

CONGRESS

The Legislative Branch

Article I, Section I

“All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives.”

Bicameral Congress

Historical: British Parliament has consisted of two houses since 1300

- House of Lords
- House of Commons

This system was familiar to the framers of the Constitution

Bicameral Congress

Practical: Bicameral is a reflection of federalism

- Each of the States are represented in the Senate (equally)
- Each of the States are represented in the House of Representatives (by population)

Bicameral Congress

Theoretical: for the purpose that one house might act as a check on the other

“In a republican government, the legislative authority necessarily predominates. The remedy for this inconveniency is to divide the legislature into different branches.”

-- Federalist No. 51

Bicameral Congress

Anecdote: a conversation between Jefferson and Washington

George Washington: “Why do you pour coffee into a saucer?”

Jefferson: “To cool it”.

George Washington: “Even so, we pour legislation into senatorial saucer to cool it”.

Objections to Bicameral

- The Leading objection to a bicameral congress is that the senate is undemocratic and “equal representation” should be eliminated.
 - California = 35 Million people (2 senators)
 - Wyoming = 500,000 people (2 senators)

Terms of Congress

- Each term of Congress lasts for two years, and each term is numbered consecutively
- 1st Term = March 4, 1791
- Now = noon of the 3rd day of January or every odd numbered year

Sessions

- session: that period of time during which every year, Congress assembles and conducts business.

“The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3rd day of January, unless they shall by law appoint a different day”

- 20th Amendment, Section 2

Sessions

adjourn: suspends congressional work until the next session.

“Neither House...shall, without the consent of the other, adjourn for more than three days, nor to any other Place than in which the two Houses shall be sitting”

-- Article I, Section 5, Clause 4

Sessions

- The Constitution also gives the president the power to prorogue, or end and discontinue, a session of Congress
- Only when the two houses cannot agree on a date to adjourn

Special Sessions

Only the President may call Congress (or either house) into special sessions to deal with an emergency

E.g.: The Senate has been called into Special Sessions alone on 46 occasions to consider Treaties or presidential appointments.

Two Houses

The Senate & The House Representative

GROUPS

In a group of 3-4 students please research the responsibilities and characteristics of The Senate or The House of Representatives

Write Your Answers clearly on Chart Paper

- The House of Representatives = pg 267
- The Senate = pg 275

The House of Reps



- The Lower House
- 435 Members
- Representation is based on Population in each state.

The Senate

- The Upper House
- 100 members
- 2 Senators per state



The Powers of Congress

Expressed, Implied, and other Powers

Scope of Congressional Powers

Congress only has those powers delegated to it by the Constitution.

1) Expressed Powers - powers specifically given in the constitution

2) Implied Powers - powers given by reasonable deduction from expressed powers

3) Inherent Powers - powers given inherently to any national government

Congress Cannot...

- create a national public school system
- require people to vote or attend church
- set a minimum age for marriage or drivers licenses
- confiscate all hand guns
- censor the content of newspapers, radio or television
- abolish jury trials

Congressional Powers expand

Over the years the powers wielded by the national government have grown due to several factors:

- wars
- economic crises
- national emergencies
- advances in transportation and communication
- demand for more and more services

Expressed Powers

The Expressed Powers of Money and Commerce

“...to regulate Commerce with foreign nations, and among the several states, and with the Indian Tribes.”

- Article I, Section 8, Clause 3

But does Commerce Include...?

- people crossing state lines
- business practices
- working conditions
- radio and television broadcasts
- the internet

The 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....”

- Article I, Section 8, Clause 1

The Purpose of Taxes: a charge levied by government on persons or property to raise money to meet the public needs or protection

Limits on Taxing Power

- 1) Congress may tax only for public purposes not for private benefit.
- 2) Congress may not tax exports, only imports
- 3) Direct taxes --taxes paid directly to the federal government-- must be apportioned among the states, according to their population (except income tax)
- 4) All indirect taxes -- taxes paid by one person then onto another -- levied by the Federal Government must be levied at the same rate in every part of the country (fuel tax, liquor tax, cigarette taxes, etc.)

The Borrowing Power

“[t]o borrow Money on the credit of the United States”

- Article I, Section 8, Clause 2

- Congress has put a statutory ceiling on the public debt, money the U.S. Government has borrowed and not yet repaid.
- in 2006 the debt ceiling was \$8.5 trillion
- in 2013 the debt ceiling crisis has this debate in limbo

The Borrowing Power

Deficit Financing: the Federal Government regularly spends more money than it takes in

- Balanced Budget Act of 1997: a goal of eliminated deficit spending by 2002
- the U.S. Treasury reported a surplus in 1998, 2000, and 2001
- The years since have sent us into major national debt

The Commerce Power

Congress has the power to regulate interstate and foreign trade, which is vital to the welfare of the nation.

Limits on Commerce Power:

- cannot tax exports
- cannot favor the ports of one State over another
- cannot interfere with the slave trade until 1808

The Currency Power

**“...to coin money and regulate the Value thereof”
- Article I, Section 8, Clause 5**

- Congress did not create a national paper currency, and make it legal tender -- money that must be accepted by law -- until 1863

Foreign Relations

- The National Government has greater powers in the field of foreign affairs than in any other area
- Congress shares these powers with the President
- States cannot participate in foreign relations

War Powers

- only Congress can declare war
- only Congress can raise and support armies and maintain a navy.
- War Powers resolution of 1973, Congress claimed the power to restrict the use of American forces in combat in areas where a state of war does not exist (check on Commander in Chief)

WAR POWERS

DECLARED VS. UNDECLARED WARS

DECLARED WARS

UNDECLARED WARS

Presidents have sent U.S. troops to fight abroad more than 200 times. A sampling of the major conflicts.

WAR OF 1812 1812-15

Just 29 years after the end of the Revolutionary War, Congress declared war on Great Britain over trade and westward expansion issues. In 1814, British forces occupied Washington, D.C., burning the White House and the Capitol.

MEXICAN-AMERICAN WAR 1846-48

In April 1846, Congress declared war on Mexico over territorial disputes. The American victory made Texas, New Mexico, Arizona, California, Nevada, and Utah part of the U.S.

THE CIVIL WAR 1861-65

The war to preserve the Union took more American lives than any war before or since. But because the secession of the Southern states was considered a domestic insurrection, there was no foreign power on which to declare war.

SPANISH-AMERICAN WAR 1898

When Cubans rose up against their Spanish colonizers, the U.S. took their side. U.S. newspapers whipped up public support, and Congress declared war on Spain.

WORLD WAR I 1917-18

Three years after the war began in Europe, Congress declared war against Germany and its allies. The war marked the end of American isolation from world affairs and the beginning of broad American influence.

WORLD WAR II 1941-45

After the Japanese attack on Pearl Harbor, Congress declared war on Japan, and soon thereafter on Germany and Italy. The U.S. emerged from the war as a world superpower.

KOREAN WAR 1950-53

When Communist North Korea invaded South Korea, the U.N. condemned the invasion. Along with other U.S. allies, President Truman sent troops for what he termed a "police action."

VIETNAM WAR 1964-75

After disputed attacks on U.S. ships near North Vietnam, President Johnson asked Congress for authority to respond. In April 1964, Congress passed the Gulf of Tonkin Resolution, which gave Johnson broad authority to escalate the war.

GULF WAR 1991

When Iraq, under the leadership of Saddam Hussein, invaded Kuwait, the United Nations approved the use of force. A few days before the fighting began, Congress also authorized the use of force.

AFGHANISTAN 2001-TODAY

Days after the 9/11 attacks, Congress OK'd "all necessary and appropriate force against those nations, organizations, or persons [the President] determines planned, authorized, committed, or aided the terrorist attacks." The war began in October 2001.

IRAQ 2003-TODAY

In October 2002, Congress passed a resolution authorizing the use of force as "necessary and appropriate" against Iraq and to enforce U.N. resolutions regarding Iraq. U.S. and allied troops invaded in March 2003 and toppled Saddam Hussein. More than 3,000 Americans have died in Iraq.

Other Expressed Powers

- Naturalization
- Postal Power
- Copyrights and Patents
- Weights and Measures
- Judicial Power
- Power over Territories and other areas
 - eminent domain

Implied Powers



Necessary and Proper Clause

*“...To make all Laws which shall be **necessary and proper** for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.”*

- Article I, Section 8, Clause 18

“We admit...that the powers of the government are limited, and that its limits are not to be transcended. But we think that the sound construction of the Constitution must allow to the national legislature that discretion, with respect to ...the power it confers,... [powers] which will enable that body to perform the high duties assigned to it, in the manner most beneficial to the people”

- McCulloch vs Maryland, Opinion of the Court

The Implied Powers of Congress

The expressed power
to lay and collect taxes

implies the power

- to punish tax evaders
- to regulate (license) the sale of some commodities (such as alcohol) and outlaw the use of others (such as narcotics)
- to require States to meet certain conditions to qualify for federal funding

The expressed power
to borrow money

implies the power

to establish the Federal Reserve System of banks

The expressed power
to establish naturalization law

implies the power

to regulate and limit immigration

The expressed power
to raise armies and a navy

implies the power

to draft Americans into the military

The expressed power
to regulate commerce

implies the power

- to establish a minimum wage
- to ban discrimination in workplaces and public facilities
- to pass laws protecting the disabled
- to regulate banking

The expressed power
to establish post offices

implies the power

- to prohibit mail fraud and obstruction of the mails
- to bar the shipping of certain items through the mails

SUMMARY of Powers

| Expressed Powers | Implied Powers |
|--|--|
| <ul style="list-style-type: none">● war powers● foreign relations● currency power● commerce power● borrowing power● taxing power● postal power● naturalization power● copyright and patents● weights and measures | <ul style="list-style-type: none">● power to punish tax evaders● regulate and outlaw the sale of certain items● require states to meet certain requirements in order to receive federal funding● Federal Reserve Banking System● Regulate Immigration● Military Draft● establish minimum wage● regulate banking |

Non Legislative Powers

Congressional Chores

Non Legislative Powers

- **Constitutional Amendments**
- **Electoral Duties**
- **Conduct Investigations**
- **Impeachment**
 - the House has the power to impeach
 - the Senate has the power to judge the case

- **Executive Powers**
 - Presidential appointments to federal offices must be approved by the Senate
 - Senate must approve all treaties

Congress in Action



Congress Convenes (Jan 3)

Opening Day in the House:

1. Clerk calls session to order
2. Speaker takes oath
3. Democrats on the right
4. Republicans on the left
5. House elects its officers
6. House adopts its rules
7. members of 19 committees are chosen

Opening Day in the Senate:

1. only $\frac{1}{3}$ of senators are potentially new to congress
2. new senators take oath
3. seats on committees must be filled

Presiding Officers



Speaker of the House:

- leader of the House and leader of his/her party within
- presides over House
- keeps order

President of the Senate:

- Vice President (in his absence: *president pro tempore*)
- cannot take to floor to vote or debate

Committee Chairmen

The bulk of the work of Congress, especially the House, is done in committees.

Committee Chairmen: those members of Congress who lead the Committees in Congress

- * Chosen from the Majority party by the minority party

- * Seniority Rule = most important posts go to longest serving congressmen

Committees in Congress



Standing Committee

A Standing Committee is a permanent committee in Congress.

- 20 Standing Committees in the House of Representatives (10 to 75 members)
- 17 Standing Committees in the Senate (14 to 28 members)

Standing Committees

- Chairman of Committee is chosen according to seniority rule
- Most Committee Members are chosen according to seniority rule
- Majority Party always hold the majority seats in a committee
- Committees are also divided into sub-committees (150 sub-committees in the House and Senate)

Standing Committees

House Standing Committees

- Agriculture
- Appropriations
- Armed services
- Budget
- Education and Workforce
- Energy and Commerce
- Financial Services
- Government Reform
- Homeland Security
- House Administration
- International Relations
- Judiciary
- Resources
- Rules
- Science
- Small Business
- Standards of Official Conduct
- Transportation and Infrastructure
- Veterans Affairs
- Ways and Means

Senate Standing Committees

- Agriculture, Nutrition and Forestry
- Appropriations
- Armed Services
- Banking, Housing and Urban Affairs
- Budget
- Commerce, Science and Transportation
- Energy and Natural Resources
- Environment and Public Works
- Finance
- Foreign Relations
- Homeland Security and Governmental Affairs
- Indian Affairs
- Judiciary
- Health, Education, Labor and Pension
- Rules and Administration
- Small Business and Entrepreneurship
- Veteran's Affairs

House Rules Committee

- “traffic cop” of the House of Representatives
- this committee screens bill that they believe should be debated on the House floor.
- A bill is only debated if it receives “a rule” -- has been scheduled for floor consideration -- by the Rules Committee.

Select Committee

- select committee is a committee that is set up for a specific purpose.
- The Speaker of the House or the President of the Senate appoints members of these committees
- Most are formed for investigative purposes

Joint and Conference Committees

- joint committee is one composed of members of both houses
- A bill must pass in both the House and the Senate in identical form before it is sent to the president
- conference committee is a temporary joint body that is created to iron out the differences in a bill

Joint and Conference Committees

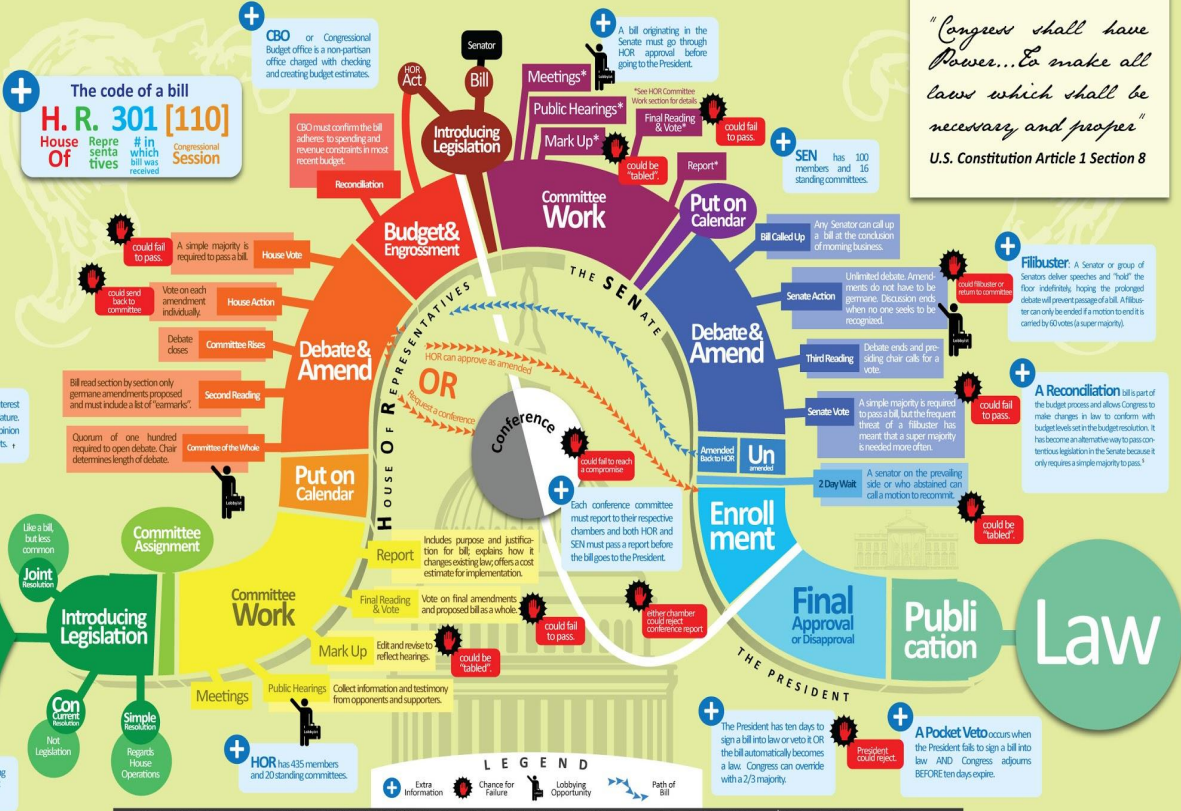
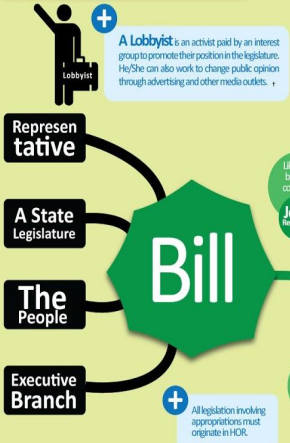
- Economic
- The Library
- Printing
- Taxation



How a Bill Becomes a Law



HOW OUR LAWS ARE MADE



"Congress shall have Power... To make all laws which shall be necessary and proper"
 U.S. Constitution Article 1 Section 8



But First...

Define the Following Terms:

- Joint Resolution
- Concurrent Resolution
- Resolution
- Rider
- Bill
- Filibuster
- Cloture
- Veto
- Pocket veto

*see pg. (334-346)

Types of Bills

- **Bill** = a proposed law presented to the House or Senate for Consideration.
- **Joint Resolution** = a proposal for some action that has the force of law when passed, but usually deals with special circumstances or temporary matters.
 - e.g. appropriate money for the presidential inauguration ceremonies

Types of Bills

- **Concurrent Resolution** = a statement of position on an issue, adopted by the House and the Senate acting jointly; does not have the force of law; does not require the President's Signature
 - used to state a position on something such as foreign affairs
- **Resolution** = a measure dealing with some matter in one house; does not have to force of law; does not require the President's signature.

Introducing a Bill

- Most Bills are born somewhere in the executive branch
- A bill introduced in the House must be put in “The Hopper”



The Legislative Process

- 1) Citizens contact Congress requesting a new law
- 2) Members present draft legislation which is forwarded to the appropriate committee to which it is concerned
- 3) * Information is gathered for study
 - * Witnesses are called to share info
 - * Citizens points of view are received and considered

The Legislative Process

4) An Explanation is presented of what a bill does with reasons for support or opposition

5) Members share opinions on bills in speeches

6) Members vote on changes to a bill

The Legislative Process

7) *House sets rules for amendments and length of debate.

*3/5 of Senators agree to stop debating and vote

8) Final vote is taken

9) Act is sent to the other chamber for consideration

The Legislative Process

10) members from both chambers meet to negotiate the difference between bills and come to an agreement.

(Bill must be identical in both houses)

11) Act is transmitted for the Presidents signature

12) President can sign the bill into law or Veto the bill.

(If he vetoes the bill Congress can override the veto by a $\frac{2}{3}$ vote of the entire Congress.)

Bill Readings

1. **First Reading:** The clerk of the House numbers each bill as it is introduced
 - i. H.R. 3410
 - ii. S.210
2. **Second Reading:** during floor consideration
3. **Third Reading:** just before the final vote on the measure

The Three Readings practice is intended to ensure careful consideration of all bills.

Key Terms

- **Rider** = a provision not likely to pass on its own merit that is attached to an important measure certain to pass.
- **Fillabuster** = in the Senate only, a fillabuster is an attempt to “talk a bill to death”. It is a stalling tactic, in order to delay or prevent Senate action on a measure.
- **cloture rule** = a rule that allows the Senate to set a time limit on a measure in order to bring it to a final vote

History of the Cloture Rule

...Just before the U.S.A entered into WWI president Wilson asked Congress to pass a law that permitted the arming of Merchant vessels. German U-boats were attacking U.S. shipping vessels. The bill was passed in the house but died in the Senate when 12 senators filibustered for 3 weeks until the end of the Congressional term on March 4th....

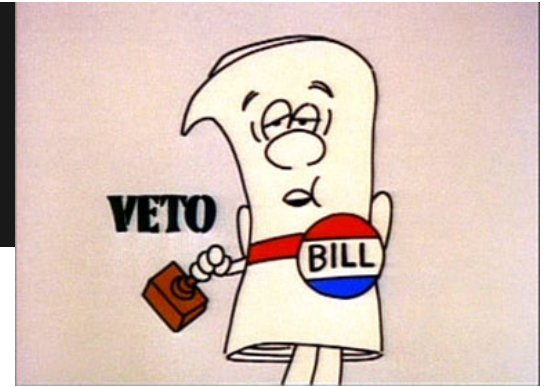
- In response the Senate then passed the **Cloture Rule**.

Presidential Acts

1. President can sign a bill into law
2. President can veto, or refuse to sign a law. the measure then returns to Congress for another vote
 - i. ($\frac{2}{3}$ vote in each house can overrule a presidential veto)



Presidential Acts



3. President can allow the bill to become law by not acting upon it within 10 days of receiving it.
4. **Pocket Veto**: If Congress adjourns its session within 10 days of submitting a bill to the President, and the President does not act, the bill dies.