

Topic 4 - The Legislative Branch

Mrs. VanAlstine

The National Legislature



Think of This

What does this quote say about the difficult job of being a Congressperson?

“Congress has a split personality. On the one hand, it is a law making institution and makes policy for the entire nation. In this capacity, all the members are expected to set aside their personal ambitions and perhaps even the concerns their constituencies. Yet Congress is also a representative assembly, made up of 535 elected officials who serve as links between their constituents and the National Government. The dual roles of making laws and responding to constituents’ demands forces members to balance national concerns against the specific interests of their States or districts.”

-James M. Burns, et al., Government By the People

The Role Congress in a Democracy

Representative Assemblies

Due to the distrust of government by the Framers of the Constitution, a large focus was placed on creating a government that would best represent the people.

Today, we have politicians from each State hard at work in Washington D.C. to be sure that the needs and wants of all citizens are being heard and considered.

National Government

While the Framers were careful to protect the idea of popular sovereignty, they were concerned about a body of people that was elected by citizens holding such a large amount of power.

The Framers believed that the **average citizen** could become overly passionate and driven by self-interest.

The system of checks and balances ensures that Congress looks beyond their own interests to the interest of the nation as a whole.

Five Roles

Each member of both houses of Congress fulfill each of these roles:

- (1) Legislators
- (2) Representatives of the people
- (3) Committee members
- (4) Servants of the people
- (5) Politicians

Representatives of the People

Senators and **Representatives** are elected to represent the people, but what does that **REALLY** mean? Members of both houses cast hundreds of votes during each session of Congress.

The most important question to ask about the lawmaking process is this:
How do the people's representatives represent the people when they vote?

Each lawmaker has 4 voting “options” or **mentalities**.

<i>Mentality</i>	<i>Description</i>
<i>Delegate</i>	<i>See themselves as agents of the people who elected them and are willing to ignore/suppress their own feelings, their party leadership, and arguments of others to vote the way their constituents want them to.</i>
<i>Trustee</i>	<i>Believe that each question they face must be decided on its merits and do not believe that they are to act as robots or rubber stamps of approval.</i>
<i>Partisan</i>	<i>They owe their allegiance to their political party and then to their constituents so they typically vote in line with their party values, no matter what.</i>
<i>Politico</i>	<i>Attempt to combine the basic elements of the other three mentalities to find a balance of their own view of what is best for their constituents, the political facts of life, and the pressures of the moment.</i>

Current Trends

Recent studies show that the majority of lawmakers adhere to the *delegate* mentality.

This is due, in part, to desire of Congresspeople to please their constituents in order to be reelected time after time in the years to come.

Committee Members

In each session of Congress, proposed laws, called **bills**, are referred to the various committees in each chamber. It is the job of the committee members (Congresspeople) to screen these proposed laws.

The committees then decide which bills will move out of committee and on to **floor consideration** - be acted upon by the full membership of the House or Senate.

While Congress is responsible for enacting laws and granting money to implement them, the task of executing the laws is given to the executive branch. Congress must “check up” on the executive branch (president, vice president, other agencies) to be sure that the laws are being carried out faithfully and the money to do so is being spent properly. This idea of “checking up” on the executive branch is called **oversight function**.

Servants of the People

“A Congressman has become an expanded messenger boy, an employment agency, getter-outer of the Navy, Army, Maines, ward heeler, wound healer, trouble shooter, law explainer, bill finder, issue translator, resolution interpreter, controversy oil pourer, gladhand extender, business promoter, convention goer, civil ills skirmisher, veterans’ affairs adjuster, ex-servicemen’s champion, watchdog for the underdog, sympathizer with the upperdog, namer and kisser of babies, recoverer of lost luggage, soberer of delegates, adjuster for traffic violators, voter straying into Washington and into toils of the law, binder up of broken hearts, financial wet nurse, Good Samaritan, contribute to good causes - there are so many good causes - cornerstone layer, public building and bridge dedicator, ship christener - be sure he get in a little flag waving - and a little constitutional hoisting and spread eagle work, but it is getting harder every day to find time to properly study legislation - the very business we are primarily here to discharge, and that must be done above all things.”

- Representative Luther Patrick (D., Alabama)

Personal and Political Backgrounds

115th Term of Congress

Using the link titled *115th Congress:
A Profile* on my website (*or a
printed copy that you borrow*),
complete the table in your brief to
paint a picture of our current
Congress.

While reading about Congress, think
about answering this question:

***Is Congress an accurate cross
section of the American public?
Why or why not?***

January 3

Of every odd numbered year is the date that each **two-year TERM of Congress** begins.

This date was set by the 20th Amendment, the **lame duck** amendment.

Currently in the 115th Term of Congress.

Sessions

A **session** is the period of time within each *two-year term* during which Congress conducts business.

- Congress **adjourns**, or suspends until the next session, each regular session as it sees fit.
 - Until WWII, Congress met for 4-5 months each year.
 - With all of the issues today, Congress meets for the majority of each year. Both houses do **recess** for short periods of time.
- If necessary, the President has the power to **prorogue**, or adjourn, a session, but only when the two houses cannot agree on a date for adjournment.
 - No President has ever had to use this power
- Only the President may call Congress into a **special session**—a meeting to deal with some emergency situation.
 - Can call ONE or BOTH houses.
 - Since Congress meets year-round, it is unlikely that this be necessary.

Twenty Seven

Special Sessions have been called.

Harry Truman called the most recent session in 1948 to consider anti-inflation and welfare measures in the aftermath of World War II.

*Have you ever wondered
how much our
Congressmen get paid to
sit around and pass, or not
pass, laws?*

I sure have!

Compensation and Privileges

Senators and Representatives: \$174,000

Speaker of the House: \$223,500

Vice President: \$230,700
(serves as the President of the Senate)

President pro Tempore of the Senate: \$193,400

Tax deductions for members who have to maintain two residencies

Travel expenses to visit their district

Exceptional health insurance, very low cost

Generous retirement plan - up to **\$150,000/year!**

The **franking privilege** - mailing letters and other materials with no postage.

“Shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same...”

-Article I, Section 6, Clause 1

“...for any Speech or Debate in either House, they shall not be questioned in any other Place.”

-Article I, Section 6, Clause 1

****This throws a “cloak of legislative immunity” around Congressmen from suits of slander or libel that could arise out of a debate.***

What do you think about the compensation of Congress? Would you like to make that much money? Do you think they make too much for what they do?

Just take a look at this chart...

CONGRESSIONAL SALARY

vs.

OTHER AMERICANS



Why Serve?

Would you?!

Congressmen are often at the *top of their prior professions* before entering Congress and likely take a sizeable **pay cut** to serve our nation's government.

Many of them are already millionaires though!

Most members want to make a difference but also, the *prestige* of the job attracts many people.

The Politics of Pay

Two Limits on Congressional Pay

- 1. The President's Veto Power**
 - a. Congress must pass a law that establishes their compensation. All laws are subject to Presidential approval or veto.
 - 2. Fear of Voter Backlash**
 - a. If voters believe that Congressmen make too much money, they can vote their Representatives and Senators out of office at the next election.
-

What do you make of this political cartoon regarding Congressional pay?

What does the 27th amendment have to do with this cartoon?



The Two Houses



Think of This...

ONE Congress but TWO
Houses?

BICAMERAL!!

Article I of the Constitution directs that “All legislative Powers herein granted shall be vested in a Congress which shall consist of a Senate and House of Representatives.” Thus, Congress is bicameral, meaning it has two houses. In election years, candidates for both houses try to win votes on social media, on Web sites, and with yard signs, billboards, flyers, buttons, and radio and television spots.”

The House of Representatives

435

The exact number of seats in the House of Representatives.

This is not set by the Constitution, but by Congress itself.

Apportionment

The Constitution says that the total number of seats in the House of Representatives should be *distributed* among the States based on their populations, as calculated by the census every 10 years.

→ This is called *apportionment*.

Every State is guaranteed **at least one seat** no matter what its population.

→ Alaska, Delaware, Montana, North Dakota, South Dakota, Vermont & Wyoming.



Reapportionment

...is the process of **redistributing** seats in the House after each census...

Prior to the first census being taken, the size of the House was 65 seats. After the first census in 1790, the size increased to 106.

The Size of Congress

A Growing Nation...

As the population grew and new States were added, the size of the House grew as well.

After the census of 1910 and the admission of Arizona and New Mexico, the House grew to 435.

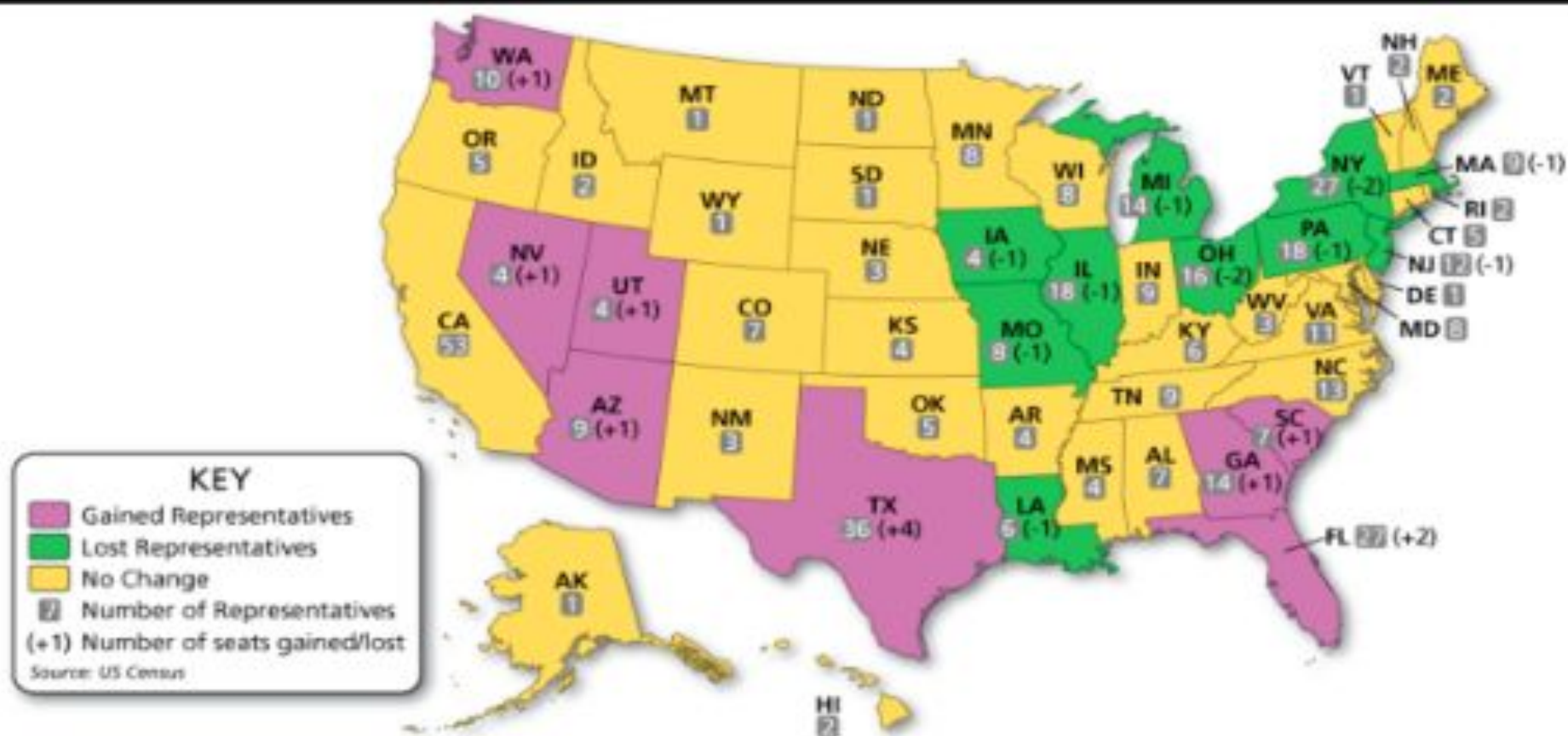
The House was already too large to be effective as a whole group but to reapportion without adding seats would mean that some States would have to lose seats.

How did they solve this issue?...

Reapportionment Act of 1929...

- 1. Set the permanent size of the House at 435*
- 2. Following each census, the Census Bureau determines the number of seats each State should have.*
- 3. When the Bureau's plan is ready, the President must send it to Congress.*
- 4. If, within 60 days, neither house of Congress has rejected the plan, it becomes effective.*

2010 Congressional Reapportionment



The 2010 census determined how the 435 seats in the House were reapportioned among the States. Analyze Maps What regions gained or lost population?

435 Members

...are **elected** by the *voters* in...

435 Separate

...Congressional Districts...

Congressional Elections

Today, all States use **single-member districts** to elect their Representatives.

→ *The voters in each district elect one of the State's representatives from a pool of candidates running in the particular district.*

Several States used a **general ticket system** at first. Every voter could vote for a candidate for each one of the State's seats in the House.

→ *All of the State's seats were filled at-large - elected from the State a whole, rather than from individual districts.*

→ *These types of elections were very unfair because it allowed a political party with even a small majority of voters statewide to win all of the State's seats in the House.*

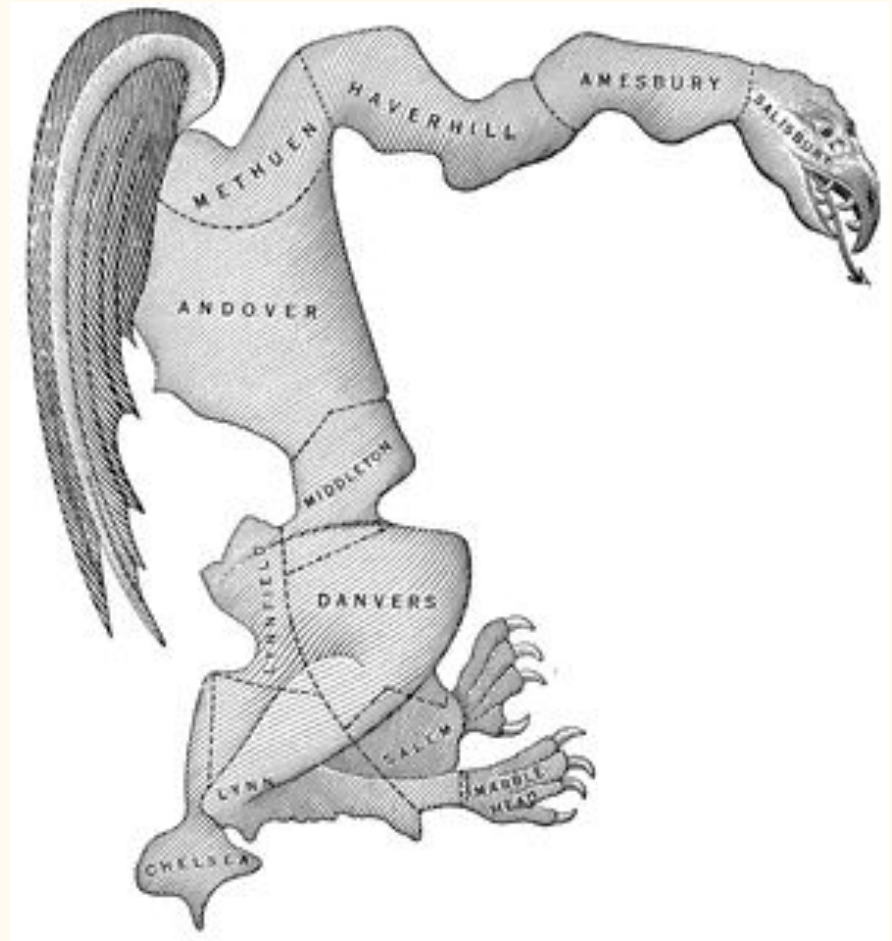
Congress passed a law in 1842 that requires the use of **single member districts** in all States for Congressional Elections.

Gerrymandering

Each State is divided into districts (to accommodate *single-member district voting*). These districts have been drawn and redrawn in some pretty interesting and nonsensical shapes over time.

These shapes are the result of district lines being **gerrymandered** - *drawn to the advantage of the political party that controls the State's legislature.*

Gerrymandering is a VERY common practice today - it happens practically everywhere public office holders are elected.



Gerrymandering typically takes one of two forms...

First...PACKING

To *concentrate* the opposition's voters in one or a few districts.

This method leaves other districts comfortably safe for the dominant party to control and win.

Or...CRACKING

To *spread* the opposition as thinly as possible among several districts.

This method limits the opposition's ability to win anywhere in the region.

Gerrymandering's main goal: *to create as many "safe" districts as possible - districts almost certain to be won by the party in control of the line-drawing process in the State legislature.*

Computer-driven map-making techniques make gerrymandering highly effective.

REPUBLICAN

DEMOCRATIC



US

What problems
could arise from
the practice of
gerrymandering?

Unequal Populations

...from district to district...

This issue was remedied by the **Supreme Court Decision** of “*one person, one vote*” in the *Wesberry v. Sanders* case in 1964.

This means that **one person's voting power** should be roughly **equal to** another person's within the same State...or even other States.

2 Years

“Representatives shall be...chosen every second year” -Article I, Section 2, Clause 1

Voting Day

...for the **House of Representatives**...

The Tuesday after the first Monday in November of each even-numbered year.

Off-Year Elections

Congressional elections that occur in nonpresidential years - between presidential elections. The most recent one was in **November 2018**.

Far more often than
not, the party that
holds the presidency
loses seats in the
House during off-year
elections.

Qualifications for the House

Formal and Informal

Formal: *In the Constitution*

1. At least 25 years old
2. Citizen of the U.S. for 7 years
3. Resident of the State they were elected from.

Informal: *Vote-getting abilities*

1. Party identification
 2. Name familiarity
 3. Gender
 4. Ethnicity
 5. Political experience
 6. Fundraising abilities
 7. Being the **incumbent** - *current officeholder*
-

The **“right combination”** of these informal qualifications will help a candidate win nomination and election to the House.

The Senate

100

The exact number of seats in the Senate.

The Senate *“shall be composed of two senators from each State,”* and so it is a much smaller body than the House.

50 States x **2** Senators per State = **100** Senators total



The Framers actually wanted this to be a relatively small body of people, made up of more enlightened and responsible people than the House. They believe that the House could be easily swayed by passions and the immediate impact of events since they serve such short terms. They hoped that the Senate **(the upper house)** would be *“a body which has time and security enough to keep its head, if only now and then and but for a little while, till other people have had time to think.”* - **Woodrow Wilson**

17th Amendment

...changed the election of Senators from the State legislatures to the popular vote of the people of each State...

Prior to this change, State legislatures picked well-liked and qualified men BUT not without bribery, flattery, or political maneuvering.

6 Years

...Senators serve six-year terms. Three times the length of those for which members of the House are chosen...

A Continuous Body

What does this mean?
Why is this important?

Senators' terms are **staggered**. Only $\frac{1}{3}$ of them, 33 or 34, are up for election every 2 years at the time of Congressional elections. All of the seats in the Senate are **NEVER** up for election at the same time.

This has allowed the Senate to meet, **uninterrupted**, since 1789!

These six-year terms also grant Senators great **job security** and protects them from the **pressures** of public opinion and day-to-day politics.

Qualifications for the Senate

Formal and Informal

Formal: *In the Constitution*

1. At least 30 years old
2. Citizen of the U.S. for 9 years
3. Resident of the State they were elected from.

Informal: *Vote-getting abilities*

1. Party identification
 2. Name familiarity
 3. Gender
 4. Ethnicity
 5. Political experience
 6. Fundraising abilities
 7. Being the **incumbent** - *current officeholder*
-

The Expressed Powers



Think of This...

What **DOESN'T** Congress do?!

A typical day in either chamber of Congress might suggest that there is no limit on what Congress can do. On any given day, the **House** might consider bills dealing with such things as the interstate highway system, an increased minimum wage, and grazing on public lands. Meanwhile, the **Senate** might be considering aid to famine-stricken countries, the President's nomination of someone to the Supreme Court, any number of other matters.

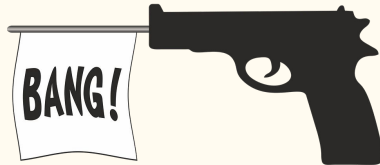
Still, though, our
government is a
LIMITED one...with
specific powers
granted to it.

Delegated Powers

The powers that are granted to Congress.

Some powers are denied to the National Government...

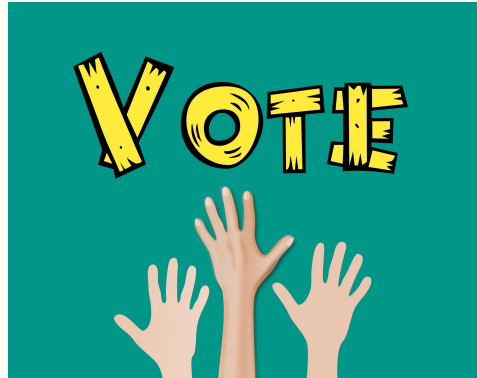
1. Because the Constitution says so!
2. Because the Constitution does not give a power to Congress.
3. Because we have a Federal government....which means the National government has to share power with the States!



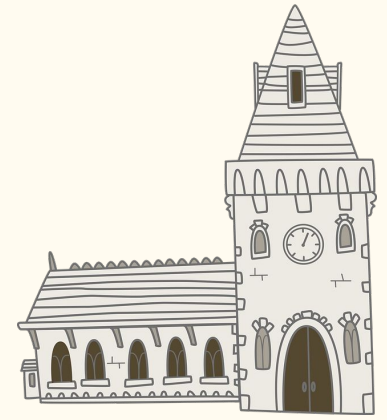
Confiscate all handguns



Establish public schools



Force people to vote



Force people to attend church



Authorize Censorship of newspapers or radio/TV broadcasts

Remember...

That the delegated powers are split into three “categories”...

1. Expressed

- a. Expressly written into the Constitution.

2. Implied

- a. Reasonably assumed because Congress needs a way to carry out their expressed powers.

3. Inherent

- a. Because the National Government of the United States has to function as a member of the world community.
-

The Delegated Powers

INHERENT

Inherent powers are those that belong to all sovereign nations—for example, the power to control a nation's borders.

EXPRESSED

Expressed powers are those stated in the Constitution—for example, the power to regulate both foreign and interstate commerce.

IMPLIED

Implied powers are not stated in the Constitution, but drawn from the expressed powers. Based on the expressed power to regulate commerce, Congress has set a minimum wage for hourly workers.

Article I, Section 8

...18 clauses that grant Congress 27 different powers...

There are *very few words* about each power. The true meaning of them comes from Congress' own interpretation and use of them.

Example

The Commerce Clause *Article I, Section 8, Clause 3*

“to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.”

- ❖ Does “commerce” include people crossing State lines or entering or leaving the country?
- ❖ What about business practices?
- ❖ Working conditions?
- ❖ Radio and television broadcasts?
- ❖ The internet?
- ❖ Does Congress have the power to ban the shipment of certain goods from one State to another?
- ❖ To prohibit discrimination?
- ❖ What trade is “foreign” and what is “interstate”?

Commerce

“The activity of buying and selling, especially on a large scale.”

Congress and the **Supreme Court** are continuously trying to answer these such questions about the Commerce Clause...and really all other grants of power to Congress.

The Commerce Power

...to regulate interstate and foreign trade...

This clause helped to build a strong, **United** States out of a weak confederation.

Gibbons v. Ogden, 1824...the first case involving the Commerce Clause heard by the Supreme Court.

The Story:

A clash over the regulation of steamboats by the State of New York, on one hand, and the Federal Government, on the other hand. Robert **Fulton's** steamboat, the *Clermont*, made its first successful trip up the Hudson River, from NYC to Albany. The State of New York gave Fulton an exclusive, long-term grant to navigate the waters of the State by steamboat. **Fulton's** monopoly then gave **Aaron Ogden** a permit for steamboat navigation between between NYC and New Jersey.

Thomas Gibbons, operating with a coasting license from the Federal Government, began to carry passengers on a competing steamboat line.

Gibbons v. Ogden, 1824...the first case involving the Commerce Clause heard by the Supreme Court.

The Case:

Ogden sued **Gibbons**.

The New York court ruled in **Ogden's** favor, saying that Gibbons could not sail by steam in New York waters.

Gibbons appealed the ruling to the Supreme Court of the United States, claiming that the original New York grant to given to **Fulton** conflicted with the congressional power to regulate interstate commerce.

Gibbons v. Ogden, 1824...the first case involving the Commerce Clause heard by the Supreme Court.

The Decision:

The Supreme Court agreed with **Gibbon's** reasoning. They rejected **Ogden's** argument that “commerce” should only be defined as “the buying and selling of goods”. Instead, the Court read the Commerce Clause in broad terms....

“Commerce, undoubtedly, is traffic, but it is something more; it is intercourse. It describes the commercial intercourse between nations, and parts of nations, in all its branches, and is regulated by prescribing rules for carrying on that intercourse.”

Justice Marshall, the judge that composed the decision, concluded that regulation of navigation by steamboat operators and others for purposes of conducting interstate commerce was a power reserved to and exercised by the Congress under the Commerce Clause. As interstate navigation fell under interstate commerce, New York could not interfere with it, and the grant given to **Fulton** was invalid.

Gibbons v. Ogden, 1824...the first case involving the Commerce Clause heard by the Supreme Court.

The Impact:

This decision helped to *tear down steamboat monopolies* and, freed from restrictive State regulations, new steamboat companies came into existence.

Steamboat navigation developed rapidly and within a few years, **railroads** were also liberated from strict State regulation. This **revolutionized transportation** in the United States.

The **Commerce Clause** has become the basis for a broad range of rights in the United States.

→ The **Civil Rights Act of 1964** prohibits discrimination in access to or service in hotels, theaters, restaurants, and in other public accommodations on grounds of race, color, religion, or national origin.

No public service establishment can have **“overwhelming evidence of the disruptive effect that racial discrimination has had on commercial intercourse.”**

Restrictions on the Commerce Clause

It is NOT unlimited power!

1. Cannot tax exports
 2. Cannot favor the ports of one State over those of any other in the regulation of trade.
 3. Cannot require that “Vessels bound to, or from, on State be obliged to enter, clear, or pay duties in another”.
 4. Could not interfere with the slave trade until at least the year 1808.
 - a. This promise was made as the Commerce and Slave Trade Compromise in order to ratify the Constitution.
-

The Money Powers

Money Powers include...

1. Tax
2. Borrow
3. Bankruptcy
4. Coin Money



Power to Tax

“To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States”

Congress could not tax under the Articles of Confederation and this inability was a leading cause for the creation of the Constitution.

...more on taxes...

Their Purpose:

A charge levied by government on persons or property to raise money and meet public needs.

A **protective tariff** is an exception. While these do generate a small amount of revenue for the government, its goal is to protect domestic industry against foreign competition by increasing costs of imported goods.

Expected revenue for the Federal Government in the current fiscal year is **\$3.7 trillion!** About 95% of this money will come from OUR TAXES!

Limits on Them:

Congress does not have unlimited taxation power.

1. Congress may tax only for public purposes, not for private benefit.
2. Congress may not tax exports of the United States.
3. Direct taxes must be apportioned among the States according to population.
 - a. Income taxes are an exception because wealth is not evenly distributed among the States.

Direct v. Indirect

Direct taxes are paid directly to the government of the United States.

Indirect taxes are first paid by one person, but then passed on to another.

***Federal tax on cigarettes** - tax is paid to the US Treasury by the tobacco company but is then passed on through the wholesaler and retailer to the person who finally buys the cigarettes.*

Power to Borrow

“to borrow Money on the credit of the United States.”

No Constitutional limits on the amount of money that Congress can borrow and no restrictions on the purposes for which they borrow the money.

...more on borrowing...

- ❖ The **National Treasury** does the borrowing, usually by issuing **Treasury Notes** for short-term borrowing and **bonds** for long-term purposes.
 - These are essentially IOUs with investors (companies or citizens). The government will pay these back with interest on a certain set date.
- ❖ Congress has placed a **debt ceiling** on the public debt. However, Congress is in complete control of this and can raise it with the simple passing of a resolution.
 - Currently at roughly \$16 trillion
- ❖ The government has practiced **deficit financing** for decades.
 - Spending more money than it takes in each year and then borrowing to make up the difference.
 - The government used this to deal with the Depression of the 1930s to deal with the costs of World War II.
- ❖ From the years **1998 to 2002**, the Republican-controlled Congress and President Bill Clinton curbed the national deficit and actually had four straight years of **budget surpluses!**

Bankruptcy Power

“to establish...uniform Laws on the subject of Bankruptcies throughout the United States.”

Being bankrupt: an individual or company or other organization is one a court has found to be unable to pay debts in full.

Bankruptcy: the legal proceeding in which the bankrupt's assets are distributed among those to whom a debt is owed.

Currency Power

“to coin money and regulate the Value thereof.”

Legal Tender: any kind of money that a creditor must by law accept in payment for debts.

Other Domestic Powers

Copyrights and Patents

“To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”

Copyright: exclusive right of an author to reproduce, publish and sell his or her creative work.

Patent: grants a person the sole right to manufacture, use, or sell “any new and useful process, machine, manufacture, or composition of matter, or any for up to twenty years.”

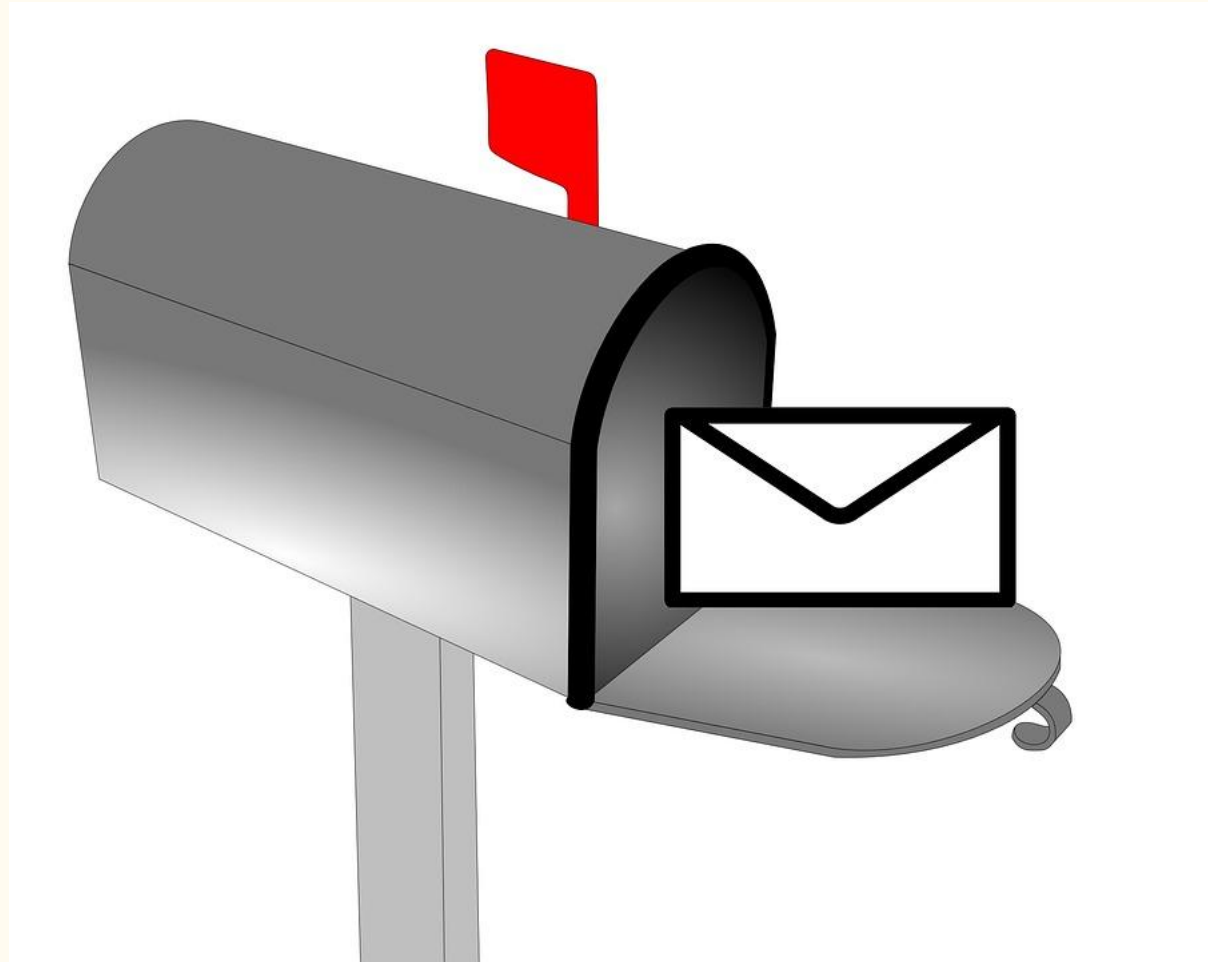
Postal Powers

“to establish Post Offices and Post roads”

Benjamin Franklin is generally recognized as the father of the modern-day postal system. In 1775, he became the first Postmaster General of the United States.

Postal Crimes

1. Cannot obstruct mail
2. Cannot use mail to commit crimes
3. Cannot send certain items in the mail
 - a. Poison
 - b. Explosives
 - c. Intoxicating liquors
 - d. Some live animals
 - e. Libelous or obscene matter
 - f. Lottery tickets
 - g. Dangerous items



Territories and Other Areas

Congress is granted the power to acquire, manage, and dispose of various federal areas.

Territories: Puerto Rico, Guam, and the Virgin Islands.

Also, Washington D.C.

Weights and Measures

“to fix the Standard of Weights and Measures” throughout the United States.

This provides all U.S. citizens accurate and uniform gauges of time, distance, area, weight, volume, etc...

Naturalization

“to establish an uniform Rule of Naturalization.”

Naturalization: the process by which someone becomes a citizen of the United States

Judicial Powers

As part of the system of checks and balances, the Constitution grants Congress several judicial powers.

Create federal courts & define crimes and set punishments.

Congress and Foreign Policy

1. The Constitution does not grant the *States* any powers in foreign policy.
2. The **President** is given the primary responsibility for the conduct of American foreign policy.
3. The Constitution does give **Congress** a significant place in the field of foreign affairs. These powers come from two sources:
 - a. A number of expressed powers - spending, commerce, and war powers.
 - b. The fact that the United States is a sovereign nation in the world community.
 - i. Regulation of immigration and enacting measures to combat terrorism.

The War Powers

Six of the 27 expressed powers of Congress deal explicitly with war and national defense. Some of these powers are shared with the President.

The Constitution makes the President the Commander in Chief of the armed forces but only Congress can formally declare war.

Congress alone has the power to raise and maintain an army and navy and make rules for governing the nation's military forces.

The War Powers Resolution:

The war-making power, exercised by Presidents Johnson and Nixon during the undeclared war in Vietnam, moved Congress to enact the War Powers Resolution.

This provides that the President can commit troops to combat abroad only:

1. If Congress has declared war
2. When Congress has specifically authorized a military action
3. When an attack on the United States or any of its armed forces has occurred

The Implied and Nonlegislative Powers

—

Think of This...

Does Congress ever act in matters that the Constitution does not say that it should?

What does the Constitution have to say about education? **Nothing**, not a word. Still, Congress provides tens of billions of dollars every year for the **United States Department of Education** to spend in a variety of ways throughout the country. Look around you. *What indications of these federal dollars can you find in your local school?* If you attend a public school anywhere in the United States, that evidence should not be hard to spot.

How can this be? Doesn't
Congress only have powers
delegated to it by the
Constitution? Education
isn't mentioned in the
Constitution!

What is happening?!

The Necessary and Proper Clause

...provides for the implied powers of Congress...

Those powers necessary to carry out their expressed powers.

The Necessary and Proper Clause

Much of the vitality and adaptability of the Constitution is due to the Necessary and Proper Clause.

This clause allows both Congress and the Supreme Court to interpret and apply the document and laws made within its structure in broad (or limited) ways.

The Elastic Clause

The wide interpretation of the Constitution and its laws, thanks to the Necessary and Proper Clause, has led to it being given the nickname....the **ELASTIC CLAUSE!**

The clause has been stretched so far to cover so much over the years.

THE IMPLIED POWERS OF CONGRESS

THE EXPRESSED POWER TO



LAY AND COLLECT TAXES



BORROW MONEY



CREATE NATURALIZATION LAW



RAISE ARMIES AND A NAVY



REGULATE COMMERCE



ESTABLISH POST OFFICES

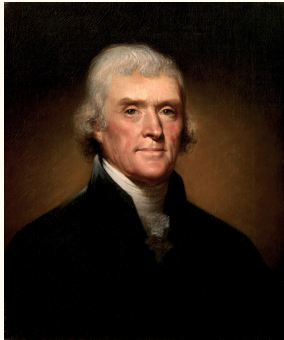
IMPLIES THE POWER TO

- Punish tax evaders
- Regulate some commodities and outlaw the use of others
- Set conditions to qualify for federal funding
- Establish the Federal Reserve System of banks
- Regulate and limit immigration
- Draft Americans into the military
- Establish a minimum wage
- Ban discrimination in workplaces and public facilities
- Pass laws protecting the disabled
- Regulate banking
- Prohibit mail fraud and obstruction of the mails
- Bar the shipping of certain items through the mail

Speaking of
interpreting the
Constitution...

Strict vs. Liberal Construction

Strict constructionists, led by *Thomas Jefferson*, argued that Congress should only be able to exercise (1) its expressed powers and (2) those implied powers absolutely necessary to carry out those expressed powers.



Liberal constructionists, led by *Alexander Hamilton*, favored a liberal interpretation of the Constitution, a broad interpretation of the powers given to Congress.



Strict vs. Liberal Constructionists

STRICT CONSTRUCTIONISTS



**Thomas
Jefferson**

- Favored a very limited role for the new government created by the Constitution
- Majority of power would remain with the States and the people
- Based on a strict reading of the Necessary and Proper Clause in the Constitution to prevent the government from gaining too much power

LIBERAL CONSTRUCTIONISTS



**Alexander
Hamilton**

- Favored a powerful government that could exercise implied powers
- Favored vigorous executive leadership
- Based on a liberal interpretation of the Constitution because the Constitution did not specifically grant the government these powers

The

**Necessary and
Proper Clause**

in Action...

McCulloch v. Maryland

The *Necessary and Proper Clause* has allowed the National Government to meet the needs of the changing times and has eliminated the need for frequent Constitutional Amendments.

The words “*necessary and proper*” have come to really mean “*convenient and useful.*”



The **Necessary and Proper Clause** at Work

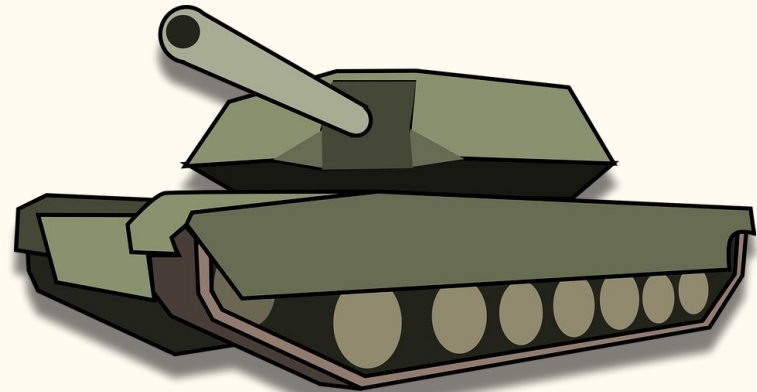
Keep in mind that every exercise of **implied powers** (Necessary and Proper Clause) must be based on at least one of the **EXPRESSED POWERS**.

The most common examples:

Commerce Powers

Power to Tax

War Powers



Reminder

...Gibbons v. Ogden, 1824...

The word “*commerce*” was, and continues to be, **STRETCHED** so that it virtually includes every form of economic activity today!

Commerce Clause

Today...well recently...

The Affordable Care Act of 2012

→ President Obama and Congress included a provision that stated every American citizen must have health insurance or else be required to pay a fine.

→ Many believed that the Supreme Court would uphold this provision on grounds of the Commerce Clause (the government was “selling” health insurance to the citizens).

→ To the surprise of many, the Supreme Court did uphold the provision but under the *power to lay and collect taxes*.

Constitutional Limits on the Commerce Power

Congress cannot tax exports. (Article I, Section 9, Clause 5)

Congress cannot favor the ports of one State over those of any other in the regulation of trade. (Article I, Section 9, Clause 6)

Congress cannot require that "Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another." (Article I, Section 9, Clause 6)

Congress could not interfere with the slave trade, at least not until the year 1808 (Article I, Section 9, Clause 1). This last limitation, part of the curious Slave-Trade Compromise the Framers struck at Philadelphia, has been a dead letter for more than two centuries.

The Power to Investigate

Congress has the power to investigate on any matter that falls within the scope of its lawmaking authority. This work is done in the standing committees in both houses of Congress.

Reasons for Investigations

1. To gather information necessary to framing specific legislation.
2. To oversee the operations of various agencies in the executive branch.
3. To focus public attention on a particular matter.
4. To expose the questionable activities of a public official.
5. To promote the particular interests of some members of Congress.



Do any of these
reasons for
investigation
sound familiar?

Executive Powers

The Senate (not the House) has two executive powers:

- (1) approve appointments to office and
- (2) treaties made by the President.

Appointments

All major appointments made by the President must be confirmed by the Senate.

This is done by the President referring his appointment (*cabinet members, Supreme Court Justice, etc...*) to a standing committee. This committee will hold “hearings” where they interview/question the nominee. It is rare that the Senate rejects a Presidential appointment.

Treaties

The President makes treaties “by and with th Advice and Consent of the Senate...”.

Often times, the President will consult the Senate Foreign Relations Committee and other influential Senators from both parties before entering into a treaty with a foreign nation. The Senate may offer amendments to treaties if they see fit, or accept or reject it as is.

The Power to Impeach

Impeach: *to accuse, bring charges.*

The President, Vice President, and all civil officers of the United States may *“be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other High Crimes and Misdemeanors.”*

How It Works

The House's Role in Impeachment

They have the sole power to *impeach*.

This requires a majority vote in the House.



The Senate's Role in Impeachment

They have the sole power to *try* - to judge, to sit as a court - in impeachment cases.

Conviction in the Senate requires a two-thirds vote.

The Chief Justice of the Supreme Court presides over the Senate when a President is to be tried.

The penalty for conviction is removal from office.

The Senate can prohibit a convicted person from ever holding public office again; and he or she can be tried in regular courts for any crime involved in the events that led to the impeachment.

Two

Presidents have been impeached by the House

Andrew Johnson & Bill Clinton

In both cases, the Senate voted to acquit - found them not guilty.

Andrew Johnson

1865-1869

First President to be impeached



Bill Clinton

1993-2001

Second President to be impeached



0

Presidents have been removed from office as a result of impeachment....even if it was just by one vote!

One

President has resigned from office in order to avoid impeachment and removal from office.

Richard Nixon

Resigned as he would almost certainly be removed from office in the wake of the Watergate Scandal.

Richard Nixon

1969-1974

The only President to resign



Other Powers

Constitutional Amendments & Electoral Duties

Constitutional Amendments

What is the Role of Congress?

Article V of the Constitution says that Congress may propose amendments to the Constitution by a two-thirds vote in each house.

All 27 amendments have been added to the document because they were proposed by Congress.

ELECTORAL DUTIES OF CONGRESS > WHO WINS? <

STEP

1

No candidate receives a majority of the **electoral college votes**.



STEP

2

Each State's **House** delegation must decide which of the top three candidates to support. Each State has **one vote** in the contest. Failure to agree means the loss of that State's vote.



STEP

3

A candidate who wins a **majority** (26) of the votes of the States' delegations **wins the presidency**. If no candidate wins a majority of the States' votes, another vote must be taken.



Congress at Work - Organization and Committees



Think of This...

Organized Chaos!

Congress convenes - begins a new term - every two years, on **January 3** of every odd-numbered year. Each new term follows general elections in November.

Congress
Convenes

Opening Day (*January 3*) in the **House of Representatives**

All 435 seats in the House are up for election every two years which means there are technically no sworn members of the House on opening day!...which means no rules or organization either.

1. The clerk of the House from the previous term presides at the start of the first session.
 - a. Calls chamber to order and checks the roll of **representatives-elect**.
2. The representatives-elect then choose their Speaker of the House, who is their permanent presiding officer (*more on this role later...*).
 - a. Typically, the Speaker is a **long-standing member of the majority party** and is decided before the opening day.
3. The Speaker takes the oath of office.
4. The Speaker then swears in the remaining members and the Representatives take their seats.
 - a. Republicans to the left of center, Democrats to the right of center.
5. The whole body adopts **rules that will govern** their term.
 - a. These have been developing for over 200 years.
6. **Finally**, members of the 20 permanent committees of the House are appointed.

Opening Day (*January 3*) in the **Senate**

The Senate is a continuous body. It has been organized without interruption since its first session in 1789.

1. Only **1/3 of the seats** in the Senate are up for election every two years. $\frac{2}{3}$ of the Senate membership is carried over from the previous term.
 - a. This makes organization in this chamber of Congress **much easier** than in the House.
2. Newly elected members are sworn in.
3. Vacancies in Senate organization and on committees are filled.

...that's about it!...

State of the Union Message

When the Senate is notified that the House of Representatives is organized, a joint committee - one with members from both chambers of Congress - is appointed and instructed to *“wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.”* Soon after this is done, the President delivers the annual State of the Union Address to a joint session of Congress.

State of the Union Address - a major political event that is required by the Constitution in which the president reports on the state of the nation as they see it.

This is a message that is as much a message for the American people as it is for the world! It is heavily covered by media and includes plans for domestic and foreign affairs. Many times, the president will make requests of Congress in terms of legislations.

The Presiding Officers

Speaker of the House

“The House of Representatives shall choose their Speaker...”

- Article I, Section 2, Clause 5

Jobs: preside and keep order

Most important leader in Congress because they are actually elected by the House's own members and is typically a leader of the majority party.

No member of the House may speak until they are recognized by the Speaker.

They interpret rules of the House.

If the Speaker would like to debate and vote on a matter in the House, they must first appoint another member as the temporary presiding officer.

The Speaker **MUST** vote to break a tie.

The Speaker of the House follows the Vice President of the United States in the order of succession to the presidency.

Speaker of the House

Name: Nancy Pelosi

Party: Democratic

Home State: California

Age: 79

In Congress Since: 1987

*...only female Speaker of the
House EVER...*



President of the Senate

“The Vice President of the United States shall be President of the Senate...”

- Article I, Section 3, Clause 4

Unlike the House, the Senate does not choose their own presiding officer and the Vice President is NOT an actual member of the Senate or the Legislative Branch.

Jobs: preside and keep order

Does many of the same things as the Speaker of the House BUT can ONLY vote to break a tie.

The only influence that the VP has on the Senate is simply through personal relationships with Senators or their previous experience as Senators themselves....the most recent being *Joe Biden....*

President of the Senate

(Vice President of the United States of America)

Name: Mike Pence

Party: Republican

Home State: Indiana

Age: 59

In Congress Since: House of Representatives from 2001-2013



But Wait!

The Senate has another presiding officer

President pro tempore of the Senate

Serves in the absence of the
President of the Senate.

“President pro tem” for short.

Elected by the Senate itself and is always a leading member of the majority party - usually the longest-serving member.

The president pro tem follows the Speaker of the House in the order of succession to the presidency.

President pro tempore of the Senate

Name: Chuck Grassley

Party: Republican

Home State: Iowa

Age: 85

In Congress Since: 1980



Party Officers

Political Body

1. Congress is the nation's central policy-making body.
2. Congress is *partisan* - divided and organized by party.

The Party Caucus

A closed meeting of the members of each party in each house.

Held before Congress convenes in January and only occasionally during session.

These meetings deal with matters related to party organization and leadership.

Sometimes they will take stands on particular bills in Congress but it cannot force its members to follow caucus decisions.

Floor Leaders

Next to the Speaker, these people are the most important people in Congress.

They do not hold official positions in either chamber, but are chosen by their party colleagues.

Job: Carry out the decisions of their parties' caucuses and steer floor action to their parties' benefit.

They are also the *chief spokesmen* for their party their chamber.

Floor Leaders

The floor leader of the party that holds the majority of seats in each chamber of Congress is called the **Majority Leader**.

The floor leader of the party that holds the minority of the seats in each chamber is called the **Minority Leader**.



The two floor leaders of each house are assisted by party **whips**. The majority and minority whip are basically assistant floor leaders. They are chosen at party caucus at the floor leader's recommendation.

Jobs:

1. Act as a “go between” for the party's leadership and its general members.
2. They also count the votes that can be counted on any given issue.

Committee Chairs

Committee Chairs

The bulk of work in Congress is done in the various committees established in each house.

Committee Chairmen head the standing (*permanent*) committees in each chamber and hold very strategic jobs.

Chairmen are chosen from *the majority party by their caucus* and handle such matters as which bills their specific committee will consider and manage debate on the floor regarding bills from their committee.

The Seniority Rule

An unwritten custom Congress that provides that the most important roles in Congress will be held by those party members with the longest records of service.

Does NOT apply to presiding officers or floor leaders.

Criticisms of the Seniority Rule

1. This system **ignores ability** of Congressmen and **rewards length of service**, therefore discouraging younger members.
2. Committee chairmen typically come from **“safe districts”** - *a State or district where one party typically dominates elections*. This could mean that the Congressmen are out of touch with the current public opinion.



Defenders of the Seniority Rule

1. This system ensures that a **powerful** and **experienced** member will head up each committee.
2. It also encourages members to *stay on a particular committee* allowing them to gain a wide-ranging knowledge of matters that fall within that committees jurisdiction (*concern*).
3. The rule is fairly **easy to apply** and it **eliminates fights** within the parties.



Standing Committees

A Division of Labor

...many hands make for light work...

Standing Committees

The House and Senate are both so large and have such cumbersome agendas that they both must rely on this division of labor to accomplish their tasks at hand. To do this, each chamber is divided into committees.

Each chamber has **“standing committees”** - permanent committees - to which all similar bills can be sent.

- 20 standing committees in the **House** (*10 - 75 members on each*)
- 16 standing committees in the **Senate** (*14 - 28 members on each*)

Representatives typically sit on one or two committees each, while Senators are assigned to three or four.

Standing committees **play a vital role in the lawmaking process** because most bills receive their most consideration in them and the **recommendation of the committee to the whole body is normally respected.**

When each bill is introduced in either the House or the Senate, the respective presiding officer (**Speaker of the House or President of the Senate**) refers it to the appropriate committee.



Prominent Committees in the House and Senate

House of Representatives

House Rules

Ways And Means

Appropriations

Armed Services

Judiciary

Foreign Affairs

Agriculture

Senate

Foreign Relations

Appropriations

Finance

Armed Services

Judiciary

Housing

Urban Affairs



What might make a Congressman want to serve on a specific committee? Which ones do you think are the most sought after committees to serve on? Why?

Subcommittees

Subcommittees are divisions of **standing committees** that do most the committees work. They are responsible for portions of the committees workload and bill review.

House Rules Committee

The Speaker's "right arm"

The Traffic Cop of the House

Controls the flow of bills to the floor and set the conditions for their consideration there.

Most bills die in their assigned committee. Still, several hundred are reported out on the floor, requiring a great deal of structure and control.

This is the job of the House Rules Committee.

Select Committees

“Special Committees”

Select committees are set up for special purposes only, and are dismantled once their purpose has been served. These committees help to carry out Congress' investigatory power.

Researching the necessity of a new law, ensure federal agencies are following the laws put in place, investigating certain issues such as domestic terrorism, or investigating current issues or scandals!

Senate Select Committee on Indian Affairs

Current Issue

Launched a three-year investigation into the behavior of a number of well-connected lobbyists who represented several Native American tribes as they sought to establish gambling casinos.

This investigation uncovered massive fraud, tax evasion, bribery, and other illegal activities for which several offenders began long prison sentences for in 2006 & 2007.

Senate Select Committee on Presidential Campaign Activities

“The Watergate Committee”

As the Watergate Scandal unfolded in 1973, the Senate created this committee to investigate *“the extent, is any, to which illegal, improper, or unethical activities were engaged in by any persons...in the presidential election of 1972.”* Its hearings riveted the nation for months and eventually led to President Richard Nixon’s resignation in 1974.

Senate Select Committee on Secret Military
Assistance to Iran and the Nicaraguan
Opposition

&

House Select Committee to Investigate
Covert Arms Transactions with Iran

“The Iran Contra Committees”

Probed **President Ronald Reagan** and his administration's conduct of two highly secret projects abroad:

1. **The sale of arms to Iran**
2. **The efforts to give military aid to the Contra rebels in Nicaragua**

The operation in **Iran** was intended as an arms-for-hostages deal, and it failed.

The aid to the **Contras** was funded in part with money from the Iranian arms sales, despite an act of Congress that expressly prohibited such aid by the United States.

Joint and Conference Committees

Joint vs. Conference Committees

Joint Committees

Composed of members of both the House and the Senate.

Some are temporary, select committees but most are permanent committees that serve on a regular basis.

Standing Joint Committees:

1. Taxation
2. Library of Congress
3. Printing
4. Economics

Conference Committees

Before a bill can be *sent to the President from Congress*, each house must pass it in identical form. Sometimes, the two houses pass differing versions of a bill and cannot come to an agreement.

Conference committees are temporary joint bodies that are created to iron out differences in the bill.

Their job is to produce a compromise bill that both houses will accept!

Congress at Work - Making Laws



Think of This...

Congress by Numbers

Between **6,000 and 9,000** bills and resolutions are introduced in the House and Senate during each session of Congress!!!

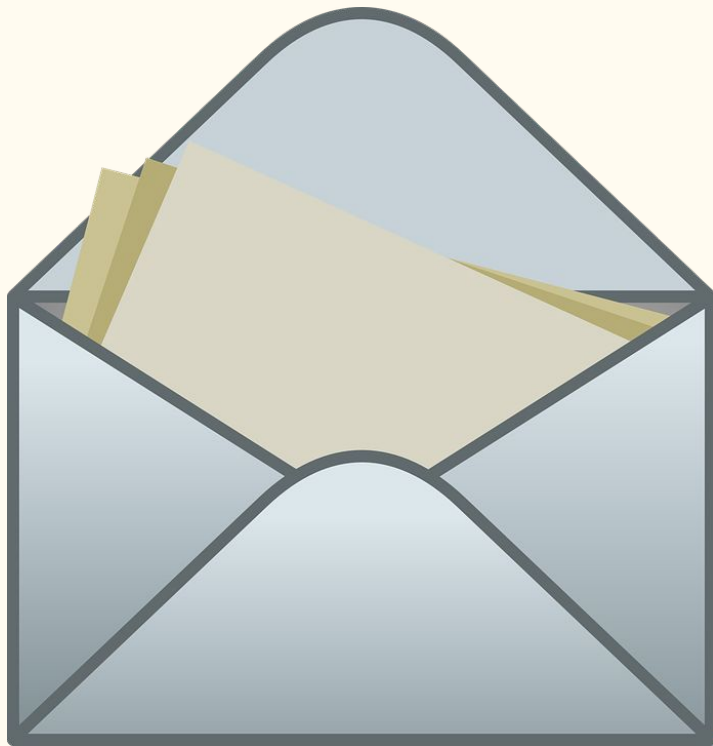
Less than **10%** (600 - 900) become law!

Where in the world do all of these measures come from?! Why are so few of them passed?! How does Congress **ACTUALLY MAKE** a law?

#1 - First Steps

A Bill is Introduced in the House or the Senate

1. Most bills introduced in either house of Congress do not originate with members themselves.
 - a. A lot of them are born in the executive branch.
 - b. Some come from **special interest groups** - private organizations whose members share certain views and work to shape public policy
 - c. Even citizens sometimes submit ideas for bills!
 - d. Bills are also thought up in the standing committees of Congress.
2. While bills **originate** from many places, **only Congressmen may introduce** bills in each house.
 - a. They do this by dropping their drafted work in the “hopper” - a box hanging on the edge of the clerk’s desk.
3. Bill can be introduced in **either chamber** of Congress!
 - a. **One exception** - *all bills dealing with taxation must be acted on by the House of Representatives FIRST!*



Sometimes, Congressmen will circulate a **letter** explaining a bill they plan to introduce, trying to persuade other members to cosponsor a bill in order to raise its chances of being passed.

Types of Legislation

Public and Private Bills, Joint Resolutions, Concurrent Resolutions, Resolutions, & Riders.

Bills

Public bills are measures that apply to the nation as a whole, such as a tax bill.

Private bills are measures that apply to a certain group of people or places.

Ex: an act to give a sheep rancher \$85,000 for his losses that he experienced from attacks by grizzly bears. The bears were moved from Yellowstone National Park to other public land - the land where the rancher grazed his flock.

Joint Resolutions

These are similar to bills, and when passed, also have the *same force and power of a law*.

Typically deal with **temporary issues** such as the appropriation of money special events and/or circumstances.

Ex: granting money the presidential inauguration ceremonies.

Concurrent Resolutions

Deal with issues that the House and Senate must **work on together**.

They do NOT have the same force and power as a law and are NOT sent to the President for approval.

These resolutions are issued most often by Congress as a whole to **state their position on a certain matter or topic**.

Ex: Foreign affairs policies and actions.

Resolutions

Often called “simple resolutions” and deal with matters concerning either house of Congress alone and are only considered by that house.

These are used to adopt new rules in each chamber.

They do NOT have the same force and power as a law and are NOT sent to the President for approval.



Bills and resolutions usually deal with only ONE topic. Sometimes though, a **rider** is included.

Rider

...a provision that is not likely to pass on its own so it is attached to an important measure that is pretty likely to pass, thus “riding” through the legislative process...

Introduction and First Reading

1. Clerk of the House or Senate *numbers* and *titles* each bill as it is introduced.
 - a. **H.R. 3140** for the 3,140th bill introduced in the Congressional term in the House.
 - b. **S. 210** for the 210th bill introduced in the Congressional term in the Senate.
2. The bill is then entered into *House or Senate Journal* and the *Congressional Record* for the day.
 - a. Contain minutes of daily proceedings in each or either house.
3. With these actions, the bill has received its **first** of three readings.

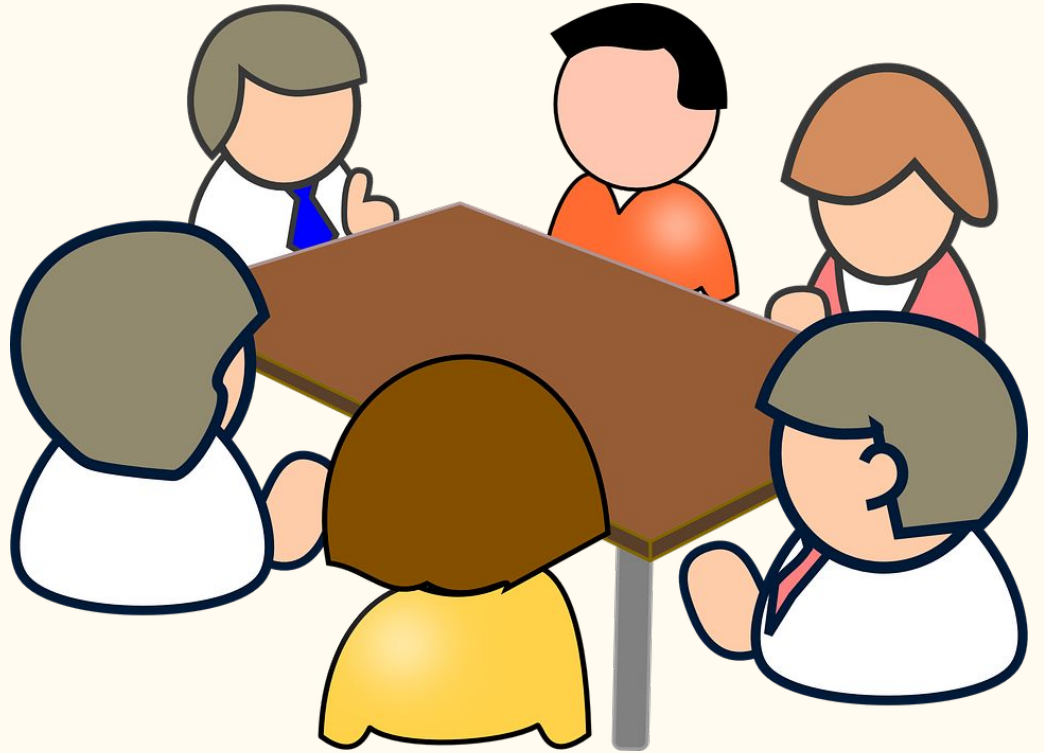


The Three Readings

1. Number and title
2. Floor consideration and debate
3. Right before the final vote

What Happens Next?

After the *first reading*, the Speaker or President of the Senate refers the bill to one or more of the **standing committees**, depending on the content of the bill.



#2 - The Bill in Committee

Standing Committees

...are not called for by the Constitution but they play an essential role in the legislative process. They sift through the hundreds of bills that are sent to them and decide their fate...

Pigeonhole

The standing committees reject the majority of the bills that are referred to them.

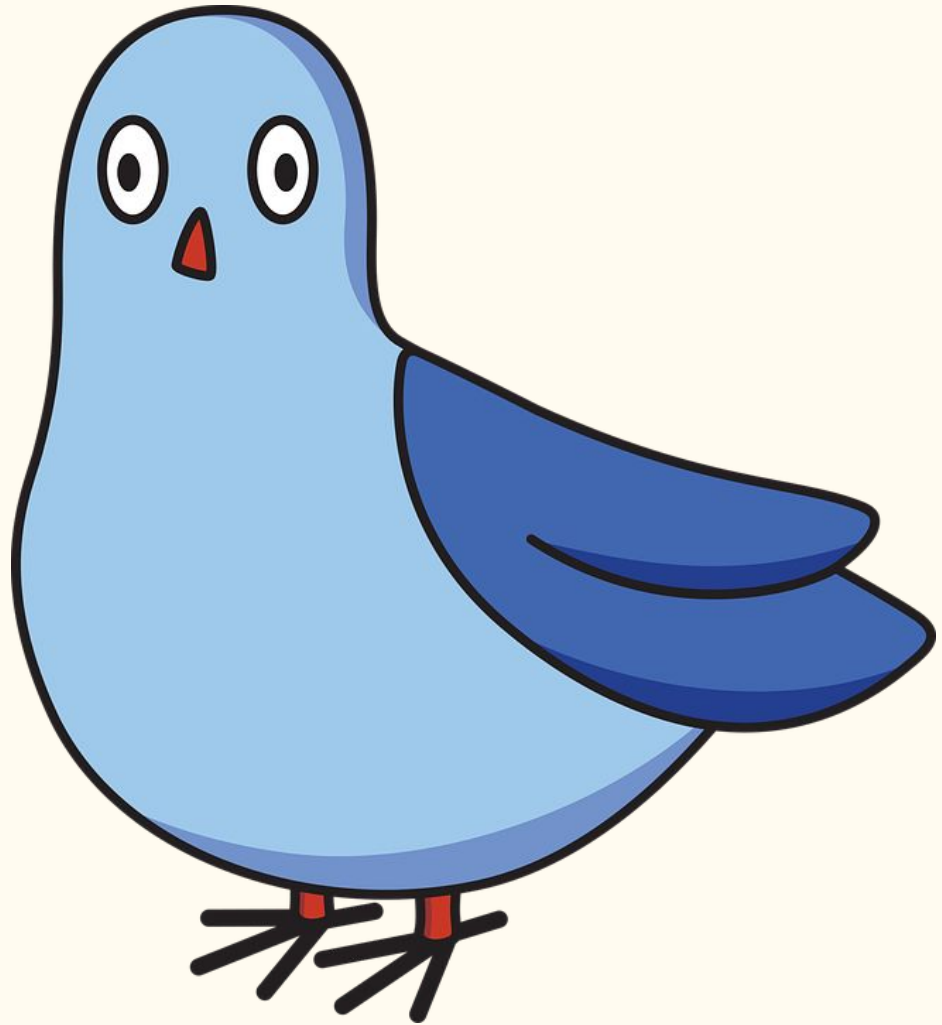
When a bill dies in its committee, it is said to be **pigeonholed**.

Pigeonhole

Bills that are *pigeonholed* are never acted upon and most of them **deserve their fate!**

On occasion, a committee kills a bill that a *majority of the House or Senate* wants to consider.

When that happens, the bill can be yanked out of committee with the **discharge petition**.



Discharge Petitions

...enable members to **force a bill** that has been in committee for 30 days **onto the floor** of the chamber for consideration...

This requires the majority of members to vote in favor of the action but is rarely used or successful.

Subcommittee Work & Committee Action

Once a bill reaches a committee, the chairman almost always passes it on to a subcommittee.

Subcommittees will:

1. **Hold public hearings** in which people with a vested interest in the bill can testify to its importance and necessity.
2. **Make a trip** to locations affected by the bill to get a firsthand look at the issue.
 - a. These trips are made at taxpayer expense but these on-the-spot investigations prove to be the best way for committees to inform themselves.

When the subcommittee has completed its work on a bill it goes to the full committee. Upon the chairman's direction, ***the committee can do one of several things:***

1. **Report the bill favorably** - "do pass" recommendation.
2. **Refuse to report the bill** - pigeonhole it.
3. **Report the bill in amended form** - a version that has been changed by the committee.
4. **Report the bill with an unfavorable recommendation** - the whole House or Senate should consider it before it is killed.
5. **Report a committee bill** - the committee produced a rewritten measure to replace one or several of the bills referred to it.

#3 - Scheduling for Floor Debate

Calendars

Before it goes to the **floor for consideration**, a bill reported by a standing committee is placed on one of several calendars (*only in the House of Representatives*). These calendars keep the schedule of when bills will be considered on the floor.



Five

There are five calendars in the *House of Representatives* and bills are placed on a calendar based on their content.

Bills are taken up from each calendar on a regularly scheduled basis.

The Powerful Rules Committee

A Critical Role in the
Legislative Process


This *powerful committee* must grant **“rules”** before most bills can actually reach the floor. This means that they must formally schedule it for consideration.

If the committee does not do so, the bill is *effectively killed!*

#4 - The Bill on the Floor

...of the House and the Senate...

On the Floor of the House of Representatives

1. Receives its second reading, section by section.
 - a. Amendments and changes can be added and made.
2. The Committee of the Whole (*the House of Reps in a less formal situation*) considers the bill during discussion and debate. The Committee of the Whole has fewer rules and speeds to process of debate on the floor.
 - a. *The Speaker steps down during sessions of the Committee of the Whole and acts as a normal Representative while another Representative presides.*
3. Once debate is over, the Committee of the Whole rises and just like  the House of Representatives is back in session and the Speaker resumes their position and formally adopts the Committees work.

Debate and Voting in the House



Debate

Due to its **large size**, there are several limits imposed on the debate in the House.

1. No member may hold the floor for more than 1 hour without unanimous consent to speak for a longer time.
2. The majority and minority leaders generally decide in advance how they will split the time spent on the bill.
3. Any member can demand a vote on the issue at any time during debate.

Voting

A bill may be subject to several votes on the floor because every amendment added must be voted on separately. **The House has 4 methods of voting:** *only one of them is typically used!*

Voice - the speaker calls a vote for “ayes” and “noes” and the body answers in unison.

If a member thinks the Speaker has made an error in judging a voice vote, they can demand a **standing vote** - all in favor, and then all opposed, stand and are counted by the clerk.

Engrossed

Once the bill has been approved at second reading, it is **engrossed** - printed in its final form. It is then read for a *third and final time* and a final vote is taken.

After it is approved, the Speaker signs it and a **page** - legislative aide - then carries it to the Senate President's desk.

On the Floor of the Senate

While the House and Senate are two very different places, the basic steps in the lawmaking process are very similar. There are, though, several critical differences:

1. After a bill is introduced and recognized, it is given a number, **read twice**, and referred to a standing committee.
2. The Senate has only *ONE calendar*, not five.
3. Unrestricted debate and Senators can speak for as long as they please.
 - a. The Senate is called *“the greatest deliberative body in the world.”*
4. **Two-Speech Rule**
 - a. No Senator may speak more than twice on a given bill on the same day.

The Senate's Toolbox

Filibuster

An attempt to “talk a bill to death”.

A stalling tactic to prevent Senate action on certain bills. A filibuster tries to monopolize the Senate floor and its time so that the Senate must either drop the bill or change it in some manner acceptable to the minority.

Huey Long - *more than 15 hours by reading from the Washington phone book and giving his colleagues the recipe for “pot-likker” cornbread and turnip greens.*

Strom Thurmond - *Record filibuster! 24 hours and 18 minutes!*

The Cloture Rule

The Senate has their own “check” on the filibuster, known as the Cloture Rule. This limits debate on the floor of the Senate to 30 hours.

To invoke this rule, **16 Senators** must submit a petition requesting cloture. A vote must be taken two days after the cloture is requested and if at **least ⅔ (60) Senators** approve the request, the rule becomes effective.

More than 1,700 attempts have to invoke this rule have been made but many *Senators hesitate to vote for cloture because:*

- (a) they honor the tradition of free debate
- (b) they worry that the frequent use of cloture will undercut the value of the filibuster that they may want to use someday.

#5 - House-Senate Conference Committees

**Most bills do not make it
this far.**

Many are killed in committee or on the floor of the House or Senate.

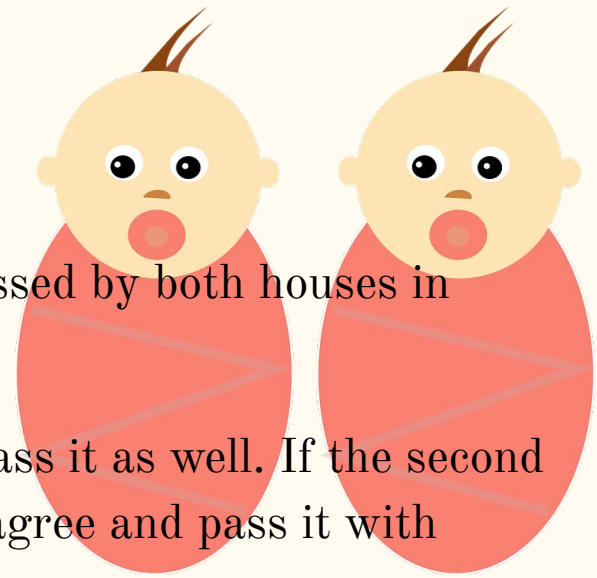
Those that are not killed make it to the floor for debate.

Identical...twins?!

Any bill that survives the legislative process **MUST** be passed by both houses in identical form.

If one house passes a bill, typically, the other house will pass it as well. If the second house offers amendments, most times the first house will agree and pass it with those amendments.

When this does not happen, however, and the houses cannot agree, the bill is sent to a conference committee - a temporary joint committee of the two houses. ***Their goal is to produce a bill that both houses agree upon.***

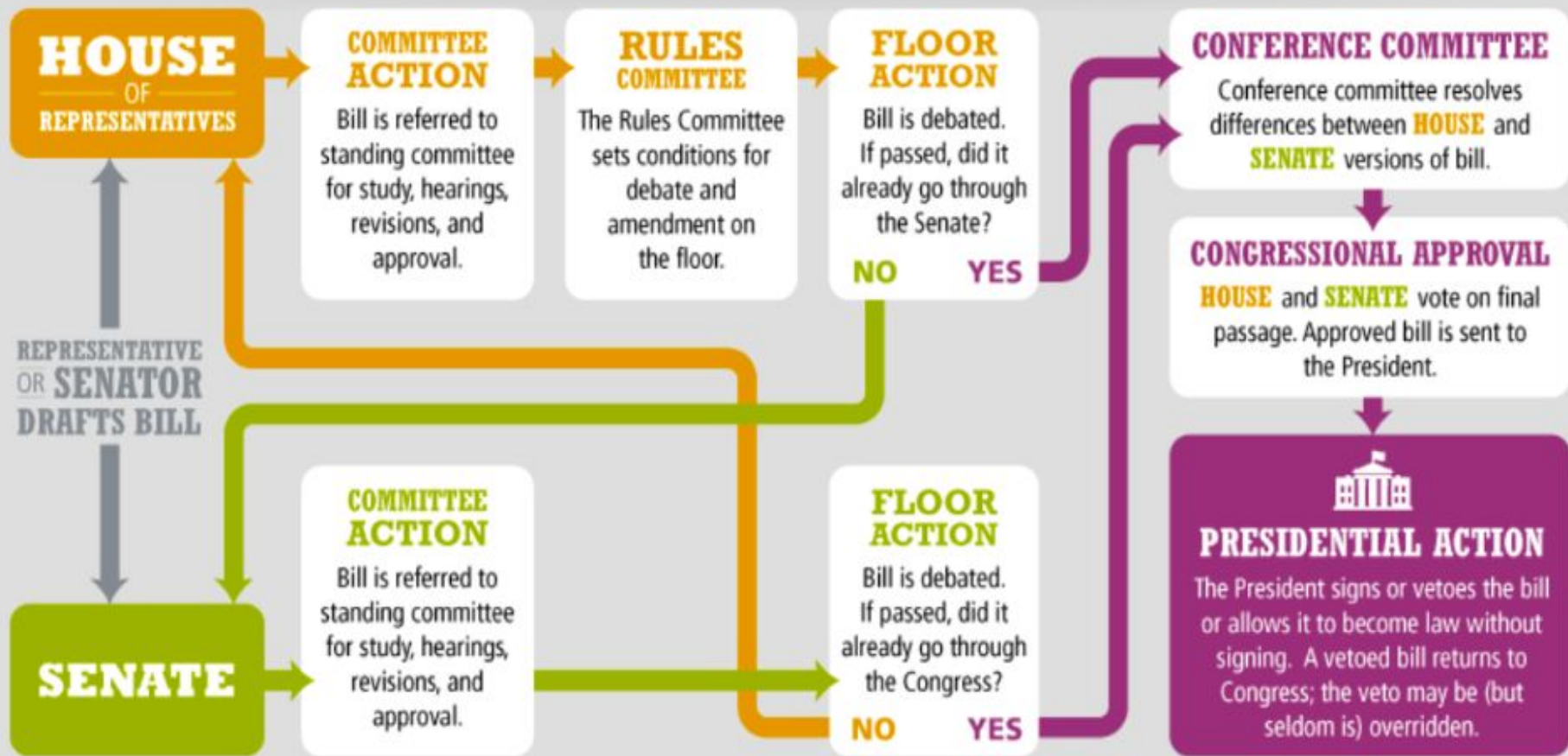


The President's Role in Lawmaking

Once the bill is sent to the President from Congress, he has four options of actions that he can take on the bill.

1. **Sign** it into law.
 2. **Veto** - refuse to sign. It is then returned to the house in which it originated. This can be overturned by $\frac{2}{3}$ vote in each house.
 3. **Allow the bill to become law without signing it** - by not acting on it within 10 days.
 4. **Pocket veto** - if Congress adjourns within 10 days of submitting the bill to the President and the President does not act, the measure dies.
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HOW A BILL BECOMES A LAW



The End