

Congressional Record

FantasyLaw Edition



United States
of America

SELECTED PROCEEDINGS, DEBATES, AND OTHER ACTIVITIES
OF THE *111th* CONGRESS, SECOND SESSION



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FANTASYLAW COMMENTARY

GUESS WHO WON'T BE
COMING TO THE STUDIO

AN UNKNOWN CONGRESS

Alex B. Mitchell

Before every broadcast, the producers of Sunday morning talk shows must answer two basic questions: (1) what views will be represented on our show? and (2) who will present those views? When the topic involves policy and politics and the guest is a Member of Congress – as it often is – the answer to the first question has important implications for what millions of interested viewers learn about *what* matters in American policy and politics, and the answer to the second question is equally important for what those viewers learn about *who* matters in American politics.¹ Members of Congress

Alex B. Mitchell expects to graduate from the George Mason University School of Law in 2011. Copyright © 2010 Alex B. Mitchell.

¹ The average viewership for the five major Sunday morning talk shows during the 2008/2009 season (9/22/08 - 9/20/09) was as follows:

<i>Meet the Press</i> (NBC).....	3.79 Million
<i>This Week</i> (ABC).....	3.02 Million
<i>Face the Nation</i> (CBS)	2.87 Million
<i>Fox News Sunday</i>	1.33 Million
<i>State of the Union</i> (CNN).....	0.588 Million

recognize this. According to Representative Debbie Wasserman Schultz (D-FL), for example, “It is the highest-profile opportunity to advance my party’s agenda. I make it a priority.”² This article examines how the talk shows answer the second question – the one about *who* matters. In short, the answer is that in 2009 the talk shows told us (by their selection of congressional guests) that the people who matter are disproportionately white, male, senior, and Republican – disproportionate not just when compared to the American population overall, but also when compared to the population of Congress itself.

THE STUDY

For FantasyLaw, I tracked “Appearances on Five Major Sunday Morning Talk Shows” – *Face the Nation* (CBS), *Fox News Sunday* (Fox), *Meet the Press* (NBC), *State of the Union* (CNN), and *This Week* (ABC) – by U.S. Senators and Members of the House of Representatives.³ Every week, legislators receive one point for each appearance they make on each show. Points were awarded for actual participation in the program – mere mentions or references to someone not present on the program did not count. I calculate legislators’ appearances in this category by reading and cataloging the transcripts of the five shows. Links to transcripts are available each week on the shows’ websites, usually the same day or the following Monday or Tuesday.

The inaugural season of FantasyLaw began on July 12, 2009 and ended on November 1, 2009. In an effort to refine data collection techniques, our team of FantasyLaw Editors began “unofficially” collecting data on February 22, 2009.⁴ The first session of the 111th

The Nielsen Company; see Emails from Alana Johnson to Alex Mitchell, June 29, July 2, July 15, and Aug. 24, 2010 (copies on file at the *Green Bag*).

² See “Women scarce on Sunday shows” www.politico.com/news/stories/0610/38483_Page4.html (vis. June 29, 2010) [hereinafter *Politico Article*].

³ It is one of the 11 categories of data relating to the activities of federal legislators that FantasyLaw editors gather and analyze every week for our legislation-themed fantasy league. For a full explanation of FantasyLaw, see www.fantasylaw.org.

⁴ The time period from February 22, 2009 until July 12, 2009 was a test period for

An Unknown Congress

Congress began January 6, 2009 and ended December 24, 2009.⁵ I collected data and am reporting on legislators' appearances on the five Sunday morning talk shows from February 22, 2009 through December 20, 2009 – nearly all of the first session of the 111th Congress.

All five shows featured a variety of guests including, but not limited to, numerous federal legislators. Other guests included state governors, U.S. department secretaries, U.S. agency directors, military officers, White House staff, journalists, writers, mayors, heads of state, ambassadors, CEOs, political commentators, radio correspondents, former Members of Congress, past and current U.S. presidents and vice presidents, and other notable public figures. However, the focus of this study is strictly on Sunday morning talk shows' Congressional guests, focusing on gender, race, political party affiliation, and years of service in Congress. Hosts of the shows during the 2009 season were: Bob Schieffer (*Face the Nation*), Chris Wallace (*Fox News Sunday*), David Gregory (*Meet the Press*), John King (*State of the Union*), and George Stephanopoulos (*This Week*).⁶

THE DATA: AN OVERVIEW

The great demographic differences between Congress and the people of the United States are widely recognized, and they are easy to see, as a quick comparison of the 111th Congress to the projected 2010 U.S. populace shows:⁷

FantasyLaw; see also Ross E. Davies, *Let the Preseason Begin: Want to Play?*, 12 GREEN BAG 2D 235 (2009).

⁵ See www.senate.gov/reference/Sessions/sessionDates.htm (vis. June 29, 2010).

⁶ John King and George Stephanopoulos have since moved on to host other programs on their respective networks.

⁷ Major League Baseball, the basis for the fantasy sports tradition that inspired FantasyLaw, seems to have a bit better representation, at least in some respects in recent decades. See *The 2009 Racial and Gender Report Card: Major League Baseball*, www.tidesport.org/RGRC/2009/2009_MLB_RGRC_PR_Final_rev.pdf (vis. June 29, 2010).

NUMBER AND PERCENTAGES LEGISLATORS BY DEMOGRAPHIC⁸

Political Party	Gender	Minorities	Years of Service
Democrat – 58.6% (313)	Female – 16.9% (90)	Minority – 14.6% (78)	6 or more years – 64.4% (344)
Republican – 41.0% (219)	Male – 83.3% (444)	Non-Minority – 85.4% (456)	Less than 6 years – 35.6% (190)
Independent – .04% (2)			

PROJECTED 2010 U.S. POPULATION BY DEMOGRAPHIC⁹

Female	Minorities
158,665,000 (50.8%)	115,286,000 (36.9%)

But someone who watched the five Sunday morning talk shows tracked by FantasyLaw during 2009 would have seen an equally striking difference between the Congress elected by the U.S. populace and the Congress that appeared on Sunday television. Therefore, the female and minority underrepresentation between the U.S. populace and Congress is exacerbated when Members of Congress appear on Sunday morning talk shows.

CONGRESS VERSUS TALK SHOW GUESTS BY DEMOGRAPHIC

Demographic	In Congress	On the 5 Talk Shows
Minorities	14.6%	2.5%
Females	16.9%	13.5%
Members Serving Less than Six Years on Capitol Hill	35.6%	14.4%
Democrats	58.6%	48%
Republicans	41.0%	50%
U.S. Senators	18.7%	81.8%
U.S. Representatives	81.3%	18.2%
The 49 white, male U.S. Senators in office 6+ years	9.2%	61.4%
The other 485 Members of Congress	90.8%	38.6%

⁸ 533 total Members of Congress, plus one Delegate. At the time of this study there were two vacancies in the House, five delegates, and one resident commissioner – none of which were included in this study, except for Delegate Eleanor Holmes Norton (D-DC).

⁹ See High Net International Migration Scenario Summary Table, Projections of the Population by Sex, Race, and Hispanic Origin for the United States: 2010 to 2050, www.census.gov/population/www/projections/2009hnmssumTabs.html (vis. June 29, 2010) (U.S. Census Bureau statistics).

THE DATA: A CLOSER LOOK

What follows is a closer look at those differences between the Congressional demographics and those of the Sunday morning talk shows.

Minorities

The House of Representatives' Press Gallery website identifies minority Members by demographic group, including African Americans, Hispanic Americans, Asian Americans, and American Indians.¹⁰ In the House, there are 74 minority Members: 40 African Americans, 24 Hispanic Americans, eight Asian Americans, and two American Indians.¹¹ The Senate Press Gallery website lists four minority Senators.¹² Thus, the 111th Congress includes 78 minorities out of a total of 534 lawmakers, or 14.6% of the federal legislature.¹³ Those minority legislators made up only 2.5% of the Sunday morning talk shows' Congressional guests:

MINORITY GUESTS BY SHOW

CNN State of the Union	Fox News Sunday	NBC Meet the Press	ABC This Week	CBS Face The Nation
Minority – 3.0% (3)	Minority – 2.5% (2)	Minority – 2.9% (1)	Minority – 2% (1)	Minority – 1.8% (1)
Non-Minority – 97.0% (96)	Non-Minority – 97.5% (78)	Non-Minority – 97.1% (34)	Non-Minority – 98% (49)	Non-Minority – 98.2% (54)

The distance between the number of minority Members of Congress and the number of minority Members seen on the Sunday morning shows was the largest disparity in this study. The five shows hosted a total of 319 Members of Congress during the study period. Eight of those guests were minorities.

¹⁰ See www.house.gov/daily/hpg.htm (vis. June 29, 2010).

¹¹ These numbers do not reflect the demographics of five delegates and one resident commissioner in the House of Representatives, except for Delegate Eleanor Holmes Norton (D-DC) who is African American.

¹² See www.senate.gov/galleries/daily/minority2.htm (vis. June 29, 2010).

¹³ Representative Eric J.J. Massa (D-NY) resigned on March 8, 2010 and Representative Mark E. Souder (R-IN) resigned May 21, 2010. Both House vacancies were unfilled as of the date of this publication.

Alex B. Mitchell

THE FIVE 2009 SUNDAY TALK SHOW HOSTS . . .



*Clockwise from top left: David Gregory, John King,
George Stephanopoulos, Chris Wallace, and Bob Schieffer.*

An Unknown Congress

... AND THEIR TOP FIVE CONGRESSIONAL GUESTS



Clockwise from top left: Senators Kent Conrad, Lindsey Graham, Jon Kyl, John McCain, and Mitch McConnell.

Women

There were 73 female House Members and 17 female Senators in 2009, according to House and Senate Gallery websites, for a total of 90 women out of 534 lawmakers.¹⁴ Women made up 16.9% of the 111th Congress in 2009.¹⁵

FEMALE GUESTS BY SHOW

CNN State of the Union	Fox News Sunday	NBC Meet the Press	ABC This Week	CBS Face The Nation
Male – 79.8% (79)	Male – 91.25% (73)	Male – 94.3% (33)	Male – 84% (42)	Male – 89.1% (49)
Female – 20.2% (20)	Female – 8.75% (7)	Female – 5.7% (2)	Female – 16% (8)	Female – 10.9% (6)

Like racial minorities, women were underrepresented on Sundays – only 43 of 319, or 13.5%, of the Sunday morning talk shows’ Congressional guests – although not as severely. According to American University’s Women & Politics Institute, that same 13.5% rate has continued into 2010.¹⁶

Seniority

For purposes of this study, Senators and Representatives who had served less than six years in office are “junior” Members, while those serving six or more are “senior” Members. In 2009, there were 36 junior Senators, and the House had 154 junior representatives. In the House and Senate combined, 64.4% of legislators in the 111th Congress had served more than six or more years in office, 35.6% had not.

GUESTS’ SENIORITY BY SHOW

CNN State of the Union	Fox News Sunday	NBC Meet the Press	ABC This Week	CBS Face The Nation
Senior – 73.7% (74)	Senior – 88.8% (71)	Senior – 94.3% (33)	Senior – 86% (43)	Senior – 96.4% (53)
Junior – 26.3% (25)	Junior – 11.2% (9)	Junior – 5.7% (2)	Junior – 14% (7)	Junior – 3.6% (2)

¹⁴ See www.house.gov/daily/hpg.htm (vis. June 29, 2010); www.senate.gov/galleries/daily/women2.htm (vis. June 29, 2010).

¹⁵ Delegates Donna M. Christensen (D-VI) and Madeleine Z. Bordallo (D-GU) were not counted here.

¹⁶ *Politico Article*, *supra* note 1.

An Unknown Congress

While junior Representatives and Senators are traditionally lowest in the leadership hierarchy in Congress, my study demonstrates that they also receive the least amount of air-time on Sunday morning talk shows. While senior lawmakers make up almost two-thirds of Congress, an even greater proportion monopolized the Sunday morning spotlight: 85.6% of all Congressional guests on the talk shows had served more than six years in office. It seems that the “rookies” on Capitol Hill should not bank on Sunday morning talk show appearances as a source of publicity.

Party Affiliation

For the study period, the House totaled 256 Democrats and 178 Republicans,¹⁷ the Senate, 57 Democrats, 41 Republicans, and two Independents. Therefore, the 111th Congress was 58.6% Democrat, 41.0% Republican, and 0.4% Independent in 2009.¹⁸

GUESTS' PARTY AFFILIATION BY SHOW

CNN State of the Union	Fox News Sunday	NBC Meet the Press	ABC This Week	CBS Face The Nation
Democrat – 54.5% (54)	Democrat – 41.25% (33)	Democrat – 45.7% (16)	Democrat – 44% (22)	Democrat – 50.9% (28)
Republican – 43.4% (43)	Republican – 57.5% (46)	Republican – 51.4% (18)	Republican – 54% (27)	Republican – 45.5% (25)
Independent – 2.0% (2)	Independent – 1.25% (1)	Independent – 2.9% (1)	Independent – 2% (1)	Independent – 3.6% (2)

However, Congressional Democrats enjoyed majority representation on only two of the five Sunday shows. Overall, of the shows' Congressional guests, 49.8% were Republicans, 48.0% were Democrats, and 2.2% were Independents. Despite being soundly outnumbered in the House and Senate in 2009, Congressional Republicans defeated Congressional Democrats for air-time on three out of the five Sunday morning talk shows.

¹⁷ See clerk.house.gov/member_info/cong.html (vis. June 29, 2010). The House Democrats total includes Delegate Eleanor Holmes Norton (D-DC).

¹⁸ Senate and House Press Gallery websites supply party breakdown of their respective legislative bodies.

Senatorial Celebrity

This study suggests another reason why the Senate might be called the “upper house” of Congress. Senators dominated television appearances compared to their House counterparts. Even being outnumbered in Congress by more than four-to-one, Senators made up 81.8% of the Congressional appearances on the Sunday talk shows in 2009, leaving just 58 appearances, or 18.2%, for Members of the House.

Déjà Vu

A small number of federal legislators appeared on the Sunday shows far more often than the rest. In fact, 207 guest slots out of the 319 total slots were filled by Members of Congress who appeared on shows more than once. Television viewers saw the same faces over and over again in 2009, as opposed to a more diverse cross-section of Congress. The Members of Congress appearing most frequently on any of the five Sunday morning talk shows were:

TOP REPEAT CONGRESSIONAL GUESTS

Member of Congress	Total Appearances
Sen. Mitch McConnell	16
Sen. Lindsey Graham	15
Sen. John McCain	14
Sen. Jon Kyl	14
Sen. Kent Conrad	9
Sen. Diane Feinstein	8
Sen. Charles Schumer	8
Sen. Richard Durbin	7
Sen. John Cornyn	6
5 Members of Congress ¹⁹	5

The Republican Party leadership – Majority and Minority Leaders and Whips – appeared on these shows a total of 43 times while the Democratic Party Leadership, including Speaker of the House Nancy Pelosi, appeared only 11 times. Sunday morning talk shows’ hosting practices so far in 2010 show a similar pattern of familiar

¹⁹ Senator Richard Shelby (R-AL), Senator Judd Gregg (R-NH), Senator Claire McCaskill (D-MO), Senator Carl Levin (D-MI), and Representative Eric Cantor (R-VA) each had five appearances.

faces taking up most of the camera time. From January through June 2010, Senator Mitch McConnell (R-KY) is again leading the pack – appearing 10 times on Sunday shows – a rate even higher than he achieved in 2009.²⁰

CONCLUSION

When viewers tune in to Sunday morning talk shows, they receive a blurry picture of who are the actual elected officials on Capitol Hill. The owner of a FantasyLaw team could use this study to assemble a team of lawmakers that could win, at least in the “Appearances on Five Major Sunday Morning Talk Shows” category. The best defensive strategy would be a distasteful one: Avoid picking women, minorities, and those relatively new to Capitol Hill. The same could be said of the best offensive strategy: Follow the numbers – pick any white, male Senators who have served more than six years in Congress. Sure, they only make up 9.2% of Congress, but they made 196 guest appearances on Sunday morning talk shows in 2009 – 61.4% of the total. This demographic, by far, enjoyed the most exposure on Sunday morning talk shows compared to its actual membership in Congress.²¹

In contrast, minorities (and, to a lesser extent, women) in Congress were profoundly underrepresented on the Sunday shows during the same period. These shows’ Congressional guest selections perpetuated female and minority underrepresentation when massive disparities already exist between these demographics’ numbers in U.S. populace and Congress. The television shows’ rationales for these patterns have received some attention in the news media, as have challenges to them. Some television show producers claim invitations to female legislators go unanswered, while others state that their chosen Congressional guests are the experts and leaders most apt to discuss topics.²²

²⁰ *Politico Article, supra* note 1.

²¹ Republicans had an edge over Democrats in Sunday morning television appearances, even though Democrats made up nearly 60% of Congress.

²² *Politico Article, supra* note 1.

But this raises the perennial “who will watch the watchers” question about the fourth estate. Explanations aside, the empirical effect of predominantly interviewing one demographic (white, male Senators who have served more than six years in Congress) is that the wealth of diversity of ideas that make up our nation is stifled. The legislative branch consists of 535 individuals who represent 535 unique constituencies in Congress – each is supposed to hold one equal vote in the lawmaking process. Yet Sunday morning talk shows are subliminally telling viewers that these lawmakers are not equal in the media – and that a small, concentrated pool of perspectives is sufficient to discuss and debate issues of national interest.

While one legislator might be more experienced than another, as a leader in a committee or party, justifying the former appearing on national media anywhere from 5 to 16 times while the latter does not appear at all would be a formidable task. This study shows the unfortunate tunneling effect on females and minorities when one observes, in order, the U.S. populace, Congress, and then the media covering Congress.

Demographic	In the U.S.	In Congress	On the 5 Shows
Minorities	36.9%	14.6%	2.5%
Female	50.8%	16.9%	13.5%

Beyond gender and race, this study also confirmed the mirroring effect, literally, Sunday morning talk shows had on whether Senators or Representatives were featured on their programs.

Demographic	In Congress	On the 5 Shows
U.S. Senators	18.7%	81.8%
U.S. Representatives	81.3%	18.2%

Is there an ideal combination of lawmakers who should make up Sunday morning talk shows’ guest line-ups? Searching for the right mixture of thought and perspective for fair debate is always a difficult task, but the status quo does not seem to be the answer. Unless talk shows expand their guest lists to include a more diverse cross-section of the legislative branch, it may continue to be an *Unknown Congress*.

