

Interviewee: Frances Lee
Part 1

MATTHEW CHERVENAK: Frances, thank you so much for joining us.

FRANCES LEE: Thanks for having me.

CHERVENAK: Why don't we start with your background, how you got into this area of work, and where you are today and how you got there.

LEE: I'm now at Princeton University, where I'm jointly appointed in the School of Public and International Affairs and in the politics department, but I've only been at Princeton since 2019. I've been in the business of being an academic and a scholar of legislative institutions and of the Congress since the 1990s since I started a graduate school at Vanderbilt University in the fall of 1992.

At that juncture, at the moment I started the graduate program, I did not know that I wanted to be a Congress scholar. I knew I wanted to be an academic. I liked to do research and writing, and I enjoyed teaching, but the specific area that I wanted to focus on was yet to be determined. But, I was interested in American politics, and I was taking courses in that vein and Congress captured my interest in the most sustained and compelling way. That it's where all the different forces of American politics converge—parties, every affected interest in society, representatives of the American people from every part of the country, the leaders of government agencies—and they all have it out there. It's an arena of conflict and policymaking. And so that's what I wanted to focus on.

My early work was on how Congress shapes who gets what geographically and with a special interest in how giving every state two senators, regardless of population, how that affects policy outcomes. Obviously, it's a vast departure from the democratic principle of one person, one vote. To give Wyoming, with just a little over half a million residents, the same representation as California, which is larger than many countries.

And so what difference did that make for policy outcomes. And it makes the sort of differences that you might expect. That it tends—. It is advantageous for citizens of small states. They tend to get a better return on their tax dollars. For all the programs over which Congress maintains the tightest control, there's principally formula grant programs. Those small states get a bonus.

So I worked on that, and then on pork barrel politics early on. And so that was my early focus until I earned tenure. I got my first academic job, which was at Case Western Reserve University in Cleveland, and I continued to work on congressional policymaking until I got promoted. And then at that point, I had a chance to be a congressional fellow, an American Political Science Association fellow, so I worked on Capitol Hill for a year. And growing out of that was a new found interest in party politics, and so then that gave rise to my next two books, both of which

focused in various ways on what makes parties hold together and come into conflict with one another.

And we'll talk about the specifics of the research more shortly, but I've been working on parties in various ways ever since—why do they come in conflict, why do they hold together, when do they come apart, and what do they accomplish in policy terms. And so then that's been the arc of my work ever since I got—.

After the year as a fellow, I went back to Cleveland briefly, but I really loved being in DC. I mean, the chance to talk to policymakers really redirected my research while I was there, and I wanted to continue to do that, and so when a position opened up at University of Maryland, I applied for that and luckily got that job. And that's where I worked for the next fifteen years.

Princeton's a relatively new departure, and I was reluctant to leave DC and wound up barely leaving in the sense that the pandemic struck halfway into my second semester on the faculty at Princeton, and now I've been teaching remotely from Washington, DC, at Princeton for longer than I was in person in New Jersey.

So that's an overview of how I got to where I am now and what I've been working on.

CHERVENAK: Well, why don't we start with a deeper dive into the party idea. Obviously, if we go back to the Federalist Papers, the predominant word, I think, was “faction” to describe any kind of group. And party is a particular kind of group that later emerged. And so I'm curious, as someone who spent so long thinking about parties, why don't we start with the idea of, What are they? And then maybe move into the other parts of, Why do they matter? And what are they actually doing these days?

LEE: I think of parties in a minimalist way. A party is a group of political leaders allied under a common label who compete for power. I think if you strip a party down to its essence, that's what they are. It doesn't necessarily mean that they agree on issues or agendas, on goals. They may, they may not. Parties have varied on that dimension throughout US history, but they all boil down to cooperating to control important positions of power.

In the congressional context, that means to chair the committees. The majority party controls all the committees—controls the Speaker of the House, the key constitutional officer in the House of Representatives—and so beyond with that, what else they accomplish is open-ended. But they can do that. That's sort of the key test of a party is the ability to win and to hold offices.

CHERVENAK: Okay, and so that's what differentiates them from some other group that has a particular policy goal then. It's the fact that they want to seize and hold power as a group?

LEE: That's right. And, in fact, in long stretches of US history, parties have struggled to agree on much more than that. If you think about the Democratic party of the 20th century that

dominated Congress from 1932 up through the 1990s—if you're talking about the House of Representatives in the Senate, up through 1980—so, much of the 20th century the Democratic party was the majority party in Congress. And for a lot of that time, you couldn't even get them all in the same room together without them falling into argument and disarray. In fact, in the general view of the of congressional leaders of the mid-20th century was that you shouldn't convene the caucus at all. They didn't even meet.

They would meet at the start of the Congress to organize the Congress, and then they would not meet to discuss policy because the disagreements within the party were so deep, and yet they could still manage to call themselves Democrats and to organize the Congress and to control the committees, but they couldn't agree on any anything else beyond that.

CHERVENAK: Let's move on then to your research. What questions are you asking about parties and what answers, if any, have you found?

LEE: Well, my most recent book, co-authored with Jim Curry of the University of Utah, is called *The Limits of Party*, and it looks at the effect on lawmaking of the rise of party conflict in Congress and the centralization of power in party leadership offices. We know that there are far more roll call votes that break down on party lines, that members are much more loyal in voting with their parties than they used to be, that the leaders control the floor of both House and Senate in a much more heavy-handed manner than they used to with very little by way of open freewheeling amending, that lots of legislation gets developed in leadership offices and goes around committees never even gets a committee report.

So what does this mean in terms of policy outcomes, we ask.

First thing we look at is just enacting coalitions. Does this mean that more laws are enacted on party lines on party line votes? More laws where the majority party just imposes its will over the opposition of the minority party?

And we find, interestingly, no increase in that despite party polarization and roll call voting generally. If we just look at the roll call votes that results in the enactment of laws, there hasn't been any party polarization. Laws—both important laws as well as routine legislation—typically garner majorities of both parties, meaning a majority of the minority party. And the frequency with which legislation occurs over the opposition of the minority party is not higher today than it was in less polarized eras.

So it means that a lot of what we talk about with polarization has to do with the process, the way Congress operates. But when legislation gets worked out, it is still bipartisan.

The second question that Jim and I asked in the book was, Are parties today more effective at accomplishing their agendas? And so we looked at the priorities that the majority parties in Congress laid out at the start of the Congress in the speeches given by the leadership—the opening of the Congress, so the opening Congress speech of the majority leader and Speaker of

the House—and we looked at the bills that they insert into the leadership reserved bill numbers. Basically, H.R. 1 through 10; S. 1 through 5.

Going back to the 1980s, we did this for every Congress and then tracked the legislative histories of those agendas. Do parties succeed in passing legislation on their agenda items? Do they get most of what they wanted to accomplish or only some?

And we find that parties today are no more effective than the parties of the 1980s and 1990s at accomplishing their legislative agendas. They are not less effective. It bounces around. That there's continuity over time. That the rise of party cohesion in Congress and the strengthening of party leaders is not having clear effects on outcomes. They fail about half the time on their agenda items. That's the typical outcome of their agenda.

CHERVENAK: Has the ambition of their agendas changed over time so that they're always kind of putting a bunch of big things out there that are 50-50 of being achieved? But in years where they have bigger majorities or whatever, they go for bigger goals?

LEE: They don't go for longer agendas when they have larger majorities. We've typically seen in the contemporary era pretty narrow majorities. That's been true of the polarized Congress, is that it's a Congress characterized, most of the time, by pretty narrow majorities. But we don't see any systematic variation that where a party has unified government, it's more ambitious, lays out a longer agenda. It's typically about twelve agenda items. That's on average. Parties don't differ. Democrats and Republicans put forward about the same number of agenda items when they have the majority.

So they fail about half the time they succeed, and when they succeed, the normal path to success is by co-opting their opposition party. They rarely succeed by rolling over, and the opposing party continues to oppose them the whole time, but they just lose. So if you think about the ways in which the Affordable Care Act got passed—where Republicans opposed it from start to finish, but just lost. That path for legislating is very rare. We only found twelve agenda items since 1985 that passed in that kind of manner.

So the Tax Cuts and Jobs Act was another. They are not uniformly important pieces of legislation—some of them are, some of them aren't—it's just not the norm, and it's not becoming more normal for Congress to operate in this way.

I was sort of surprised when we did this research. I expected to find more of an effect of rising partisanship on legislative outcomes and more majority party rolling over on the minority party. And the term we use in the book is steamrolling them. We expected to see more of that, I expected to see more of that, but we don't find it.

And a key reason is that majority parties are less cohesive when it comes to their top agenda items than they are in aggregate roll call voting. They look like these blocks that operate in lock

step for 95 percent of the time or more vote with their party. That's what you see in roll call voting.

But when it comes to the big issues on which the parties want to act, they have trouble getting on the same page. Democrats can't agree on how to address climate change. Republicans worry about entitlement programs and long-term fiscal balance, but they cannot figure out an approach that they can all get together on. And so they set out these agenda items.

Think, for example, of the Social Security reform that President George W. Bush proposed right after his reelection in 2004. Top agenda item: H.R. 1, S. 1. Republicans wanted to do something on Social Security. They could never agree on a bill. Never reported a bill from in committee in either House or Senate. That is a common path for failure.

And so the parties don't have the answers to a lot of the big problems that they want to tackle, and so they don't want to advertise that. That's not part of their campaign messaging, but it is a fact about governing outcomes. That they struggle.

So the most recent party implosion along these lines was a Republican effort to repeal and replace Obamacare—something they'd campaigned on for close to a decade—and yet couldn't figure out what they wanted to do in terms of their replacement package.

CHERVENAK: So it sounds like that the big, according to your research, the large measures have a 50-50 chance no matter who's in charge and how big that majority is. So that would then make me think that the smaller ones, the smaller bills, must be disproportionately majority because when I think of the Volden-Wiseman data, it shows a higher level of effectiveness for majority members compared to minority. So does that mean that the majority passes lots of small bills but doesn't have any advantage in the big ones?

LEE: Well, it means that the majority gets to propose. I mean, that's why it's so important to members to be a part of a majority party and why they work so hard and raise a lot of money to push for that. But, when they pass legislation, they have minority party support. So they can propose things, but they pass very little legislation over the opposition of the minority party.

It's what do you get to focus on. They rarely get a chance to just dominate the minority party. They don't succeed in legislating over their objections, but they get to choose what to push when you're in the majority. On big controversial matters, majorities have trouble holding their ranks together. So, any issue on which the majority party is able to coalesce its ranks, in most of those cases, it also attracts a substantial amount of minority party support.

In other words, the parties are not as polarized as they appear in a great deal of roll call voting. That they look like they don't agree on anything, and they campaign, they criticize each other very harshly, but when it comes to getting out of the brass tacks of legislating, parties really struggle to act in in areas where there's significant societal controversy.

And, yes, when you're looking at the Volden and Wiseman data, majority parties get to set the agenda. And so, the suspension bill—lots of bills pass under suspension of the rules. That means that you're going to need the two-thirds majority to pass it in the House. So that means a lot of minority party support. You can't pass it if you don't have a lot of minority party support. So they have it. They just get to choose which things to go forward on. So that's the difference sort of between agenda setting and then being able to legislate on your partisan wish list. That those things are not should not be seen as one and the same.

CHERVENAK: So in terms of the parties then, I know you have other work that talks about when the two parties are more equal in terms of when the equilibrium of Congress is tighter, when it's a 50-50, 49-51, that that does change behavior in terms of what's happening. Can you talk more about what you've done in that area and what you've found?

LEE: I had a book in 2016 called *Insecure Majorities* that looked at how the intensification of competition for control of Congress, party control of Congress, how that has affected behavior inside Congress—incentives of members, the incentives of parties, and the leaders of parties. And if you think about the Congress of the 20th century, the seemingly permanent Democratic majority, Republicans through much of that period did not see a path to power, did not believe—. They saw Republicans as a minority party in the country, and they did not believe that Republicans were within striking distance of winning majority control of Congress.

So that sets up a different set of incentives in the Congress of that time. It made sense—if you think about the relationship between committee chairs and ranking members on committees, they could cooperate—the ranking members wanted to get a piece of the action to pass legislation that accommodates some of their priorities. And they didn't have much reason for saying, They're doing a bad job. We can't support anything that they are proposing. Here's what we would do if we were in the majority. And put forward a list of partisan alternatives to say, If the American people grant us majorities, this is what we would do instead.

They didn't have incentives to do that because they didn't think it was in play. But what happens after 1980 is that when Republicans, to their surprise, won control of the Senate—no one was expecting that—suddenly, Democrats are put into the minority in the Senate, and they have to retool. They need to engage in collective action to win back the majority. They begin to set up roll call votes for the purpose of highlighting how Republicans and Democrats differ from each other. So they could say, This is what they're doing wrong. This is what we would do differently.

And you've got Republicans still in the minority in the House of Representatives looking at Senate Republicans holding gavels and Reagan in the White House, and they began to believe it might be possible for Republicans to win a majority in the House. And so you get visionaries, backbench visionaries like Newt Gingrich, who wanted to take it to the Democrats, go out on the floor and say what they're doing wrong and try to win—we can be in majority parties—what he was telling Republicans.

What we've had since 1994—where the Republicans ended the permanent Democratic majority in the House—it has been a period of intense competition for control, where both House and Senate are in play, and in any given election, we could see a majority shift.

And what that means is it incentivizes a tougher kind of partisanship in Washington, where the out party is looking for a path back in, engaging in messaging aimed at showing up the majority party. We don't vote with them, we don't want to support what they do, we want to show how we would do it better. So it's a harder-edged partisanship that grows out of competition, close competition for power, and we've been stuck in that moment now for a long time.

I mean, we just saw on yet another excruciatingly close set of national elections, where the control of the Senate was decided by two runoff elections in the state of Georgia. So this continually focuses members on that competition for majority status. And parties have grown in strength, institutional strength, in many ways during this period. The Hill committees that raise money for congressional elections raise so much more now, and it's not just because races are more expensive or there's been inflation, it's because there's more at stake. It didn't used to matter who won, for example, those seats in Georgia in the 20th century, wouldn't matter, those Senate seats, because Democrats were in the majority and Republicans were not. And that was just, that was accepted, that's normal.

It wouldn't matter in any particular competitive race in anywhere in the country which party won it, really. I mean, it mattered to the people of that district or that state, but it wouldn't matter to a national party. But the national stakes are much higher now in the era of insecure majorities, and that creates different incentives inside Congress. Makes bargaining harder. Why cut a deal now if you think you're going to be in power in two years?

We often think of competition as a good thing in democracy, but the analysis theory suggests that there are some downsides, focusing politicians continually on politics rather than on policy.

CHERVENAK: I think it's interesting that on the one side your research is showing that parties, whoever is in charge, doesn't matter much for the policy outcomes for that dominant party or for the majority party, but at the same time your most recent research is showing this, I guess, it would have to be a level of resource dedicated to reelection even a percentage of time increase to that activity over legislation. Shouldn't that have some impact on the outcome of the legislation?

LEE: Well, it unquestionably makes negotiation in Congress more difficult. It's hard for Congress to act in areas that are tremendously controversial in long party lines. There are few breakthroughs where Congress passes legislation that moves policy in either a leftward or a rightward direction, clearly. There's usually kind of a mix.

Most legislation is rather ambiguous with respect to the ideological direction of the country. You rarely see a clear breakthrough. They're episodic. So most of the time the parties are roughly fighting to a draw.

The majority party gets to set the agenda, but it rarely gets to legislate on its fondest wishes. It gets blocked by the other side or by internal divisions in its own ranks.

I'd say the politics today are more partisan, more conflictual, more oriented towards control, more of a continual struggle for control, but policy outcomes don't advantage one side or the other in a marked way.

Instead, what we see legislatively is continuity in Congress where the types of enacting coalitions that produced legislation in the 1970s and 1980s. They were bipartisan, still bipartisan today. What Congress actually gets done. You might think of this as the checks and balances in the constitutional system still operating in a way that forces compromise despite all the incentives not to engage in compromise. They hate it. The parties hate to have to do it. They don't do it out of any goodness of their heart. They do it because the system forces them to do so.

And what the new work shows is that it's still doing that. It's still forcing that kind of compromise.

CHERVENAK: What do you think would happen under a circumstance where there was a third party that was of substance? Or can your research even be applied to, or some of your findings be applied to, earlier phases of US history where you did have more than one party?

LEE: Well, there's great pressure to move towards a two-party system in US politics. I'd say that there's two considerations that pushes us towards two parties. One is control of the presidency. It's the biggest prize in American politics. If you want to win it, you need to be able to win a majority of the electoral college. So any third party that comes on the scene, that just weakens—. Any allies that that side or perspective might have in American politics is just sort of cut in half.

You need a majority, so you need to bring together all the elements of society that could potentially be on your side into the big tent to win the presidency. So, you can't afford to lose them. You can't afford to have some definition of your party that limits its reach.

That's the competition for the presidency.

In the House and Senate, it boils down to control of the committees, control of the speakership. You can get elected under an independent or third party label, but the next question is, But who do you align with when it comes to the speakership vote? Because that's effectively what party you belong to. Whatever you call yourself, doesn't matter. It's who can you, who will you work with when it comes to procedural matters. Who will you put in power in the committees? Who will you put in the Speaker's chair?

And so then that pushes you towards that same two-party logic because you need to produce the majority in the chamber to control the speakership and to control the committees. That tends to discipline American politics towards two parties.

Now, those parties are diverse, and sometimes so diverse that they can't even act very well in concert with one another. So, the party is a party in name only. It doesn't necessarily mean that there's a great deal of agenda agreement within it, but if you think of parties as, their fundamental task is to win power, what good is your third party if you can't win any offices. So that need to win then pushes you into these alliances with strange bedfellows.

CHERVENAK: And what about in the Congress itself. I mean, there are certain institutional mechanisms that kind of solidify this two-party system—the whole concept of a chairman of a community versus a ranking member of the minority party. I mean, these are sort of artificial constructs created around this two-party system, at least in my observation. Is that something also that reinforces this element and that the parties themselves have created that? So that it perpetuates the two parties? Or is that just a more efficient way to do things, and it just happens to be that it fits a two-party system?

LEE: Well, somebody has to make the decision, What issues are we going to take up? The competition for agenda space in American politics is fierce. I mean, there are so many groups that have different demands. What are the problems facing the country? People have different ideas about the answer to that. That's the fundamental power of parties in America—not to decide the outcome, but to decide what to take up.

And so in the committees, Who gets to decide what are we going to hold hearings on? Where are we going to direct our efforts at oversight? What are the bills that we're going to green light? You still have to get those majorities, and usually super majorities, to actually pass anything. But, What are you going to work on? Somebody's got to make those decisions.

And so that becomes what, fundamentally, the parties struggle to decide. That political decision about what's on the agenda. That can't be handled in the bureaucratic manner. It's got to be responsive to the needs of the time. And that we cannot escape the role for political discretion in making those decisions.

That's, in my view, what parties are fundamentally fighting over at all times—control of the presidency, which is the control of, What are you going to bring up in the State of the Union address. What are the issue areas where you're going to direct resources to remedy, to address?

That's what leadership is about. And to win it. And so the groups in society that coalesce together to compete for that kind of control have to be capable of winning. There's no prize for second place. You can lose the presidency by just a few votes, and you don't get a single cabinet seat. You don't get anything. You can control the Senate with the tie-breaking vote of the vice

president, and your people get to chair all the committees, the other party won't get a single committee. So it's a high-stakes battle in that sense.

CHERVENAK: I think that that's the nature of group decision-making, right. It often can be binary, and when that decision is made, if you look at it from an information point of view, the information is lost, of the minority, then. The unit acts as if there was only one choice all along and that minority voice is lost.

And this actually is a good lead into my next question, which is, on the transparency side. There's this idea that you could make Congress totally transparent, right. You could follow around every congressman and senator every day with a camera, and that would be some people's vision of utopia. And others would take the view that, well, if you do that then you're going to just have message politics all day long and you're never going to get any real work done, a real compromise, or you're not going to do what the institution is designed to do, which is to go through this compromising process and come out with a decision on a bill.

I heard your testimony to the Modernization committee, where you were very cautious about this concept of transparency, and so I'm curious if you could talk a bit about your perspective on that. Where transparency might work? Where it might not work? Or, What are the unintended consequences of transparency? Or the unintended consequences of secrecy or privacy?

LEE: What I see is the key problem with transparency is that it's not just a window into Congress. It's not just a way to see what Congress is doing. The fact that Congress is being watched changes how members of Congress behave. If the cameras are on, members are talking to the cameras, they're talking to external constituencies, and they're not talking to one another. They're looking to score political points on their opponents before that broader audience. They're not engaging with one another as colleagues in the same way anymore.

So just putting them under those lights and turning the cameras on them is not just a way for us, the outsiders, people who are not in Congress, to see what's going on. It changes what they do. And it changes it in problematic ways that make negotiation more difficult.

To negotiate, different players have to understand one another's interests, so you need a frank discussion. I need to know what you really—in order to cut a deal—I need to know what you really need. What do you really want here? What are the problems as you see it? And I need you to let me know where you can give a little. Where can you make some concessions?

Those kind of sensitive discussions, it's very hard to hold those in public. To have those kind of frank discussions where a meeting of the minds can really take place and the mutual understanding can be developed. And I think a representative body like the Congress needs to have some privacy to be able to do that.

I think we should have maximum transparency on outcomes. What did Congress do? Who supported it? Who voted for it? And, what did it do? But the internal processes of negotiation—where you're working the bills out—I think we need to lay off a little bit and to let them have a chance to understand one another and to talk frankly to one another as opposed to posturing for outside audiences.

Our efforts on transparency should be focused more on understanding what got done, where did the money go, how was the program set up, and who benefited from it, you know, understanding the policy rather than having the lights and the cameras on in every committee room or in every caucus meeting or in every setting where discussions need to take place.

I think that's misguided to try to do that, and actually winds up harming Congress as an institution that can engage in conflict resolution.

CHERVENAK: And it seems just from observation that power seems to migrate to the place where there's the least transparency. Right now, the power seems to be concentrated in the Speaker's office, where we can't peer inside what's happening there. It's kind of a private domain, whereas the public domain of the committees' hearings, you've lost power there.

And the same with the parties. They're able to talk to each other in private, right, and so you have a migration of power away from the transparent elements into the non-transparent elements. Unfortunately, those non-transparent elements are areas where they're not forums through which compromise can happen, right. That's where you're going to have reinforcement of party lines or this type of activity. I wonder, have you thought through, Where is Congress transparent? Where is it not? And is there this kind of a movement of power?

LEE: Yes. I mean, clearly today, the key decisions are being made behind the scenes—leadership offices, caucus meetings, rump groups of committees. What happens in public is, to a great extent, stage managed.

That's just the reality.

But I see that as an adaptation. That genuine negotiation can't take place in other settings. Because you do need to understand one another and that requires a frank discussion. That's just not going to be feasible to have that kind of freewheeling, open-ended discussion occurring in public. Politicians are not going to put themselves at risk to that degree.

And so the deal-making happens behind the scenes, but it's not necessarily partisan. The leaders wind up having to work with one another to legislate. I mean, how are you going to pass legislation and divide governments if you can't talk across party lines. They do it. They have to do it.

And those conversations are happening in leadership offices. Appropriations legislation—all the big deals that keep the government operating—are negotiated across the four corners. That

means the majority, the minority leadership of both chambers, and they typically pass overwhelmingly. So negotiation is happening.

We don't have insight into it, we don't see it—. I think we should come to terms with that and that reform efforts aimed at Congress should not be to continually pry Congress open to public view and all these behind-the-scenes places where negotiation needs to take place. Congress needs to have that to function as a deliberative institution—deliberation where colleagues talk to one another and not to external constituencies. That those settings need not to be subject to public scrutiny. It's uncomfortable to say that. It coexists awkwardly with some democratic values. But, we turn the cameras on in the committee rooms, or we have C-SPAN on the floor, what does that do? As you say, it migrates the real decisions to some other location where genuine exchange can happen.

So let's not continually play this game of infinite regress, you know, open up the conference committees. If you do that, they still need to have that that discussion somewhere, and it's not going to happen in front of the cameras. And so, just acknowledge that and focus our efforts on institutional transparency, on what Congress does, not on the processes.