

LEGISLATIVE BRANCH LECTURE NOTES

INTRODUCTION

The Great Compromise created a bicameral legislative branch known as Congress composed of two houses: the U.S. House of Representatives (representation based on a state's population) and the U.S. Senate (equal representation). The general duty of Congress is to write the laws of our country and to act as a check and balance on the other two branches.

ARTICLE 1 OF THE CONSTITUTION

Article 1 of the Constitution sets out the structure and functions of Congress. There are significant differences between the two houses. The House of Representatives was designed to be very responsive to the people's needs: it is elected directly by the people and its members have a short term of office. The Senate was designed to be elitist; originally senators were elected by the state legislatures and they have a long term of office, so they can afford to do what they think is right for the country rather than what is popular at the moment. Both the Senate and the House have special powers that only they enjoy, but because of its elite status, the Senate was given more of these special powers (see the section on "Non-Legislative Powers" for a partial list of these).

In order for a proposed bill to become a law, both houses of Congress must pass the identical piece of legislation. Because the two houses are so different, coming to a compromise on a bill is sometimes impossible. In general, the legislative process is a long and complex one, and most bills are never passed into law. If both houses of Congress do pass the identical bill, it then goes to the President for his signature.

Article 1 also sets out the terms and qualifications for members of Congress:

| | MEMBERS | TERM | MIN AGE | CITIZEN | RESIDENT |
|---------------|----------------|-------------|----------------|----------------|-----------------|
| SENATE | 100 | 6 years | 30 yrs. old | 9 years | State |
| HOUSE | 435 | 2 years | 25 yrs. old | 7 years | District |

Representation in the Senate is easy since both senators from each state are elected by the entire state, and the number of senators for each state is always two. But representation in the House is more complex. The country is geographically divided into 435 Congressional Districts, each of which elects one House member. But the number of districts assigned to each state can change because of changes in population. Every ten years the Federal Government conducts a "census" that counts every person in the country. From these numbers the government determines what is the fair number of districts to be awarded to each state (each district presently must contain about 700,000 people as a result of the 2010 census). When a state is awarded a different number of districts than last time, they must go through the redistricting process known as "reapportionment". Each state's legislature draws the borders for its congressional districts. "Malapportionment" is when there is an imbalance in a state's congressional districts' populations. "Gerrymandering" is when the state legislature draws district borders that advantage one group over another. Georgia had 11 districts during the 1990's, 13 for the 2000's, and gained one more as a result of the 2010 census, giving us a total of 14 House districts at the present time. The state is generally regarded as the most gerrymandered state in the country.

LEGISLATIVE POWERS OF CONGRESS

Congress' basic duty is to pass the national (federal) laws of the country. This gives them enormous power, but there are limitations. For instance, both houses must pass identical pieces of legislation, there are checks & balances from the other branches, Congress is divided into two competing political parties, and it is very slow to act.

The major source of Congress' legislative power comes from the Delegated Powers. These include the power to lay taxes, coin money, create Federal courts, declare war, etc. One important delegated power is Congress' power to appropriate (spend) money. Another is its power to "regulate interstate commerce," the definition of which is very broadly defined.

Congress also has important powers because of the Implied Powers, based on the "necessary & proper" clause in the Constitution as interpreted by the Supreme Court in the *McCulloch v. Maryland* case.

NON-LEGISLATIVE POWERS OF CONGRESS

Congress has several non-legislative powers that have nothing to do with its basic law-making responsibilities. Some of these powers are exercised by only one house (usually the U.S. Senate).

- 1) Electoral Powers- If no candidate wins a majority of electoral votes in the Electoral College, the House chooses the President and the Senate chooses the Vice-President. Also, to replace a vacancy in the Vice-Presidency, the President nominates a replacement who must be confirmed by majority votes in both houses of Congress.
- 2) Impeachment Power- Congress has the power to put on trial and remove Executive and Judicial branch officers accused of treason and “high crimes and misdemeanors.” Step One is the “Bill of Impeachment” (requires majority vote in the House) which lists charges against the person. The actual trial of guilt takes place in the “Senate Trial” (requires 2/3 vote in the Senate). The only punishment for a guilty ruling is removal from office. Two Presidents have been impeached, but survived their Senate trials. Only Federal judges have been convicted and removed from office.
- 3) Confirmation Power- The Senate (only) has the power to confirm Presidential appointees by majority vote. Examples of appointees are Federal Judges, Supreme Court Justices, Cabinet members, ambassadors, etc.
- 4) Treaty Power- The Senate (only) has the power to ratify treaties negotiated by the President. Ratification of a treaty requires a 2/3 vote by the Senate.
- 5) Amendment Power- All Constitutional amendments so far have been proposed by 2/3 votes in both houses of Congress.
- 6) Investigative Power- Either house of Congress can create new committees or use existing committees to investigate facts. They investigate facts in order to draft (write) bills, oversee the Executive Branch, expose corruption, etc.
- 7) Congressional Self-Discipline- Each house of Congress disciplines its own members, usually requiring a majority vote. Self-discipline can take the form of reprimand, censure, or even expulsion. Note: they do NOT impeach their members.
- 8) Governing Powers- Congress has the power to allow new states to join the union, and it administers non-state territories like Puerto Rico, Guam, Virgin Islands, and the District of Columbia.

OTHER DUTIES OF CONGRESS

Congress has some additional duties and responsibilities. For instance, congressmen (especially House members) often act as a voter’s “Ombudsman,” doing case work to help voters within their districts. Congressmen have a responsibility to keep the public informed of their actions. Congress also has the duty of Congressional Oversight, which means making sure that the Executive Branch properly carries out the laws they have written. Lastly, Congress sets the official Federal Election Day (the Tuesday after the first Monday in November, every even-numbered year).

STRUCTURE OF CONGRESS

Congress is structured according to committees and party membership, neither one of which are mentioned in the Constitution. Each house of Congress is structured in a similar manner, though there are some differences. Note that the President of the Senate is the Vice-President of the United States, although he is rarely in attendance and his only responsibility is to cast tie-breaking votes in the United States Senate

HOUSE OF REPRESENTATIVES

- 1) Speaker of the House- 2nd in line after Pres & Vice-Pres, assigns bills to committees
- 2) House Majority/Minority Leaders- political party leaders in the House of Representatives
- 3) House Majority/Minority Whips- “whips the members into shape”
- 4) Committee/Subcommittee Chairmen- schedule bills for debate

SENATE

- 1) President of the Senate (Vice President)- casts tie-breaking votes in the Senate
- 2) President Pro Tempore- powerless position, 3rd in line after President & Vice Pres
- 3) Senate Majority/Minority Leaders- political party leaders in the Senate
- 4) Senate Majority/Minority Whips- “whips the members into shape”
- 5) Committee/Subcommittee Chairmen- schedule bills for debate