>Nature of topic:</i> Legislative status <i>Types of witnesses:</i> Unlabeled witnesses <i>Formality:</i> Informal	Learning, staff education
Theatrical stage	<i>Partisanship:</i> Partisan committees, partisan topic <i>Nature of topic:</i> Publicity <i>Types of witnesses:</i> Labelled witnesses, spokespeople	Voicing views
Space for personal connection	<i>Partisanship:</i> Bipartisan committees <i>Structure:</i> Senate <i>Formality:</i> Informal <i>Types of witnesses:</i> Personal storytellers	Empathy, committee collective

make certain kinds of hearings more likely. The presentation of ideal types allows us to better understand the purpose and effect of contemporary hearings. As with the typology of witnesses presented in chapter 3, these broad categories form a theoretical map to make sense of a complicated system.

Chapters 4–7 also rely on interview data to survey the possible effects of hearings on committee members. Table 4.1 summarizes the theory presented. The next section explains the core functions and the parameters used in chapters 4–7.

FUNCTIONS

DELIBERATIVE FORUM

As chapter 1 explained, displacements in committee structure and congressional structure have led to a decline in congressional deliberation. In a Congress that is less deliberative overall and whose committees still form the historical center for deliberation, when can committee hearings still serve as a deliberative forum? Chapter 4 answers this question.

EDUCATIONAL PLATFORM

There is an old saying that members of Congress are like the mouth of the Mississippi River, a mile wide and an inch deep. That is, they lack depth and expertise. Chapter 1 charted the systematic loss of committee capacity and the ramifications for learning. Chapter 5 asks whether and how members of Congress are still learning in contemporary committee hearings.

THEATRICAL STAGE

Committees are also a public forum and, as such, can function as a theatrical stage for politicians. Chapter 1 explained how the introduction of televised hearings changed political behavior in committees. Indeed, Woodrow Wilson once described the growing power of committees relative to the chamber as a shift of “the theatre of debate upon legislation from the floor of Congress to the privacy of the committee-rooms.”³ In the context of a televised contemporary Congress, chapter 6 explores when theatricality is most pronounced.

SPACE FOR PERSONAL CONNECTION

The opening chapter identified committees as a core bipartisan institution and explained the importance of personal relationships and positive social connections for cultivating bipartisanship. In the context of a hyperpolarized Congress, chapter 7 explores how committees can still

serve as a space for bipartisan social connection and explores the power of personal connection in hearings more broadly.

PARAMETERS

When are hearings most likely to be theatrical? Deliberative? Educational? Or when do they act as a space for connection? This book focuses on the following core parameters in explaining when each hearing function is most likely—partisanship (of committee and topic), structure (of chamber and committee), nature of the hearing topic (legislative status and publicity of the issue), formality of the hearing, and the kinds of witnesses testifying. Chapters 4–7 rely on these parameters in explaining when hearings are most likely to serve different functions. The sections below briefly describe each parameter and how it is assessed in this book.

PARTISANSHIP (OF COMMITTEE AND TOPIC)

As noted in the opening chapter, partisanship is a core element of understanding the legislative process in the contemporary hyperpolarized Congress. The sample of committees analyzed in this book include committees and topics of varying partisanship in order to explore how partisanship affects the function of hearings in the contemporary Congress. Within committees, there is also variation in the partisanship of specific topics of the hearings. The partisanship of committee and topic of hearing are two of the parameters linked to which function is most pronounced. I rely on the balance score data introduced in chapter 2 as well as interviews to assess this parameter across and within committees.

STRUCTURE (OF CHAMBER AND COMMITTEE)

Desirability and Attendance

As explained in the introduction, not all committees are equally desirable to members of Congress. Members have very busy schedules and

frequently spend only Tuesday to Thursday in Washington. Many hearings are scheduled at the same time (mostly Wednesday or Thursday mornings). Since the 110th Congress, members of Congress sit on an average of about five and a half committees and subcommittees.⁴ As a result, members have to choose which hearings to attend and how long to stay. Members managing multiple committee assignments may prioritize an A-list for committee attendance. Kenneth Shepsle looked at how committees differ in regard to hearings and meetings and concluded that committees vary in the depth of their expertise and that many of the “minor” committees are comparatively inexpert bodies because turnover is high, and members are juggling other committee assignments simultaneously.⁵

The House Ways and Means Committee is both a highly desirable committee and is unique in that members of this committee only have one committee assignment and do not have to juggle conflicting hearing times. As a result, average member attendance is higher. A staffer on the House Ways and Means Committee confirmed that members of this committee attend most hearings and are engaged in the work. A Democratic congressman on the committee corroborated this:

I now serve on the Ways and Means. I would say that I probably have 100 percent attendance for all full committee hearings. I don't stay for the entire hearing, but I often stay for much of it because I learn a lot at the hearings. Sometimes I leave to go for other appointments and come back. But I would say that I spend a lot more time with my committee hearings at Ways and Means. . . . So I'd say that because of the importance of the committee, because of my interest in the topics, and because I've decided to make it a focus of what I work on, that I have very high attendance at House Ways and Means Committee meetings.

He went on to compare this with previous committee assignments, saying, “I do the same with foreign affairs and armed services, but not quite as diligent. . . . I'd say I was more like at 75 percent for my other committees in the old days . . . some things that I just wouldn't have any interest in and it would be just out of my area of expertise or interest . . . in this committee [Ways and Means] I try to go to everything the full committee and subcommittee do.” This illustrates the difference between A-list committees and other assignments, indicating a clear connection

between desirability of committee and member attendance and engagement. If members attend more often, then the potential of discussions to engage them on an educational, deliberative, or personal level, or indeed any level, is greater. Therefore, desirability is a parameter that spans the hearing functions.

Chamber

The similarities between the Senate and House chambers were underscored in an interview with a senior Democratic senator who has served on three of the committees in my sample (the Senate Foreign Relations, House Science, and House Agriculture committees). He served in the House for fifteen years and in the Senate for over twenty years. When asked about the difference between chambers, he stressed that the “committee experiences extend across a wide spectrum” that spans both chambers. Other interviewees with experience working in or testifying before the two chambers reiterated the resemblance of committee experiences in both chambers. They also reaffirmed the resemblance between committees in the same chamber. I asked one Republican congressman who served on both the Science and House Agriculture committees if he could speak to the differences in his experiences on the two committees, and he responded, “I would think it would be similar . . . [it] just depends on subject.” These comments highlight the similarity across chambers.

Nevertheless, research revealed several notable distinctions between Senate and House hearings. Due to the disparity in the sizes of the two chambers, members of the Senate are required to sit on more committees. Therefore, the nominal workload is much greater. Another structural difference between the chambers is the turnover in committee members and the voting rules. Senators serve six-year terms, and the average tenure of senators is longer than that of the average representative. According to a study conducted by the Congressional Research Service, from the first Congress all the way to the 115th Congress, the Senate maintained a longer average tenure per member than the House.⁶ Congressional scholarship identifies a greater impetus for bipartisanship in the Senate, where politicians must work across the aisle in order to pass legislation.⁷ These differences all have implications for the likelihood of education, deliberation,

and personal connection between chambers. The subsequent chapters rely on interview data and balance score analysis to explain these structural differences.

NATURE OF THE HEARING TOPIC

Publicity

While all congressional hearings are recorded and (with the exception of the Intelligence Committee and other classified topics) all hearings are included in the public record, not all hearings attract the same amount of public attention. Some hearings have millions of Americans tuning in and make headlines in leading papers, whereas others are met with a scant audience and no media attention. Whether or not a hearing draws cameras and an audience (and protestors) may depend on different elements of the nature of the topic at hand (subject matter, timing, individuals involved). The level of publicity stands to affect the tendency toward theatricality, as chapter 6 will explain further.

Legislative Status

Some hearings pertain to specific pieces of pending legislation, whereas others aim to explore an issue area. Jonathan Lewallen defines “legislative” hearings as follows: “legislative hearings are those organized around recently introduced bills, sometimes called ‘referral hearings.’”⁸ On the other hand, many hearings do not pertain to a specific piece of legislation at all, or they connect to a topic for which legislation is not planned for the immediate future. Interview data showed that legislative status shapes behavior across party lines, resulting hearings, and effects on members. For example, one member of the House Science Committee said, “If you are talking about the far future, you can act in a much more bipartisan way. When you are talking about next year’s budget or tribal issues like climate change, you immediately go into parties.” This is further supported by research suggesting a greater potential for the minority to influence the majority opinion in cases in which the discussion is not aimed at reaching a specific decision.⁹ This is just one example of how legislative status

shapes behavior in committees. Chapters 5 and 7 will explain in greater detail how legislative status affects the tendency for educational hearings and personal connection.

FORMALITY OF THE HEARING

As explained in chapter 1, most hearings are highly formalized and have a very specific setup. They are public, proper, and to a certain degree predetermined. However, Richard Hall explains that “much of the committees’ decision-making activity takes place in formal committee sessions . . . at the same time, much of a committee’s decision-making activity occurs informally—outside the context of an official markup.”¹⁰ He describes how public forums may yield a different type of participation. There are indeed many informal and less public “hearing-like” settings in which members of Congress meet with witnesses.

Some examples of informal hearings include roundtables and listening tours. For example, the House Science Committee has off-the-record roundtable meetings. There are no television cameras or reporters. Unlike the formal hearings, members of Congress sit around one table with the witnesses and engage in a free-flowing discussion back and forth. They sit together with food, a demarcation of a social gathering. This scene differs from formal hearings in which the seating is assigned and members of Congress are divided, Democrats sitting on one side and Republicans on the other. The members of Congress are restricted to the apportioned discussion time. There is no food or casualness involved in such formal hearings.

Another example of informal hearings is the 2017 House Agriculture Committee listening tour. As the name suggests, the committee members traveled around the country listening to different perspectives on the farm bill. Unlike formal hearings, in which there is a handful of witnesses on a panel with regimented time, many of these meetings are set up as open-mic sessions where people can come in and voice their concerns on the farm bill. Other committees also hold the occasional field hearing outside Washington or even engage in similar tours to hear from constituents. I was able to interview several representatives who attended the farm bill listening tour and other such informal hearings about their experiences.

Chapters 5 and 7 will explain how formality influences the propensity for hearings to act as a space for learning or personal connection.

THE KINDS OF WITNESSES TESTIFYING

Chapter 3 presented a typology of the major types of witnesses who testify before committees. The kinds of witnesses who testify logically affect the resulting hearing and its effect on members. The subsequent chapters will draw on the typology in chapter 3 to explain in greater detail which kinds of witnesses lead to which kinds of hearings. The following chapters employ these five parameters (partisanship of committee and topic, structure of the chamber and committee, nature of the hearing topic, formality of the hearing, and the kinds of witnesses testifying) in an exploration of hearings and how they affect members. They draw on extensive interview data as well as balance score data sets.

COMMITTEE HEARINGS AS A DELIBERATIVE FORUM

“Congress is so strange,” observed the Russian actor Boris Marshalov on one of his visits to the United States. “A man gets up to speak and says nothing. Nobody listens—and then everybody disagrees.” Marshalov made this observation over a hundred years ago, but it appears all the more relevant today.¹¹

This chapter explores the extent to which committees still act as a deliberative forum in an increasingly polarized Congress and investigates how contemporary committee deliberations might affect members. The chapter begins by explaining deliberation as a concept. It then shows why deliberative hearings might be most likely in bipartisan committees, for bipartisan hearing topics, and in the Senate rather than the House of Representatives. It also draws on interview data and two illustrative examples of deliberative hearings on different policy issues to show that, when deliberative hearings do take place, they may still encourage the legitimization of opposing views and cross-party collaboration.

WHAT IS MEANT BY *DELIBERATION*?

Deliberative democrats distinguish between deliberation and mere discussion and believe in the power of deliberation to transform opinions. Political philosopher Joshua Cohen explains that deliberation resorts to reason while discussion may be restricted to a mere pooling of information.¹² As John Dryzek and Valerie Braithwaite write, “deliberation induces individuals to think through their interests and reflect upon their preferences, becoming amenable to changing the latter in light of persuasion from other participants.”¹³ Philosopher Jürgen Habermas similarly contends that actors must be open to persuasion by better arguments and find reasoned consensus through reflective dialogue (for Habermas, the entire concept of rationality is based on how we acquire and use knowledge rather than simply the possession of knowledge).¹⁴ In the congressional context, political scientists Lee Drutman and Timothy LaPira address congressional “deliberativeness” as “does Congress seek out and incorporate the best available information and reason through the causes and consequences of public problems?” They write that “high-quality deliberation is informed . . . and open to alternatives. Low-quality deliberation is purposely ignorant, with predetermined positions that are immune to the force of the better argument and new information.”¹⁵ This book draws on existing definitions and sees deliberation as an interactive process with the power to change opinions.

WHEN ARE HEARINGS MOST LIKELY
TO BE DELIBERATIVE?

PARTISANSHIP

Using Balance Scores

Deliberative democrats agree that a core element of deliberation is that a variety of perspectives are included in the discussion. Habermas’s ideal forum is one in which no one competent to make a contribution has been

excluded, all participants are allowed to question assertions, and everyone is free to express themselves without any coercion.¹⁶ Philosopher John Stuart Mill writes of the legislature as a “Congress of opinions” in which

not only the general opinion of the nation, but that of every section of it, and, as far as possible, of every eminent individual whom it contains, can produce itself in full light and challenge discussion; where every person in the country may count upon finding somebody who speaks his mind as well or better than he could speak it himself—not to friends and partisans exclusively, but in the face of opponents, to be tested by adverse controversy; where those whose opinion is overruled, feel satisfied that it is heard.¹⁷

In his analysis of congressional deliberation, Edward Lascher explains that deliberative “hearings include participants with a variety of perspectives. Evidence of exclusion of certain views (e.g., those of people adversely affected by legislation) would lead to a lower assessment.”¹⁸ As described in chapter 2, balance scores provide an assessment of which hearings show both positive and negative perspectives and thus represent one way of determining whether there is a “variety of perspectives.” The subsequent sections in this chapter rely on balance score analysis, in addition to interview data and other sources, to show how variation in partisanship of committee and topic may affect the potential for deliberative hearings.

BIPARTISAN COMMITTEES

Committee Culture and Balance

Chapter 1 described the ways in which the culture of the committee shapes the selection of witnesses and the resulting witness panel. As a senior Democratic congressman explained, “The nature and character of the expert witnesses [are] often reflective of the . . . nature and character of the committee. If it’s not an ideological or a very partisan committee, you’ll tend to have more nonpartisan witnesses.” This characterization points to a connection between committee partisanship and resulting witness panels.

The effect of collegiality is reflected in a comparison of the balance scores of the committees. In interviews, the staff members on the Senate Foreign Relations Committee referred to the extensive collaboration between minority and majority staff members on the committee as well as the positive relationship between the chair and ranking member. This committee also boasts a relatively “balanced balance score.” On the other hand, the Science and House Agriculture committees, in which staffers complained of poor relationships and high staff turnover, have less balanced scores. The two most contentious issues in the House Science Committee, climate change and oversight of the Environmental Protection Agency (EPA), both fall under the jurisdiction of the Energy and Environment Subcommittee. As mentioned in chapter 1, on this subcommittee, staff relations are especially weak, and there is hardly any collaboration.

The tone of staff relations is set in large part by the chair and ranking member. As chapter 1 explained, they hire and fire the staff. The importance of the chair and ranking member is demonstrated by an assessment of the DWNominate scores of the chair and ranking member of each of the sample committees. This metric, devised by Keith Poole and Howard Rosenthal, gives each member of Congress a composite score by averaging her roll call voting history, ranging from -1 (very liberal) to 1 (very conservative).¹⁹ I chose to compare the chair and ranking member DWNominate scores as an indication of the overall committee and staff dynamics. Table 4.2 shows that the absolute value of the distance between DWNominate scores of the chair and ranking member largely follow the same rank order as the balance scores. This suggests that perhaps chairs and ranking members whose average score is closer to 0 (the center of the liberal to conservative scale) lead their committees in creating more balanced panels. One possible reason is that there may be more “joint lists” if the two sides can easily find common ground, and “joint lists” have the potential to be more varied.

A further illustration of the power of the chair can be found in a comparison of balance scores on the Senate Foreign Relations Committee between the 113th and 114th Congresses. Although the chairmanship in the Senate Foreign Relations Committee changed parties from Menendez to Corker, the average balance score remained relatively similar in both terms (0.78 in the 113th Congress and 0.74 in the 114th Congress). In addition, the histograms in figure 4.1 show that the distribution of balance

TABLE 4.2 DWNominate scores versus balance scores, 114th Congress

Committee	DWNominate (distance between chair and ranking member)	Balance score
House Agriculture Committee	.221	.95
House Veterans Affairs Committee	.17	.87
House Ways and Means Committee	.145	.81
Senate Commerce Committee	.108	.87
Senate Finance Committee	.052	.85
House Science Committee	.0335	.85
Senate Foreign Relations Committee	.03	.76
Senate Judiciary Committee	.013	.54

Source: DWNominate scores are taken from the voteview.com database and balance scores are taken from the original balance score data set constructed by the author for this study.

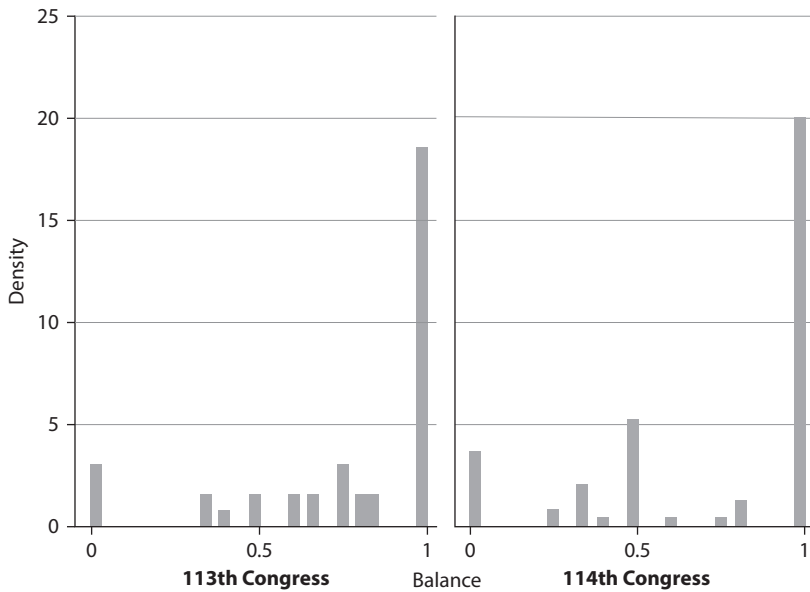


FIGURE 4.1 Balance in the Senate Foreign Relations Committee in the 113th and 114th Congresses.

Source: This figure draws on an original data set of balance scores constructed by the author.

scores for Senate Foreign Relations Committee hearings remained similar between the 113th and 114th Congresses. This is an indication that both sides are represented in hearings, regardless of party control of the chairmanship. The staff members of the Senate Foreign Relations Committee chalked this up to Menendez's and Corker's similar chairmanship styles, good relationship with each other, and their reliance on mostly the same staffers.

As noted in the opening chapters, polarization levels and personal collegiality may go hand in hand. Scholars of Congress point to a parallel decline in both spheres over the past several decades, writing of a deterioration in cross-party relationships between chairs and ranking members as well as rising polarization in Congress as a whole. The DWNominate scores illustrate how the partisanship of the chair, ranking member, and their respective staffers may affect the balance of witness panels. This finding connects the deterioration noted by previous scholars and highlighted by the interviews in my own research to the balance of committee hearings.

The combined effect of the chair and partisan dynamics is further evidenced by an intracommittee comparison across different terms. Examining variation in the balance score of the Senate Foreign Relations Committee across three terms (the 112th, 113th, and 114th Congresses) and the balance score of the House Ways and Means Committee across four terms (113th, 114th, 115th, and 116th Congresses) allows for a comparison of chairmanship change and shift in party control in two different chambers.

As noted earlier, the average balance score for the Senate Foreign Relations Committee during the 113th Congress was 0.78. During the 114th Congress, it fell to 0.74, and the committee leadership changed hands from Democratic Bob Menendez to Republican Bob Corker. The average balance score for the 112th Congress was identical to the balance score for the 113th Congress. The Democrats maintained control of the committee for both of these terms, but John Kerry was chair during the 112th Congress and Bob Menendez was chair during the 113th Congress. Figure 4.2 shows that there is a very small difference in balance between terms. This suggests that the partisan ideology and party of the chair may have a greater effect than the individual idiosyncrasies of any given chair.

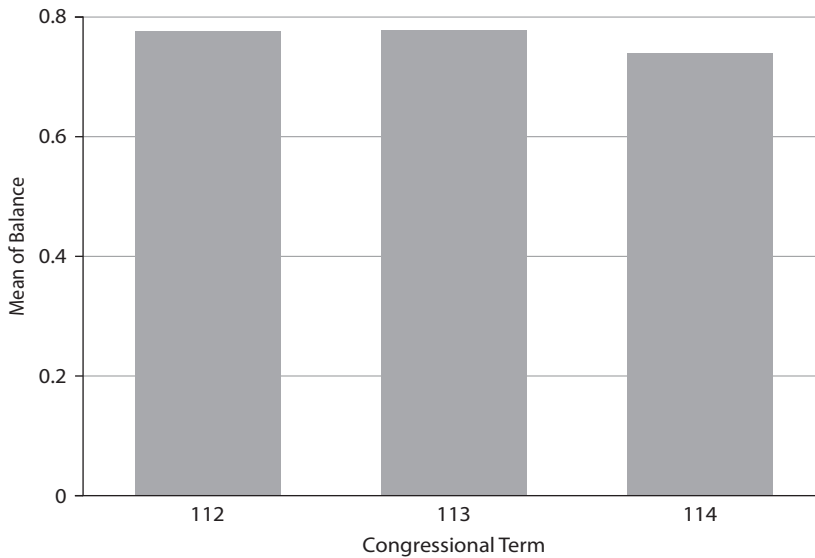


FIGURE 4.2 Senate Foreign Relations Committee balance, by term.

Source: This figure draws on an original data set of balance scores constructed by the author.

In the House Ways and Means Committee, chairmanship changed from Kevin Brady (Republican) to Richard Neal (Democrat) when Democrats regained control of the House of Representatives in 2018, and the balance score shifted from 0.85 to 0.80 with this change. Prior to Brady, Paul Ryan chaired the committee for half of the 114th Congress (January 2015 to October 2015), and Dave Camp chaired the committee during the 113th Congress. The balance scores for the 113th and 114th Congresses were 0.77 and 0.75, respectively (see figure 4.3). Even though Republicans maintained control of the committee for three congressional sessions, there were three different chairs, which may explain part of the continuous changes in balance scores.

Taken together, the analysis of the effect of chairs and ranking member dynamics suggests a connection between bipartisan committee culture and more closely aligned leadership and more balanced scores. Deliberation is premised on a discussion that includes a variety of perspectives. Therefore, the data imply that deliberative hearings may be more likely in bipartisan committees.

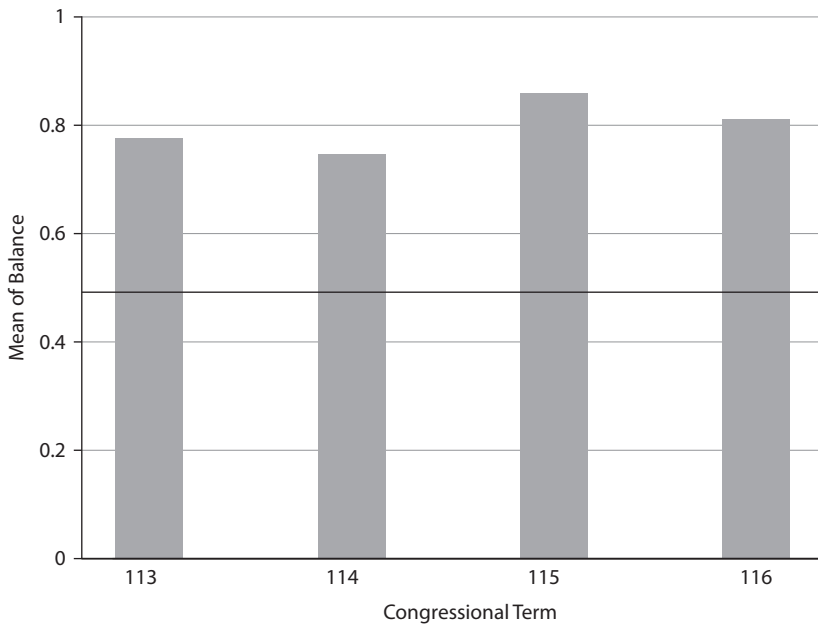


FIGURE 4.3 House Ways and Means Committee balance, by term.

Source: This figure draws on an original data set of balance scores constructed by the author.

Bipartisan Topics

Within committees, partisanship also varies by topic. The Senate Judiciary Committee provides an excellent example. Even though it is a partisan committee, there is variation in the partisanship of topics. Chapter 2 found that the Senate Judiciary Committee has the most balanced score of all the committees in the sample, despite both scholars and pundits classifying it as a highly partisan committee. The previous section identified a connection between partisanship of committee and balance score. So why might the Senate Judiciary Committee be different? First, the data set of hearings included only policy-related rather than nomination hearings. As one staffer on the committee explained, “There’s sort of two buckets of hearings. There are hearings for judicial nominees and there’s hearings for like everything else. . . . I think there was going to be much more collaboration on hearings for everything else versus hearings for nominations.” This shows that, within the same committee, different topics elicit

different kinds of hearing dynamics and degrees of collegiality. Because nominations are so unique, they are explored separately and in greater detail in chapter 6.

The data set of balance scores for legislative hearings shows that even in a partisan committee, bipartisan topics may lead to more deliberative hearings. A staffer on the Antitrust Subcommittee of the Senate Judiciary Committee explained, “I think the Antitrust Subcommittee has been an exception to the rule for a while, just because antitrust is usually and ideally a bipartisan area of law where we try not to make it too partisan.” His statement emphasizes the degree of variation in the partisanship of topic within the committee. Indeed, during the 114th Congress, many of the hearings were on less partisan topics such as drug abuse, adoption, and sexual assault. Figure 4.4 compares the balance scores for bipartisan and partisan topics (categorization is based on background research and conversations, along with close reading of the chair and ranking member opening statements). The figure shows that the more bipartisan topics within the committee receive more balanced scores, suggesting that even

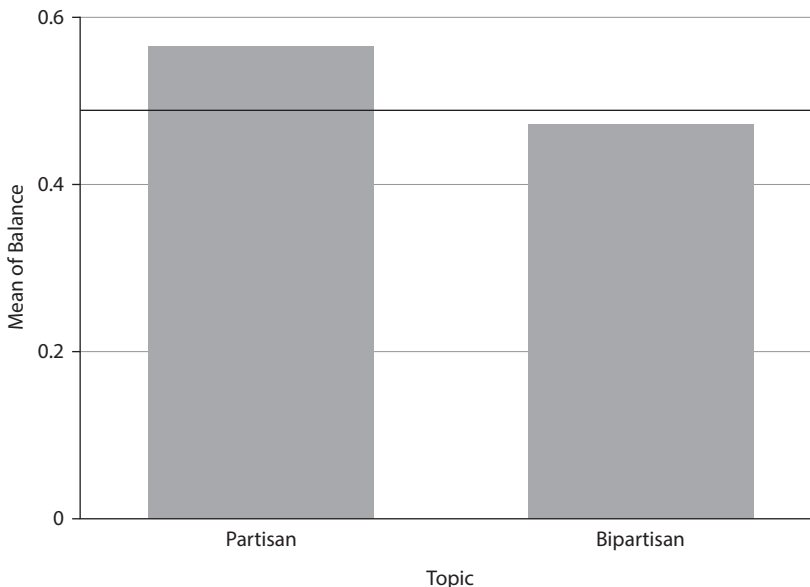


FIGURE 4.4 Senate Judiciary Committee balance, by topic.

Source: This figure draws on an original data set of balance scores constructed by the author.

in the Senate Judiciary Committee, the less contentious topics may lead to more balanced witness panels and, as a result, more deliberative hearings.

The significance of the bipartisanship of the hearing topics is further substantiated by an intracommittee comparison based on issues. To investigate the effect of topics further, I compared the balance of hearings on clearly bipartisan topics to hearings in general for the four “average committees” in the center of the Christopher Deering and Steven Smith partisanship ranking (House Science, House Agriculture, Senate Commerce, Senate Foreign Relations).²⁰ I relied on voting data as well as information gleaned from staff interviews to identify bipartisan topics in each committee. For the House Science Committee, the bipartisan topics were those in which there was a good deal of voting across party lines, such as fossil fuels, research, water pollution, and space exploration. For the Senate Foreign Relations Committee, bipartisan topics were those in which parties came together to pass bipartisan legislation (Iran, North Korea, human trafficking, and sexual abuse). In the House Agriculture Committee, interviews with staff and members from both parties confirmed that Supplemental Nutrition Assistance Program (SNAP) was the contentious issue of the 114th Congress. It was also the issue on which the committee held the largest number of hearings. Therefore, I chose topics that interviewees described as less partisan, such as an exploration of how to make better use of food waste, agriculture and national security, and agriculture and energy. For the Senate Commerce Committee, I similarly chose topics that interviewees described as bipartisan, such as the possibility of developing self-driving cars and improving cybersecurity.

Figure 4.5 shows that bipartisan topics have balance scores closer to 0.5 (perfectly balanced) than hearings in general during the 114th Congress. Within each committee, the bipartisan hearing panels are more balanced than the average hearing of the committee. This further suggests a connection between partisanship of topic and the likelihood of a deliberative hearing displaying a variety of perspectives.

This conclusion reaffirms previous research by Jürg Steiner et al. regarding polarizing issues and quality of deliberation. They write, “When legislators agree on policy fundamentals, it should be easier to engage in an open-minded deliberation than when there is sharp disagreement on an issue.”²¹ Steiner et al. also compared congressional debates on polarizing issues (partial birth abortion and minimum wage) to nonpolarizing issues

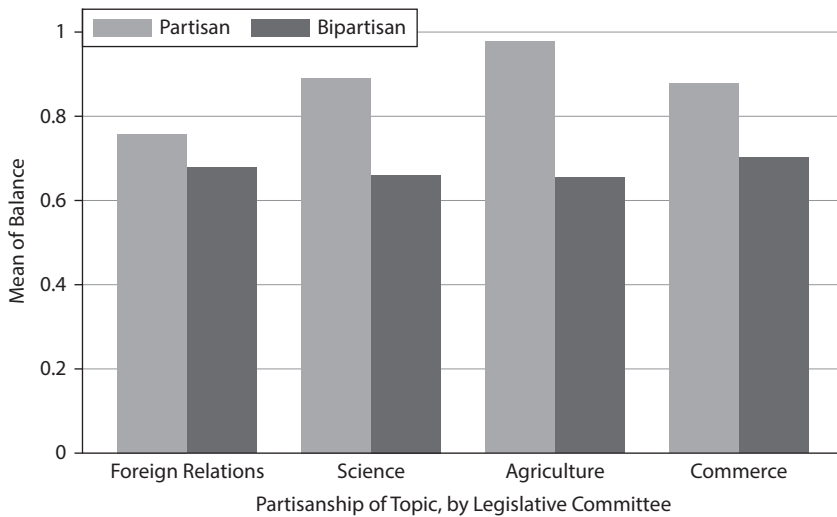


FIGURE 4.5 Balance by topic, 114th Congress.

Source: This figure draws on an original data set of balance scores constructed by the author.

(crime prevention and disability rights). They found that less polarizing issues lead to higher levels of respect and sophisticated justification in speech and concluded that there is a negative correlation between the degree to which an issue is polarizing and the quality of deliberation.

STRUCTURE: SENATE

There are also signs that the Senate has a greater propensity for deliberative hearings than the House of Representatives. Rules such as the Hastert rule (which brings bills to a floor vote only if the majority will support them) grant the majority enormous power to shape policy in the House of Representatives. As a result, the majority party in the House may have less incentive to work with the minority compared to their counterparts in the Senate. As explained in chapter 1, when the staff members on both sides work together on a joint list, there is a higher likelihood of a diverse and balanced panel that features different witness types and points of view. A stronger minority voice and more work across the aisle may translate

TABLE 4.3 Hearing balance by chamber, 114th Congress

Senate committees average balance	.77
House committees average balance	.85

to more deliberative hearings in the Senate. The comparison of the balance scores of each chamber for the same congressional session in table 4.3 shows that the four Senate committees have more balanced scores than the four House committees, substantiating the notion that the Senate displays more deliberation than the House of Representatives.

This conclusion regarding the greater capacity for deliberative hearings confirms Steiner et al.'s findings in their comparative analysis of parliamentary deliberation. They find that "second chambers" display higher levels of deliberative speech around the world. They attribute this to "institutional provisions as well as norms of civility."²² The study quotes Senator Claiborne Pell from Rhode Island as saying, "The Senate has a long and established tradition of deliberation precisely because [of] its rules and procedures for legislating such difficult issues with thorough and adequate review."²³ The senator's reflection and Steiner et al.'s conclusion about deliberative speech further stress the Senate's propensity toward deliberation.

The contemporary Congress is perhaps less deliberative than its predecessor, but the evidence in this section suggests that, when deliberative hearings do occur, they are most likely to take place in bipartisan committees, on bipartisan topics, and in the Senate rather than the House of Representatives.

POSSIBLE EFFECTS

LEGITIMIZATION

How might these deliberative hearings affect committee members today? There is a rich body of work in social psychology on the power of exposure to a variety of perspectives. This work rests on the assumption that

these instances may cause stimulation of “implicit attitudes” outside one’s conscious awareness.²⁴

Research suggests that showing people pro-attitudinal information strengthens their opinions. For example, political scientist Matthew Levendusky found that showing people like-minded media made them more extreme and more certain in their views and caused them to delegitimize and mistrust the other side.²⁵ Yet another study found that white people with racist beliefs showed even more racial prejudice after speaking to others with racial prejudice. On the other hand, white people with low levels of racial prejudice exhibited even less prejudice after speaking to other white people with low levels of prejudice.²⁶

In addition to intensifying positions, interaction with only like-minded perspectives leads to the wrong conclusions. As political psychologist Philip Tetlock explains, “groupthink” occurs when “intense social pressures toward uniformity and in-group loyalty within decision-making groups can build to the point where they seriously interfere with both cognitive efficiency and moral judgment.”²⁷ Irving Janis traced poor political decision-making cases (Bay of Pigs, escalation of the Vietnam War) and showed that the policy makers formed cohesive groups that inhibited independent judgment.²⁸ Tetlock later expanded on Janis’s analysis and found that policy makers in groupthink situations evaluated the group they identified with more positively relative to policy makers in non-groupthink situations.²⁹ The work on groupthink illustrates that monolithic groups endanger both moderation and the quality of the decisions themselves.

On the other hand, there is work showing that exposure to conflicting people and perspectives holds the potential to sway positions. Psychologist Christopher Hsee et al. showed that joint evaluation of two different options causes people to reverse previous decisions.³⁰ Simply viewing two pieces of information side-by-side changes people’s decisions. Legal scholar Cass Sunstein collected tens of thousands of judicial votes from federal judges who were on three-person panels that were either all Democrat, all Republican, or mixed. He found that sitting on a mixed panel makes a great difference in how people vote. While Democrats and Republicans have a 41 percent difference in voting on gay rights issues overall, Democrats on an all-Democrat panel and Republicans on an all-Republican panel show an 86 percent difference.³¹ This suggests that seeing and understanding different positions may change one’s opinion.

In sum, this work on exposure to like-minded versus different opinions demonstrates the power of variety to sway opinions. Deliberation may therefore prove impactful because it requires participants to grapple with different opinions. In her explanations of “pathways to deliberative transformation,” political philosopher Iris Marion Young writes that “through listening across difference each position can come to understand something about the ways proposals and claims affect others differently situated . . . participants gain a wider picture of the social processes in which experience is embedded.”³² Young further explains that confrontation with different perspectives teaches the “partiality of my own.” Deliberation therefore tends to reveal the full spectrum of opinions on a topic and cultivates a greater understanding of other views. Empirical studies of deliberation corroborate this. Political scientist Jason Barabas studied the effects of a deliberative forum on Social Security in Arizona in which more than 408 citizens gathered to deliberate about Social Security reform. He measured the political opinions before and after the forum and found that deliberation leads to moderation of opinions.³³ In his study of Canadian committees, Michael Rush also found that partisanship decreased when the committees heard outside evidence. He writes, “82 percent of respondents said there was some degree of internal specialization in committees that resulted in cooperation between members of opposing parties.”³⁴ Rush’s conclusion suggests that listening to different views stands to change the way members approach an issue.



Research points to a clear connection between communication across difference and transformation of opinions. But is any of this happening in Congress today?



Interviewees from both sides of the aisle referred to the capacity of hearings with diverse panels to help them understand the other side, appreciate the full spectrum of opinions on an issue, and even reassess their own view. As one congresswoman explained, “With good

questioning you can get folks to flesh out their views.” A senior Democratic congressman explained, “Expert testimony tends to give you . . . [opportunity] to consider, or at least understand, the opposing point of view or . . . consider the steps you need to take in mitigation. You might hear one of the majority experts make a point, [and] you think, wow, I hadn’t thought about that, that makes a lot of sense. So, then you can go to the minority expert and say, ‘Do you agree, do you not agree?’” This observation demonstrates that the testimony helps the congressman gain a wider picture of the opinions on a topic and how they relate to each other. On the other side of the aisle, a Republican congressman, a member of the House Science Committee and former member of the House Agriculture Committee, echoed this reaction. He said, “What I’ve learned in this job is that there are a lot of different perspectives and it’s my responsibility to hear.” He went on to say that in hearings, “it happens almost all the time where I’m listening to different perspectives and piecing them together.” A senator said the same of Senate hearings. He explained that, in hearings, he thought of “new aspects of the problem or I realized who was for and who was against this. What sectors of our society that I might not have thought had an interest in this or had something to say about it.” These remarks are all indicative of the ways in which hearings broaden and deepen members of Congress’ understanding of different opinions on an issue.

Members of Congress even told me of instances where listening helped them to understand new elements of arguments they had wholeheartedly opposed. The Democratic vice-ranking member of the House Science Committee (a major proponent of fighting climate change) told me that even though he completely disagreed with climate change skeptics who came to speak at the hearings, he saw that “at least they had coherent arguments” and this added some legitimacy to some of their positions. This statement is particularly meaningful because in one of the climate change hearings, this congressman engaged with a climate change skeptic on the witness panel, asking her to clarify her points. He was one of the few Democrats in this hearing who questioned the Republican witness, and when I spoke to the witness herself, she shared that she felt he was genuinely trying to understand her rather than asking a “gotcha question.” Their interaction signals that the congressman was trying to understand her argument, even if he did not necessarily agree. The congressman

shared, “I really do try to listen carefully . . . they all opened my mind.” There were also stories of confrontation with an opposing viewpoint leading to a reassessment of one’s own view. A senior Democratic congressman ruminated, “I think genuine witnesses are useful no matter what point of view they share. And often, I’ll listen to a majority expert and it will help me . . . to test my own opinion.”

COLLABORATION

New opportunities for collaboration may also arise through learning where others stand. When one better understands where one’s counterpart stands, one might discover shared goals or interests. Several members of Congress explained that the questioning and overall interaction between committee members and witnesses during hearings helps them to understand where their colleagues’ views might overlap. This corresponds with Young’s notion that “through listening across difference each position can come to understand something about the ways proposals and claims affect others differently situated . . . participants gain a wider picture of the social processes in which experience is embedded.”³⁵ A freshman Democratic congressman on the House Agriculture Committee said that hearings “give me a good understanding based on the questions that they asked of any witness about what’s important for them in their district.” He then explained that this has positive legislative consequences because, as a freshman member, he can understand where his colleagues stand and that just as beneficial as what these experts say is to “hear the questions from the members.” A senior Democratic congressman on the House Science Committee reflected that hearings are useful because they help him understand “the other side.” He said that hearings allow him “to know what [the other side] are thinking and get their perspective on something, especially something that I’m very interested in. And if I know there’s resistance to something that I would like to do and I’d like to see in a piece of legislation . . . listening to the questions to witnesses from Republicans gives me a better sense of what their objections are.” His reflection demonstrates that listening to and understanding the other side through questioning can help to bridge areas of disagreement.

On the Senate side, the same trend emerges. The conversation and increased understanding pave the way for cooperation. Hearings act as a “way of illuminating where everyone stands,” said a longtime Republican senator. A senior Democratic senator and former member of the Senate Foreign Relations Committee shared a similar account from the Senate. He explained that, for him, the most valuable aspect of committee hearings is hearing his colleagues ask questions. He went on to share a story of a major piece of legislation that he discussed with two Republican colleagues and was able to advance as a result of a hearing. He said, “That exchange was taking place at a committee hearing that was stacked against me. But at the end of it, there was a conversation.” This comment exemplifies the collaborative potential of hearings. By the same token, a personal staffer for another senator on the Senate Foreign Relations Committee explained that, as a result of attending a hearing about the position for “women’s issues” within the State Department, her boss was able to see which other members cared about this issue and then she could work with them to protect this position. Yet another personal staffer for a Democratic senator on the Senate Foreign Relations Committee told a story of a bipartisan bill to create a Senate Select Committee on Cybersecurity. He explained that, during the hearings, his boss noticed that “Senator Gardner was vocal about cyber. He would ask questions in fall 2016 and in January we introduced a bill for a select committee on cyber. That bill came out of seeing him question cyber issues and seeing he was interested in it.” This example again shows the potential for collaboration as a result of questioning.

Critics may argue that in today’s congressional battlefield, in which partisan votes demarcate fixed borders, these stories of legitimization and collaboration are exceptions rather than rules. Indeed, much of congressional scholarship rests on rational choice assumptions that render the effects of deliberation an “impossibility theorem.”³⁶ Key thinkers such as David Mayhew saw members of Congress as solely interested in reelection. From this standpoint, there is little room to maneuver in today’s gridlocked Congress. In light of the increasingly partisan nature of voting behavior in Congress, I do not argue that hearings always have the potential to change opinions or encourage legitimization. Yet these reflections from leading politicians about the “stories that shape them” leading up to the vote, as well as the illustrative examples of hearings presented in

this chapter, show that there is still some space for deliberation and its effects in Congress, perhaps especially in certain committees, topics, and chambers—as referenced earlier.

EXAMPLES OF DELIBERATIVE HEARINGS

Below are two illustrative examples of recent deliberative hearings on different policy issues: a hearing in the House Science Committee on a piece of cybersecurity legislation and a hearing in the House Agriculture Committee on SNAP. The examples chosen in this chapter are hearings that received balance scores between 0.5 and 0.7, indicating that they included a near even split of positively and negatively charged text.

I also coded transcripts for the following deliberative characteristics: reference to earlier points made by witnesses, reference to earlier points made by other members of the committee, inquisitive questioning, and purposeful inclusion of more than one witness. This coding scheme is grounded in Lascher's explanation of deliberation in Congress.³⁷ I define inquisitive questions as questions that seek new information. Questioning is only categorized as inquisitive when the committee members do not ask yes or no questions or questions with clear agendas, such as questions that start with "wouldn't you agree that . . ." This assessment is based on a thorough reading of the transcript. Purposeful inclusion of more than one witness means that committee members explicitly pose questions to more than one witness. In order for a hearing to be categorized as deliberative, a critical mass of speakers displaying one or more of the aforementioned deliberative characteristics is required. This is not to say that there cannot be one or two speakers who do not follow the pattern. Rather, it should be clear that the majority of speakers exhibit deliberative discourse. Each transcript was coded several times to assess reliability. Lascher also suggests that an additional way to assess deliberation is to ask participants whether they felt they had the opportunity for genuine questioning. Therefore, I also asked respondents for such opportunities in the hearings.

After identifying examples, I use these examples to further test how deliberative hearings stand to affect members, relying on content analysis of the transcripts and interviews with the members of Congress in attendance.

THE CYBERSECURITY HEARING³⁸

Balance Score: 0.66

On June 15, 2017, the House Science Committee held the hearing, “Bolstering the Government’s Cybersecurity: Lessons Learned from WannaCry.” After the WannaCry ransomware attack and in the lead-up to the NIST Cybersecurity Framework, Assessment and Auditing Act (H.R. 1224), the committee held a series of hearings. The bill directed the National Institute of Standards and Technology (NIST) to conduct audits and evaluate whether federal agencies are complying with the NIST cybersecurity framework. The bill was a partisan issue. It was authored by Republican Ralph Abraham and supported by all Republican members. Every Democratic member except for Daniel Lipinski voted against the bill. Democrats argued that NIST lacked the expertise and funding necessary for audits.

The witness panel exhibited professional balance, with witnesses both supporting and opposing the proposed bill. The first witness was Salim Neino, executive officer at Kryptos Logic, an unlabeled expert who shared information on the attack and how it was stopped by Kryptos Logic. Next, the committee heard from Charles Romine, director of the Information Technology Laboratory at the National Institute of Standards and Technology. Romine was a spokesperson on behalf of NIST who gave details on NIST framework and its applications. His testimony was followed by Gregory Touhill, retired brigadier general of the U.S. Air Force and adjunct professor of cybersecurity at Carnegie Mellon University. Touhill was a “labeled expert” as a result of his service as chief information security officer under the Obama Administration. The last witness was Hugh Thompson, chief technology officer at Symantec, who was another unlabeled expert.

The hearing discourse revealed examples of inquisitive questioning and reference to earlier points. Several committee members asked for witnesses to expand or delve more deeply into topics and comment on the interest this sparked in them.

Effects

The cyber hearing displays several examples of legitimization. For example, Congresswoman Esty began her remarks by saying, “This has been

very enlightening and extremely helpful,” a verbal sign of an appreciation for the new vantage points and information gained in the hearing. In a later interview with me, she reflected that listening to the witnesses with opposing views speak about cyber made her think to herself, “Is that my own ideological baggage that I think this way?”

I asked one senior Democratic congressman about the hearing and he told me how it compelled him to change his vote. At the time of our interview, he noted that the cybersecurity in federal government bill would be coming to the floor for a vote the following week. He explained that he was the only Democrat to support the bill when it came to committee markup, and he recalled of the hearing “that’s the sort of hearing I remember because it was a big divide between Democrats and Republicans. So, I really want to learn . . . especially to get from NIST their perspective on expanding this role and to hear from other witnesses what they thought about that and how difficult it was going to be.” This hearing moved him. “It’s actually a hearing that I remember something about and of wanting to actually hear what they were talking about. So, I think that . . . it convinced me enough that, okay, I could support the bill going through committee even though I had reservations about it,” he explained. The congressman’s recollections of how he “really wanted to learn” because this was an issue with a divergence of opinions and that the witness panel “convinced” him he should support the bill represents a powerful indication of the capacity of witness testimony to legitimize opposing perspectives.

THE SNAP HEARING³⁹

Balance Score: 0.66

On January 12, 2016, the House Agriculture Committee held the hearing, “Past, Present, and Future of SNAP: Addressing Special Populations.” This hearing was part of a set of hearings on SNAP over the course of several years prior to the passage of the 2018 Farm Bill. The bill represented \$867 billion in government spending and is one of the major pieces of legislation that falls under the jurisdiction of the House Agriculture Committee. The bill includes important regulations pertaining to American farming as well as nutrition assistance.

SNAP is part of a wider value debate on social welfare. The question of how much the government should be involved in assisting people in need is a question of value. It transcends the raw facts on how many people need assistance and how much providing such assistance costs. Several of the interviewees, including staff and members of Congress from both parties on the committee, stressed that SNAP is an exceptionally partisan issue. Democrats are twice as likely as Republicans to have received food stamps at some point in their lives.⁴⁰ Nearly three-quarters of liberal Democrats and less than half of Republicans say the government should expand assistance to those in need.⁴¹ This hearing was about the needs of “special populations” such as the elderly or veterans. As noted earlier, veterans affairs is a relatively bipartisan topic (even within a partisan topic). Therefore, SNAP for veterans may be a subtopic of a contentious issue with a little more potential for alignment.

The witness panel included a mix of types of experts as well as professions. The first witness, Abby Liebman, was president and CEO of Mazon (a nonprofit working on hunger issues), an unlabeled expert because she came to share expert information on hunger problems faced by veteran families. The next witness, Erika Tebbens, represented a personal storyteller coming to share her experience as a SNAP recipient and a spouse of a military veteran. She was followed by Vinsen Faris, executive director of Meals-on-Wheels of Johnson and Ellis counties in Texas, a spokesperson who came to share specialized knowledge of a particular program that helps elderly Americans receive food. Finally, the committee heard from Eric Schneidewind, president-elect of American Association of Retired Persons (AARP), a spokesperson on behalf of an organization dedicated to fighting for elderly Americans.

The hearing discourse was full of examples of deliberative speech. The chair began by asking the witnesses a series of inquisitive questions, saying she was “curious” to learn more. Adams referred to a specific statistic on veterans from Liebman’s testimony and asked inquisitive questions. Conaway referred to previous points from Faris’s testimony, including the specific case of a ninety-two-year-old woman in the Meals-on-Wheels program and then asked questions. Gibbs again asked for elaboration on military families’ costs and other issues, and then Crawford referred directly to questions posed before him. The critical mass of committee members who asked inquisitive questions, referenced previous points

made in the discussion, or included another witness renders this a clear example of deliberative hearing.

Effects

There is indication of all three effects of deliberation in this hearing. After engaging with Tebbens, Congressman Crawford asked, “Madam Chair, I ask that you might consider maybe a joint hearing with this Subcommittee and Armed Services to address nutritional issues that have been brought up in this hearing.” This shows that the hearing moved him to the extent that he wanted to learn more.

Perhaps the most striking example of the effect of this hearing is personified by Republican Congressman Ted Yoho. The congressman’s behavior in the hearing and statements in an interview I conducted several months after the hearing reveal signs of Young’s three pathways to deliberative transformation. Congressman Yoho seemed so affected by Tebbens’s experience as a veteran family on SNAP that he asked, “Why aren’t we paying veterans more?” Two other people in the room that day independently recounted that they were struck by his statements. A long-time staffer on the nutrition subcommittee told me that she remembered this as an example of someone moved to reassess their own position based on testimony. In an interview with me, Liebman’s deputy at Mazon, who was also there that day with his boss, echoed this view. He independently identified this same exchange as evidence that Congressman Yoho was moved by the testimony.

Their surprise may stem from Yoho’s previous voting record and public statements about SNAP. In 2013, he voted to cut food stamps by \$40 billion.⁴² In public statements, he stressed that SNAP should be temporary and the importance of across-the-board budget cuts.⁴³ Yoho’s behavior in the hearing may not necessarily indicate that he changed his mind, but it shows that it is plausible that he engaged with information shared by minority witnesses and gained a more comprehensive understanding of another viewpoint. In an interview with me, Congressman Yoho explained, “I think the more that you can get together and hear somebody else’s perspective of why they’re arguing a certain way or fighting for a certain thing kind of makes you think, you know what, I didn’t think of that.” The congressman’s statement suggests that he appreciates the fact that

others have different views and that listening to them leads him to realize new angles that he had not previously considered. The statement indicates what Young terms “understanding the partiality of your view.” When I asked specifically about the SNAP veterans hearing, he explained, “That was an eye-opener for me because we’ve got too many people on that that are serving this country. So, what that tells me is we need to pay more and there should be some form of assistance to get these people through that.” Given the congressman’s question in the hearing regarding treatment of veterans, his statement would indicate that the hearing gave him a more thorough grasp of the opinions on the issue. Young writes, “through listening across difference each position can come to understand something about the ways proposals and claims affect others differently situated . . . participants gain a wider picture of the social processes in which experience is embedded.”⁴⁴ Finally, when asked about the purpose of hearings in general, the congressman showed appreciation for effect three, collective problem solving. He remarked, “The Democrats were lining up on the floor, they had the same talking points, ‘we will not accept one calorie taken off a plate’ and ‘we’re over here’ . . . that’s what happens when you don’t have interaction. Part of these are divided, there’s a dichotomy up here and it’s Republicans versus Democrats, or vice versa. Whereas in the committee . . . you can have a diversification of ideas, but you also have that interaction to where you see the other side of the story.” His comments reaffirm his appreciation for a setting in which both sides have a right to be heard.

These examples of deliberative hearings illustrate contemporary deliberation in a nondeliberative Congress. They further substantiate the earlier exploration of the legitimization and collaboration that deliberative hearings promote.

CONCLUSION

On February 5, 2020, the Select Committee on the Modernization of Congress held the hearing “Article One: Fostering a More Deliberative Process in Congress.” The impetus for the hearing was a shared understanding in the congressional reform community of the deterioration of congressional

deliberation. Chair Derek Kilmer (a Democrat from Washington State) opened the hearing with the affirmation that “the framers intended for Congress to be a deliberative body.” He depicted the job of Congress as giving “voice to the people we represent. It is not always easy because we are a nation of diverse views . . . the people’s house embodies an amazing array of opinions and perspectives on the issues of the day, and through the process of debate and deliberation we determine policy.”⁴⁵ Over the course of the hearing, all three expert witnesses touched on committees in some fashion, proposing ways to harness contemporary committees for a more deliberative legislative process.

This chapter adds to the discussion of committee deliberations by showing when and how congressional committees still act as deliberative forums today. It drew on different data to flesh out the ways in which committee culture, chairmanship, hearing topics, and chambers affect the likelihood of deliberative hearings.

In a Congress rife with partisan topics and increasingly strained relationships, hearings that meet these conditions may be less likely, but they nevertheless still take place. A Georgetown professor and expert on terror, with experience testifying on foreign affairs, told me in an interview a story of a hearing that surprised him. He recounted how a Republican congressman from Indiana “lectured me about how we need to treat Muslim communities better in the U.S., something I firmly agreed with.” He used this story as an example of how terror is a bipartisan topic in which “there isn’t a neat, Republicans believe X and Democrats believe Y.” Committees can still discuss many such bipartisan topics.

One way to ensure that a greater percentage of hearings are dedicated to bipartisan topics is to change the rules governing how hearing are set up. The Select Committee on the Modernization of Congress recommended “bipartisan committee staff briefings and agenda-setting retreats to encourage better policy making and collaboration among Members.”⁴⁶ This is one way to ensure resulting hearings pertain to topics both sides agree on rather than having them used as a partisan flex. This chapter showed that, when hearings are deliberative, these deliberations may still nurture greater understanding, legitimization, and collaboration between members.