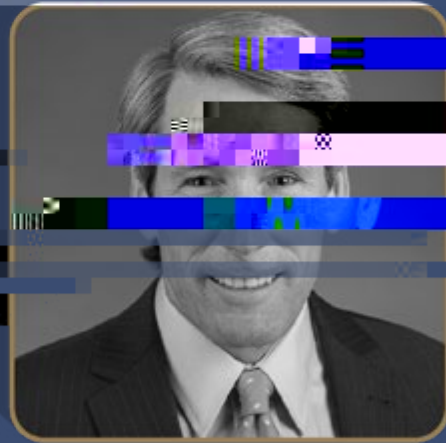




THE CARTER CENTER

ASK AN EXPERT

U.S. ELECTION 2020



KEVIN JOHNSON

HOW CONGRESS POLICES ITSELF

News coverage of the controversial comments and social media posts of newly elected Georgia Congresswoman Marjorie Taylor Greene has brought attention to the question of how the House and Senate discipline their members. Let's dive into this issue and the related topic of the chambers' role in deciding election winners.

What options do the House and Senate have, and how often do such steps occur?

Article 1, Section 5 of the United States Constitution gives the Senate and the House of Representatives the power to expel any member by a two-thirds vote. Expulsion from either house is rare, and most expulsions came about in response to members siding with the insurrection against the United States during the Civil War.

Fifteen senators and five representatives have been expelled in U.S. history; all but three during the Civil War. Nineteen of the 20 expelled members were Democrats.

The first expulsion was in 1797, for treason. The rare modern instances have involved corruption and bribery scandals. In 1980, the Democrat-controlled House voted to expel Rep. Michael Meyers, a Democrat from Pennsylvania, following his conviction in the Abscam bribery scandal. In 2002, with the House then under Republican control, Democrat James Traficant of Ohio was expelled following his conviction on 10 counts, including bribery, conspiracy to defraud the United States, corruption, obstruction of justice, tax evasion, and racketeering.

Both chambers have less severe measures with which they can discipline members. The House can censure a member, and the Senate can advise and consent to the removal of a member from office.

There had been concerns that the seating of the Georgia Democratic winners could be held up by calls for a Senate investigation of the widespread, though unsubstantiated, claims of fraud in Georgia's close presidential election. But both opposing candidates conceded, removing such concerns.

The few times that election disputes have reached Congress, the process has often been problematic because of the desire of the party in control to back its own candidate regardless of the facts.

One legendary and bitter instance of the House investigating an election occurred in 1984. The Democratic majority in the House voted to seat one of their own, Frank McCloskey of Indiana, despite the state-certified victory of his Republican challenger, Richard McIntyre. Selective acceptance of evidence by the majority Democrat investigating committee produced a four-vote win for McCloskey and led to a Republican walkout in protest. Subsequent investigations by journalists made clear McCloskey should not have been declared the winner.

Perhaps in re