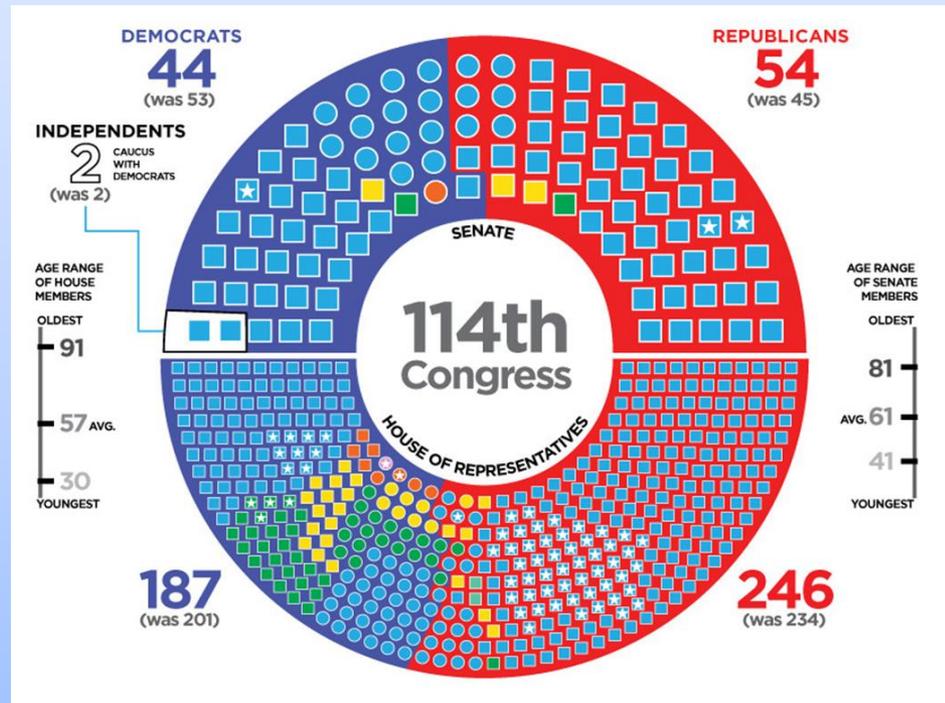


UNIT 5

Institutions of Government: **Congress and the Presidency**

LESSON 1

Congressional Elections



INTENTIONS OF FOUNDERS

- **Fear of excessive power concentrated in a single institution**
- **Fear of mob rule by impassioned majority “mobocracy” – Madison Federalist #10)**
- **Concern about manner of representation in Congress**
- **Belief that Congress would be the dominant branch of government**
- **Solution: bicameral legislature**
 - **Mob rule concern addressed by creation of "upper house" in which senators would be elected by state legislatures rather than the people, and which would check the passions of the people's representatives in the House.**
 - **Representation concern settled by a Senate w/equal representation and a House with representation based upon population.**

OVERVIEW OF CONGRESS: TERMS AND SESSIONS

- **Term of Congress lasts two years**
- **Terms begin on Jan. 3 of every odd-numbered year**
- **Senators were elected by the state legislatures every two years, with one-third beginning new six-year terms with each Congress**
- **Terms numbered consecutively (113th Congress from 2013-2015, 114th from 2015-2017, 115th from 2017-2019)**
- **Adjournment: End of a term; date must be agreed upon by both houses. Two regular sessions per term. Periodic recesses (not to be confused w/adjournment).**

The Great Compromise aka The Connecticut Compromise

Bicameral Legislature: two
houses

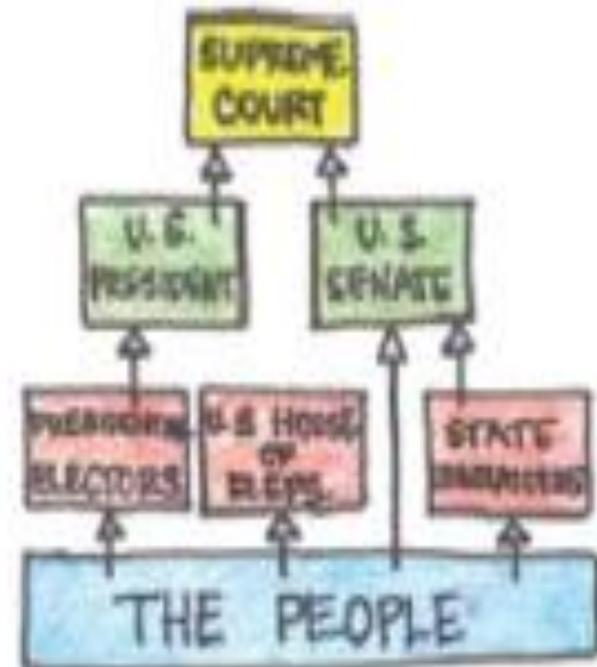
Lower House - House of Representatives

Proportional
representation based on
state's population
Popularly elected

Upper House - Senate

Equal representation with
two senators per state
Elected by state
legislatures

17th Amendment



BICAMERALISM = TWO-HOUSE LEGISLATURE

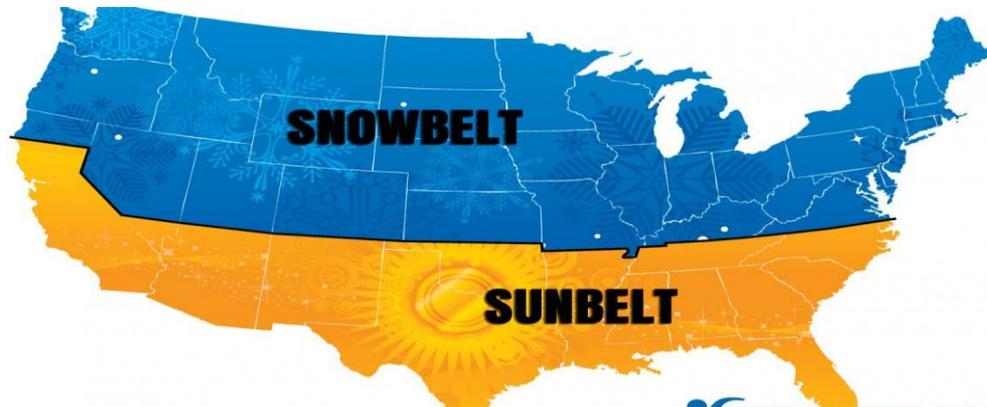
- **House of Rep's was designed to be closer to the people/more responsive to the people:**
 - Members elected directly by the people (rather than indirectly elected, as were Senators until 1913)
 - Members are elected from smaller districts rather than on an at large basis, like the Senate
 - Members elected for only a two-year term
 - Entire body elected every two years
 - Revenue bills (tax bills) must originate in the House
- **Senate was designed to be more removed from the people:**
 - Members originally were indirectly elected by state legislatures (until the 17th amendment)
 - Members elected on an at-large basis by the entire state
 - Members elected for a six year term
 - Only 1/3 of Senate is up for reelection every two years – more stability/continuity (staggered terms)

BICAMERALISM = TWO-HOUSE LEGISLATURE

- **Purpose of bicameralism**
 - To protect against an overly powerful legislature
 - House of Reps was expected to reflect popular will of average citizen
 - Senate was to provide more stability, continuity, and in-depth deliberation
 - Acts as a moderating effect on partisanship, and prevents government from steamrolling ahead and infringing on people's rights
 - Part of the Connecticut (Great) Compromise at the Const. Convention
- **Consequences of a bicameral legislature**
 - Gridlock – designed to be slowed down
 - Compromise between houses (especially if controlled by different parties)
 - Additional check and balance

HOUSE OF REPRESENTATIVES - SIZE

- Determined by Congress - 435 since 1911.
- Members elected by districts, not states.
- Number of reps per state is determined by population.
- Demographic trends show increase in Sun Belt state representation (e.g., 53 reps in CA, 36 in TX), decrease in Frost Belt representation.



HOUSE OF REPRESENTATIVES

- **Terms of office are fixed**
 - Two years. Entire body up for reelection every two years -
- A more "responsive" (and potentially "radical") body to be kept in check by the Senate.
 - Term limits passed by some states, but ruled unconstitutional by Supreme Court (*US Term Limits v. Thornton*, 1995).
- **Qualifications**
 - 25 years of age
 - Citizenship for 7 years
 - Residency in state



SENATE - SIZE

- **100 members, chosen in statewide elections (“at large”). With a smaller size, the Senate has been a more informal body with less need than the House for as many strict procedures.**
- **Two members from every state – established in Constitution.**



SENATE

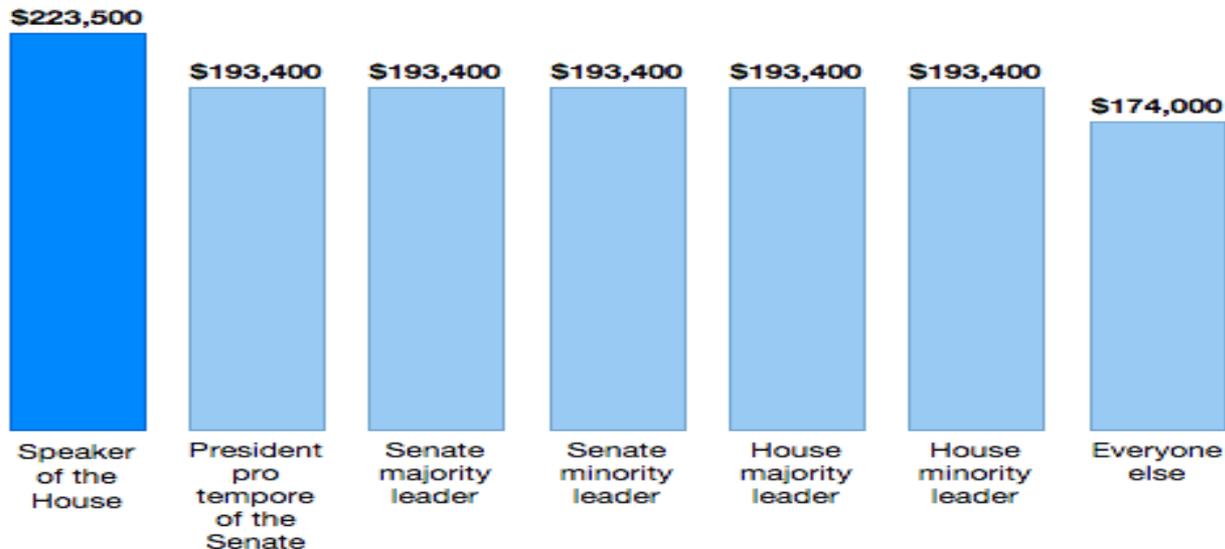
- **Terms of office**
 - Six years. 1/3 up for reelection every two years
 - Staggering of terms ensures a more stable body
 - No term limits allowed here, either
- **Qualifications**
 - 30 years of age
 - Citizenship for 9 years
 - Residency in state



CONGRESS: COMPENSATION

- Members set own salaries. **27th Amendment** prevents salary raises from taking effect until the following term.
- Many other perks: staff, travel allowance, office space, franking privilege, insurance, etc.

Salaries of members of Congress



CONGRESS: MEMBERSHIP

Over-representation of white, male, Protestant, upper-middle class lawyers in their 50's ---> charges of conservative/status quo bias.

- **Rebuttals:**

- Many more women and minorities have been elected in recent years.
- Perfectly possible for white, male, Protestant, upper-middle class lawyers in their 50's to represent the poor and afflicted.
- In any case, the people themselves are the ones who elected members.

CONGRESS: THE INCUMBENCY ADVANTAGE

- **Reelection rate in House: >90% (96% in 2008)**
- **Reelection rate in Senate: >80% (90% in 2008)**
- **Relatively few seats are seriously contested in the House. Most are “safe seats.”**
- **Charges of a “Permanent Congress.”**
- **The counter to the “Permanent Congress” argument is that reelection rates take into account only those incumbents who run for reelection. Retirements open up quite a few seats each year to new members.**

ADVANTAGES OF INCUMBENCY

- **Franking privilege**
- **Staffers**
- **Patronage – one of the key inducements use by political machines. It is a job, promotion, or contract that is given for political reasons rather than for merit or competence alone.**
- **Name recognition**
- **Casework (constituency service) – legislative work on behalf of individual constituents to solve their problems with government agencies and programs**
- **Money, esp. from PACs**



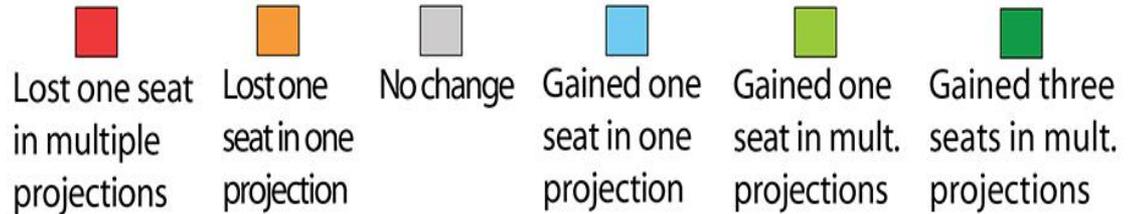
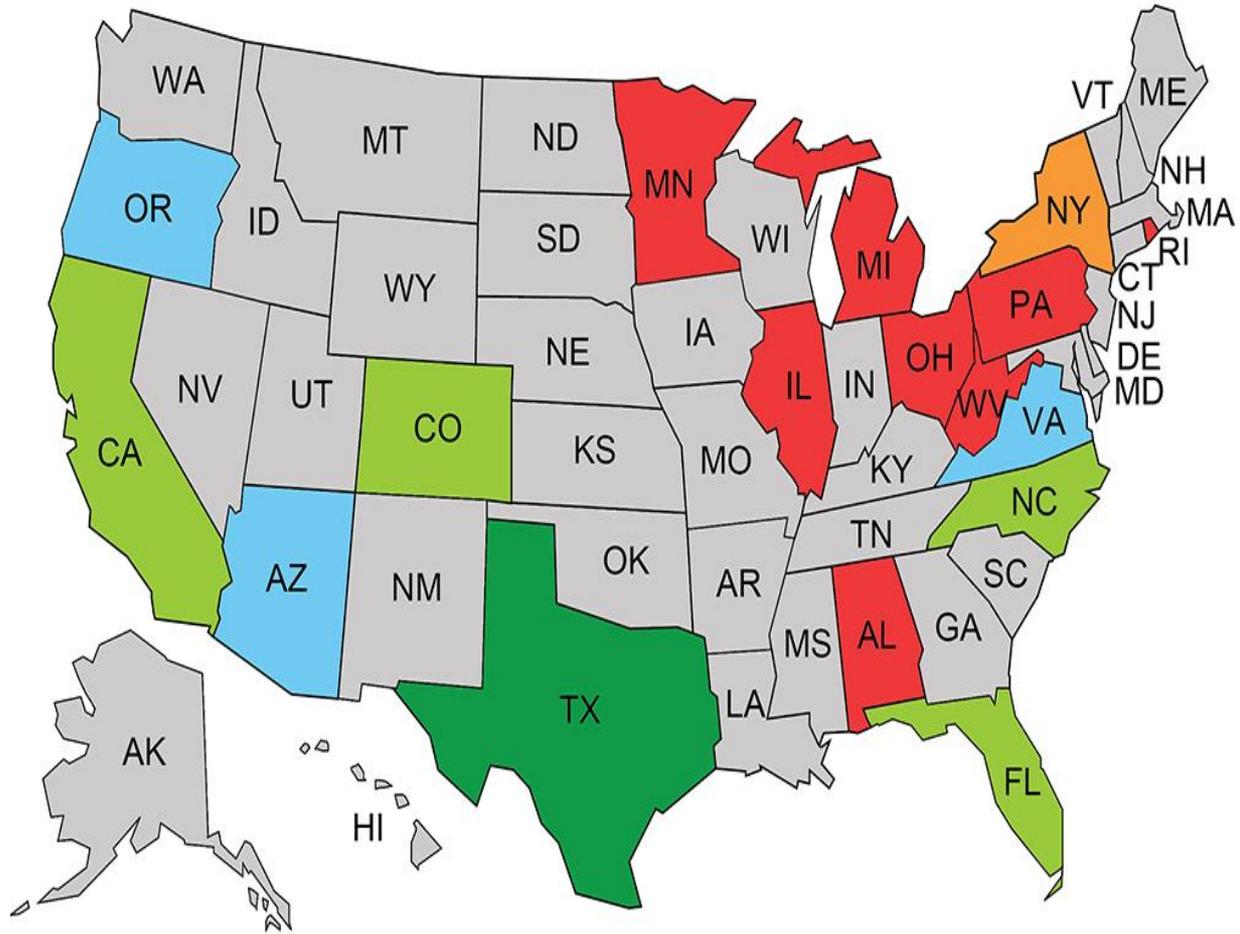
United States **congressional apportionment** is the process by which seats in the United States **House of Representatives** are distributed among the 50 states according to the most recent constitutionally mandated decennial census.

2020

REAPPORTIONMENT

PROJECTIONS

PROJECTIONS

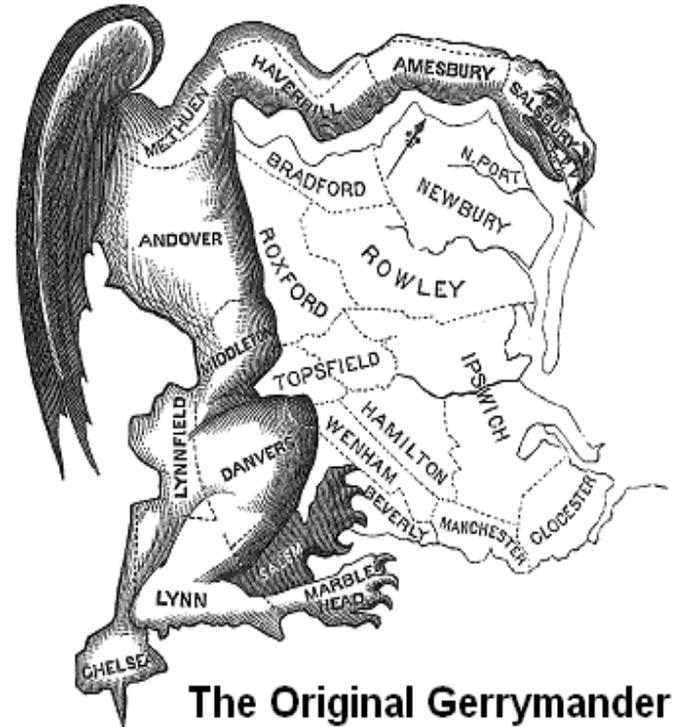


INCUMBENCY ADVANTAGE: GERRYMANDERING

- **Number of Rep's per state is determined by population**
- **Census conducted every 10 years**
 - **Census will show population changes in states**
 - **These changes must be reflected in state representation in House**
 - **If a state gains significantly in population, it will probably gain some seats**
 - **If a state loses population or does not gain as much as other states, it will probably lose some seats**

GERRYMANDERING

- If a state has a change in the number of seats OR if the population has significantly changed within the state, its district boundaries must change.
- This is known as REDISTRICTING, and is usually carried out by the party in power of the state legislature.
- A form of redistricting is gerrymandering: redrawing boundaries to favor the party in power of the state legislature.

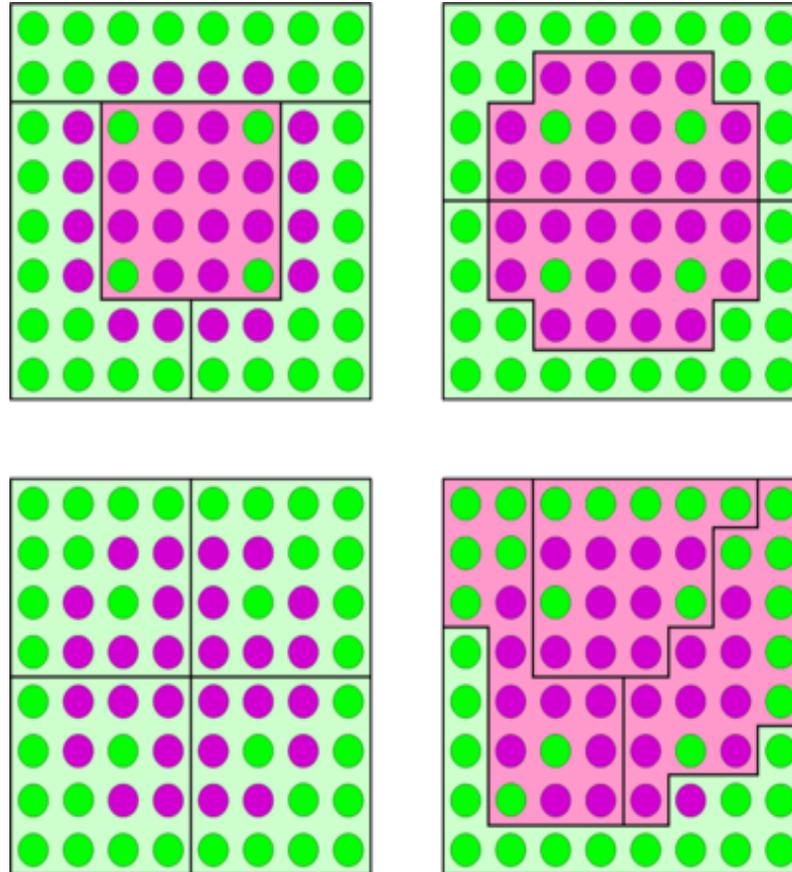


The Original Gerrymander

GERRYMANDERING

- **The party in power can get a majority of seats in the House by:**
 - "Packing:" drawing the district lines in such a way as to concentrate the opposing party in a few districts, thus preserving a majority of seats for itself.
 - "Cracking:" drawing the district lines in such a way as to disperse the opposing party throughout the state and thus dilute that party's strength in order to preserve a majority of seats for the majority party.
- **Effects**
 - The party in power **STAYS** in power
 - "Safe" seats are created for incumbents, leading to further difficulties for challengers
 - Communities of interest may be broken up
 - Strangely-shaped districts
 - "Majority-minority" districts created by racial gerrymandering

GERRYMANDERING: EFFECTS



***“Packing
and
Cracking”***

“In gerrymandered election districts, the voters don't choose their politicians - the politicians choose their voters!”

REDISTRICTING

REQUIREMENTS

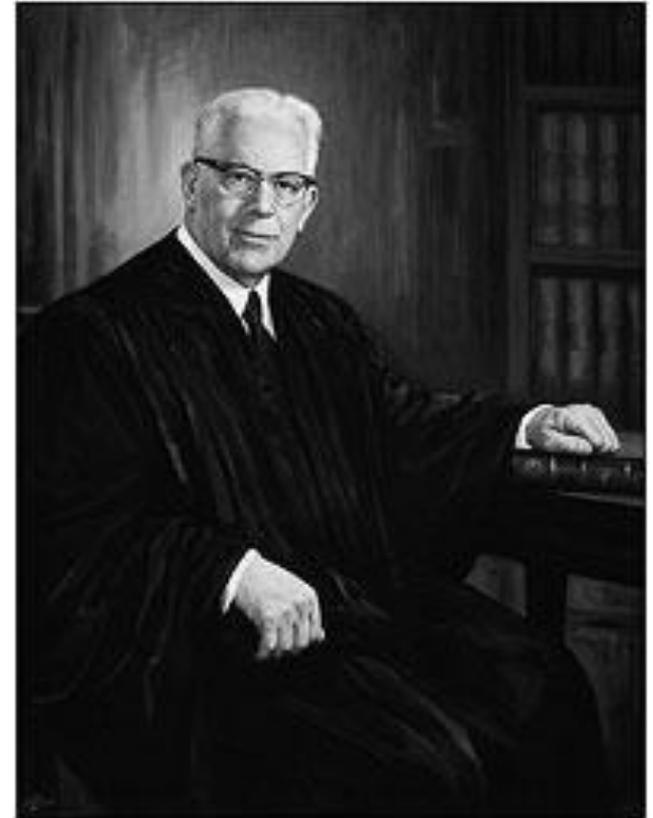
- District lines must be contiguous
- Racial gerrymandering is prohibited (*Shaw v. Reno*, 1993). Race may not be the primary factor in drawing district lines (but it can be a factor).
- Cannot dilute racial minority voting strength
- “Communities of interest” may be kept intact

SUPREME COURT REDISTRICTING REQUIREMENTS

- Districts must be as near equal in population as possible.
 - *Baker v. Carr*, 1962: "one man, one vote" principle applied to state legislative districts to correct overrepresentation (malapportionment) of rural areas.
 - *Wesberry v. Sanders*, 1964: applied same principle to House districts.
 - Even if the number of rep's to which a state is entitled does not change, it redistricts anyway because of geographic shifts in population that may have occurred within the previous ten years. This solves the problem of malapportionment.

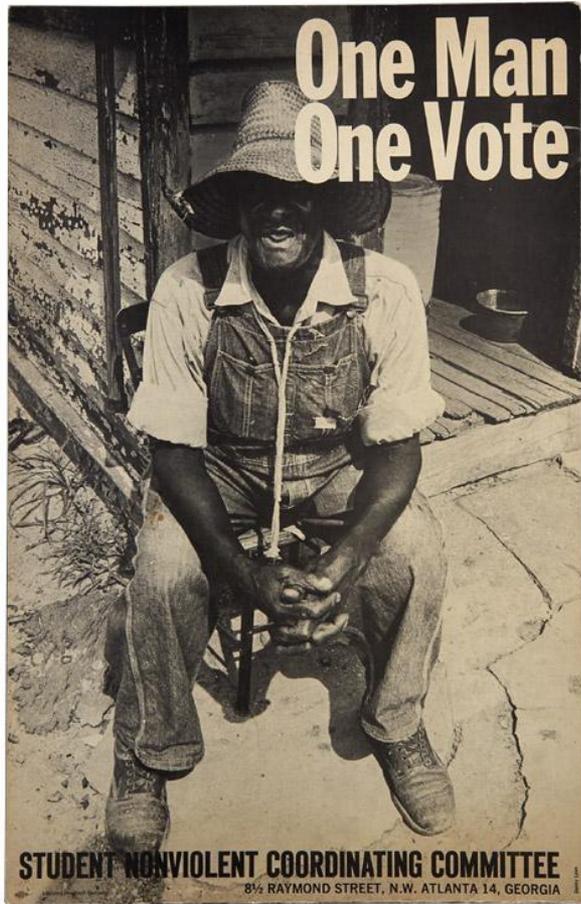
Baker v. Carr (1962)

- ❖ In this landmark case, the Supreme Court retreated from its “political question doctrine”
- ❖ It ruled that the court can intervene in reapportionment cases
- ❖ Beginning with *Baker*, SCOTUS issued a series of rulings that required the adherence to the “one man, one vote” principle



Chief Justice Earl Warren

Wesberry v. Sanders (1964)



- ❖ **The principle of “one person, one vote”**
- ❖ **Each legislative district within a state had to have approximately the same number of people**
- ❖ **14th Amendment applies**

FREE RESPONSE QUESTION

Congressional reapportionment and redistricting are conducted every ten years. When redistricting is conducted, politicians often engage in gerrymandering.

- a) Define congressional reapportionment and explain one reason why it is important to states.*
- b) Define congressional redistricting.*
- c) Explain two goals of politicians when they gerrymander during redistricting.*
- d) Describe two limits that the United States Supreme Court has placed on congressional redistricting.*

FREE RESPONSE RUBRIC

Part (a): 2 points - One point is earned for a correct definition of congressional reapportionment. One point is earned for a correct explanation of why reapportionment is important to states.

An acceptable definition of congressional reapportionment is:

- The reallocation of the number of representatives each state has in the House of Representatives.

Acceptable explanations of why congressional reapportionment is important to states are:

- Reapportionment increases or decreases the number of seats a state has in the House/Congress (not the Senate).
- More representatives mean that a state has more influence.
- Reapportionment increases or decreases a state's number of electoral votes.

NOTE: The explanation point must be tied to an appropriate definition of reapportionment.

Part (b): 1 point - One point is earned for a correct definition of congressional redistricting. An acceptable definition is:

- The drawing/redrawing of House/congressional (not Senate) district lines.

Part (c): 2 points - One point is earned for each of two explanations of the goals of politicians when they gerrymander during redistricting. Acceptable explanations may include:

- To enhance political party strength/to minimize the strength of the opposition party.
- To protect incumbents/to discourage challengers.
- To increase minority representation/to decrease minority representation.
- To punish foes/to reward friends.

NOTE: "Cracking" or "packing" must be tied to one of the above in order to earn the explanation point.

Part (d): 2 points - One point is earned for each of two descriptions of limits that the United States Supreme Court has placed on congressional redistricting.

Acceptable descriptions may include:

- Districts must be equally populated.
- Lines must be contiguous or connected.
- Redistricting cannot dilute minority voting strength.
- District lines cannot be drawn solely based upon race.
- Districts must be compact.
- Communities of interest must be protected.

Powers of Congress



[Structures & Leadership of Congress](#)

POWERS OF CONGRESS

- **EXPRESSED (enumerated, delegated): spelled out in the Constitution**
 - Levy taxes (revenue bills must begin in House)
 - Spend money for common defense and public welfare
 - Borrow money
 - Regulate foreign, INTERSTATE, Indian commerce. This clause has been tested frequently in the courts due to its broad interpretation by Congress.
 - Establish naturalization and bankruptcy laws
 - Coin money
 - Establish weights and measures
 - Punish counterfeiters
 - Establish post offices
 - Grant copyrights and patents
 - Create courts inferior to Supreme Court
 - Define and punish piracy
 - Declare war
 - Raise and support an army and navy

POWERS OF CONGRESS

IMPLIED POWERS - Powers suggested, but not expressed, in the Constitution

- **Based upon elastic clause (necessary and proper clause)**
- **Must come from expressed power**
- **Examples: national bank, conscription, paper money, air force, CIA**
- **Strict v. loose constructionist approaches**

INHERENT POWERS - Powers the national government has simply by virtue of being a sovereign govt.

- **Examples:**
 - **regulating immigration**
 - **acquiring territory**
 - **granting diplomatic recognition**

INSTITUTIONAL POWERS

(THOSE THAT RELATE TO SYSTEM OF CHECKS AND BALANCES)

- **Senate ratifies treaties with 2/3 vote**
- **Senate approves presidential appointments with majority vote**
- **House votes for impeachment (majority vote needed), Senate tries impeachment cases (2/3 vote needed to convict). Pres, VP, and “all civil officers of the United States” are subject to impeachment**
- **House elects President if no electoral majority**
- **Senate elects V.P. if no electoral majority**
- **Proposal of constitutional amendments with 2/3 vote in both houses**

FREE RESPONSE QUESTION

The framers of the United States Constitution created a legislative system that is bicameral. However, it is not just bicameral; the framers also established two houses of distinctly different character and authority.

- a) Discuss two reasons why the framers created a bicameral legislature.*
- b) Identify one power unique to the House of Representatives and explain why the framers gave the House that power.*
- c) Identify one power unique to the Senate and explain why the framers gave the Senate that power.*

FREE RESPONSE RUBRIC

Part (a): 2 points

- Compromise at Constitutional Convention (representation of large vs. small population states)
- Compromise among competing interests / protect minority interests
- Slow the process
- Different types of representation / federalism
- An intra-branch check / prevent majority tyranny

Part (b): 2 points - 1 point for identification, **1 point** for explanation (linked to character of House)

Identifications:

- Initiate revenue bills
- Choose president when electoral college is deadlocked
- Impeachment

Explanations:

- Closer to the people
- More representative of / responsive to public direct election to two-year terms

Part (c): 2 points – 1 point for identification, **1 point** for explanation (linked to character of Senate)

Identifications:

- Treaty ratification
- Confirmation of judicial and executive appointments
- Try impeachments/conviction/removal

Explanations:

- More mature / "august" body
- More insulated from public opinion / indirectly elected (originally)
- Longer and/or staggered terms
- Reflects state interests

Note:

- The unique power must be in the Constitution (e.g., "filibuster" does not get credit because it's a Senate rule, not a constitutional power).

FREE RESPONSE QUESTION

The United States Constitution established a bicameral legislature with two distinct chambers.

a) Identify three differences between the House and Senate that contributes to legislation passing in only one chamber, despite unified party control. Explain how each of these differences accounts for legislation passing in only one chamber, even when the same party controls both chambers.

FREE RESPONSE RUBRIC

Part (a): 6 points

- One point is earned for each correct **identification** of one difference between the House and Senate that contributes to legislation passing in only one chamber, despite unified party control.
- One point is earned for each correct **explanation** of how this difference accounts for legislation passing in only one chamber, even when the same party controls both chambers.

Acceptable identifications of differences between the House and Senate that contributes to legislation passing in only one chamber include:

- **House is more formal/Senate is less formal or more collegial**
- **Greater workload in the Senate slows the flow of legislation**
- **Harder to get a majority in House**
- **Senate members are less frequently preoccupied than House members about reelection**
- **Filibuster**
- **House Rules Committee**
- **Unanimous consent or Holds**
- **Different constituencies**
- **Powers of presiding officers/speakers**
- **Germaneness of Riders**
- **Greater specialization in the House**

For each part, the student must explain how the difference identified accounts for legislation passing in only one chamber, even when the party controls both chambers.

POWERS DENIED TO CONGRESS

- **Passing ex post facto laws**
- **Passing bills of attainder**
- **Suspending habeas corpus except in cases of rebellion or invasion**



HOUSE OF REPRESENTATIVES

SPEAKER OF THE HOUSE

- **Presides over House (Most powerful member) – always from majority party**
- **Appoints select and conference committees**
- **Appoints Rules Committee members and its chairman**
- **Assigns bills to committees**
- **Third in line for presidency after V.P.**
- **Informal powers, e.g., access to media**
- **Influences agenda of the House**

MAJORITY LEADER/MINORITY LEADER

- **Partisan positions chosen by party members**
- **Floor leaders and legislative strategists**

MAJORITY WHIP/MINORITY WHIP

- **Assistant floor leaders**
- **Inform party leaders on "mood" of House**
- **Keep nose count on important votes**
- **Persuade party members to vote with party**
- **Liaison between party leadership and rank and file membership**

THE SENATE

PRESIDENT OF THE SENATE

- Vice President of the U.S.
- Presides over Senate
- Votes in case of ties
- Ceremonial job

PRESIDENT PRO TEMPORE

- Ceremonial job
- Presides in absence of V.P.
- Fourth in line for presidency

MAJORITY LEADER

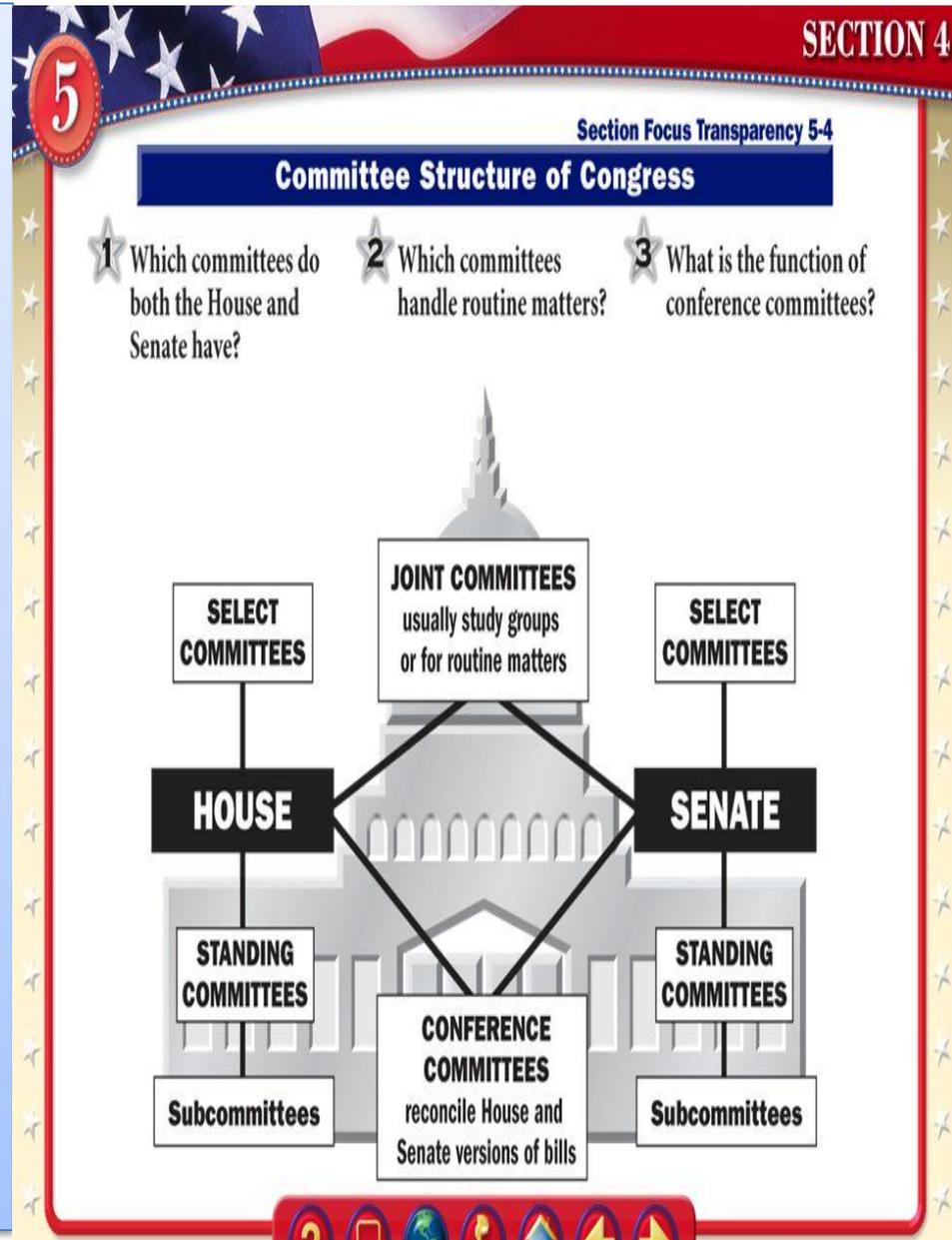
- True leader in Senate
- Recognized first for all debates – w/power to filibuster, this gives Majority Leader strong influence on bills
- True leader of majority party
- Influences committee assignments of senators
- Influences Senate agenda, along with Minority Leader
- Informal powers, e.g., of using the media

MINORITY LEADER AND PARTY WHIPS

- Same as House

THE COMMITTEE SYSTEM

- **Real work of Cong. is done in committees and subcommittees, not on the floor of the House or Senate.**
- **Before a bill even reaches the floor, it must first pass through a committee, unless the committee has resisted "reporting out" the bill and the House votes to "discharge" it onto the floor for consideration by the full body. (Senate committees lack the power to prevent bills from reaching the floor).**
- **Committee functions:**
 1. Analyze legislation
 2. Conduct investigations of executive branch on as-needed basis
 3. Conduct oversight of executive branch agencies on an ongoing basis



SELECTION OF COMMITTEE MEMBERS

- **Importance of getting on the right committee, i.e., one in which a member can best serve his constituents, and thus increase his/her chances of reelection.**
- **Members are assigned to committees by either the Committee on Committees or the Steering the Policy Committee.**
- **Whichever party has majority in the house will have a majority on each committee.**
- **Committee chairman is of majority party; “ranking member” is most senior member of minority party on a committee**

SELECTION OF COMMITTEE CHAIRMEN

Power of chairmen is substantial over:

- Setting committee agenda
- Hiring staff
- Membership on subcommittees
- Jurisdiction of subcommittees

Chairmen are selected by secret ballot in party caucuses or conferences (of party leaders) at the beginning of the term.

- Generally, the seniority system is followed, i.e., the person of the majority party with the most seniority on THAT COMMITTEE is chosen chairman.

SELECTION OF COMMITTEE CHAIRMEN

- Advantages of seniority system:
 - Experience.
 - Stability.
 - Expertise.
 - Reduces infighting among those who would be rivals for chairmen.
- Disadvantages of seniority system: Increases influence of 1 party states, and decreases influence of competitive states.



IMPORTANT STANDING COMMITTEES

Standing committees are the *permanent* committees of Congress.

HOUSE

- **Rules: Most powerful of all.**
 - Sets legislative calendar and establish “rules” for debate and amendments.
- **Ways and Means: deals with tax bills.**
- **Appropriations: deals with spending bills.**
 - Authorization bill allows for money to be spent.
 - Appropriation bill provides the actual funding for the program.
 - “Earmarks:” special projects set aside by members to benefit home districts or states. Dramatic rise of these in recent years.
- **Budget**
- **Armed Services**

IMPORTANT STANDING COMMITTEES

Standing committees are the *permanent* committees of Congress.

SENATE

- **Finance: deals with tax bills.**
- **Appropriations: deals with spending bills.**
- **Budget.**
- **Foreign Relations: Highly prestigious.**
 - Senate has larger role in foreign affairs than House because of treaty ratification, ambassador confirmation provisions in Constitution
- **Judiciary: Screens judicial nominees.**
 - Careful scrutiny given because of the power of the modern judiciary and the fact that judges have life terms. Presidents Clinton and Bush 43 both criticized the committee by holding up numerous judicial nominations. Some delays under Clinton lasted many months, and in some cases, years.

CONFERENCE COMMITTEES

- **Temporary committees comprised of members from both houses.**
- **Develop compromise language on a bill when House and Senate versions differ (about 10% of the time).**
- **After conference committee sends bill back to each house, no amendments are allowed, and the bill generally passes.**
- **The power of these committees is such that they are often called the "third house of Congress."**

FREE RESPONSE QUESTION

Both party leadership and committees in Congress play key roles in the legislative process.

a) Define two of the following elements of the congressional committee system and explain how each influences the legislative process.

- Specialization*
- Reciprocity/logrolling*
- Party representation on committees*

b) Identify two ways party leadership in Congress can influence the legislative process, and explain how each way influences the process.

FREE RESPONSE RUBRIC

Part (a): 4 points - 1 point for each of two definitions, 1 point for each of two explanations

Committees: Explanations must go beyond merely linking to definition. All explanations must be clearly in context of defined element to get credit.

- Specialization [members of Congress develop policy expertise] - development of expertise; independence from executive branch; more attention paid to legislation; division of labor; better legislation accepted only if fully explain HOW.
- Reciprocity/ logrolling [vote trading/ exchanges, bargaining] - speeds process, government more expansive (do more). Explanations related to electoral success NOT accepted. More pork barrel ok only if clearly in context of reciprocity.
- Party representation on committees [representation is reflective of the chamber as a whole] – party pushes own agenda, determines leadership on committees.

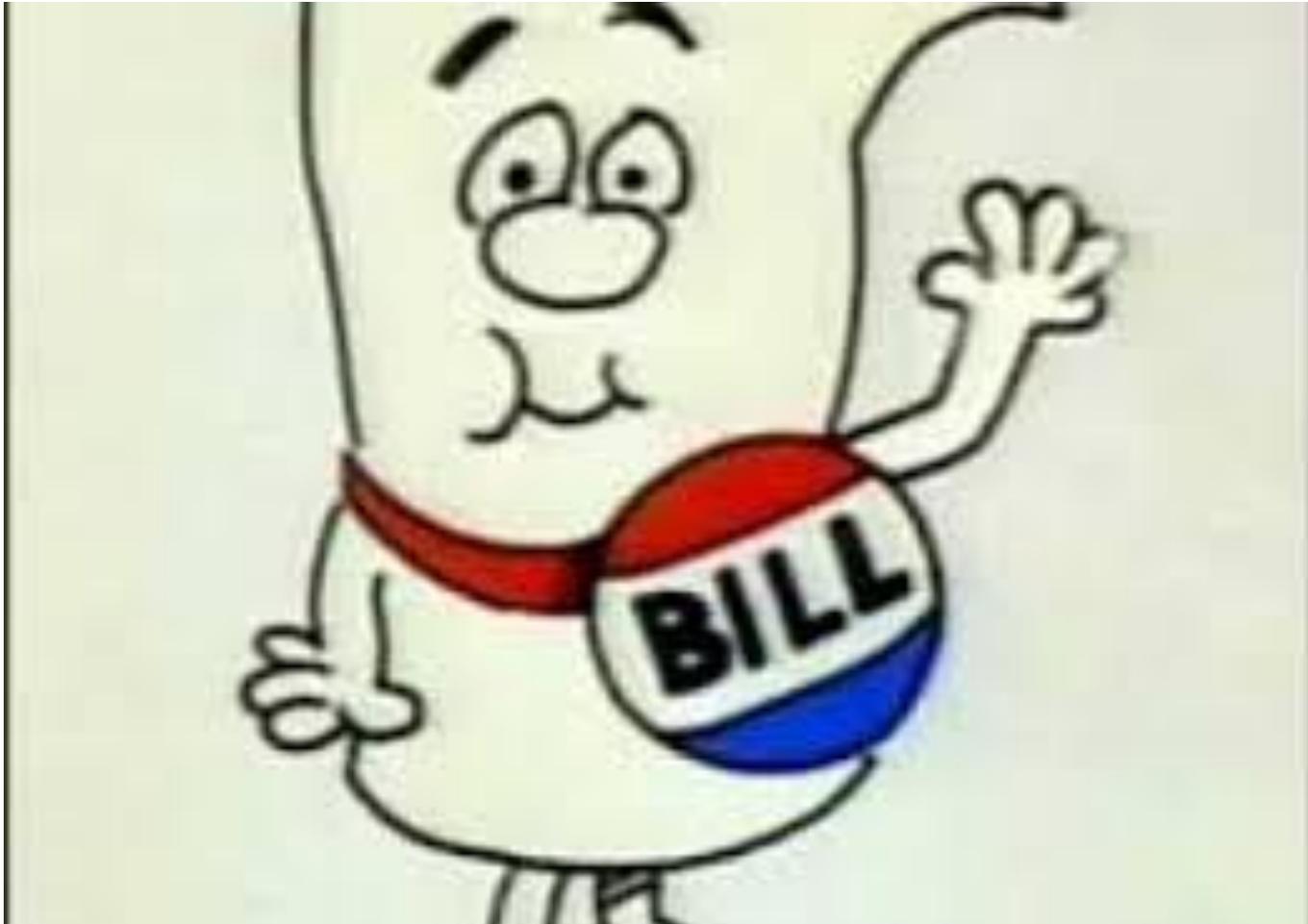
Part (b): 4 points - 1 point for each of two identifications, 1 point for each of two explanations

Party leadership: Acceptable identification may include:

- assignment of members to committees
- assignment of committee chairs
- scheduling
- agenda-setting (rules committee)
- party discipline
- leadership use of media
- recognition on floor
- leadership control of electoral support

Explanation must specifically indicate HOW the party leadership influences the legislative process.

How a Bill Becomes a Law



[Important Links](#)

THE US LEGISLATIVE PROCESS

SENATE

HOUSE OF REPRESENTATIVES

IT STARTS WITH AN IDEA...

A BILL IS INTRODUCED BY A MEMBER OF THE SENATE AND ASSIGNED TO A COMMITTEE FOR REVIEW.

A BILL IS INTRODUCED BY A MEMBER OF THE HOUSE AND ASSIGNED TO A COMMITTEE FOR REVIEW.

THE COMMITTEE MEETS TO DISCUSS, AMEND, AND VOTE ON THE BILL.

THE COMMITTEE MEETS TO DISCUSS, AMEND, AND VOTE ON THE BILL.

BILLS MUST PASS THROUGH BOTH CHAMBERS BEFORE BEING SENT TO THE PRESIDENT.

A CONFERENCE COMMITTEE, MADE OF MEMBERS OF BOTH CHAMBERS, MEETS TO RESOLVE ANY DIFFERENCES BETWEEN THE HOUSE AND SENATE VERSIONS OF THE BILL.

IF APPROVED, BILL PROCEEDS TO THE FULL SENATE FOR FURTHER DISCUSSION, AMENDMENTS, AND VOTING.

IF APPROVED, BILL PROCEEDS TO THE FULL HOUSE FOR FURTHER DISCUSSION, AMENDMENTS, AND VOTING.

BOTH CHAMBERS VOTE ON FINAL BILL

IF APPROVED, BILL PROCEEDS TO THE FULL SENATE FOR FURTHER DISCUSSION, AMENDMENTS, AND VOTING.

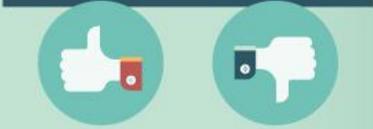
IF APPROVED, BILL PROCEEDS TO THE FULL HOUSE FOR FURTHER DISCUSSION, AMENDMENTS, AND VOTING.

LAW



VETO

THE VETO CAN BE OVERRIDDEN BY CONGRESS WITH A 2/3 VOTE.



HOW A BILL BECOMES LAW

BILL INTRODUCTION

- Less than 10% actually pass
- Most originate in the executive branch
- Bills can be introduced in either house, except for revenue bills (House only)
- Diffusion of power evident in this process: proponents need many victories, but opponents need only one. This was the intent of the Founders: to create a *cautious and deliberate process*.
- Two-step legislative process:
 1. Authorization allows for a program
 2. Appropriation provides money for that program
- Passage of a bill requires only a simple majority

HOW A BILL BECOMES LAW

COMMITTEE AND SUBCOMMITTEE ACTION

- Importance of "correct" committee getting a bill
- Committee actions
 - Pass. Bill is "reported out" to full house for consideration
 - Kill
 - Amend ("markup session"). Earmarks are placed at committee level by individual members
 - Pigeonhole: postponed indefinitely; most frequent fate of a bill

HOW A BILL BECOMES LAW

COMMITTEE AND SUBCOMMITTEE ACTION

- **Discharge petition (in the House of Reps) can be used when a bill is bottled up in committee.**
 - Means of bringing a bill out of committee and to the floor for consideration without a report from the committee.
 - Usually without cooperation of the leadership by "discharging" the committee from further consideration of a bill or resolution.
 - Requires simple majority of the House
 - Rarely ever used
- **Importance of Rules Committee (House only)**
 - “Traffic cop” function
 - Issues open rule that allows amendments to a bill or closed rule that prohibits such amendments (esp. on tax bills)
 - Establishes rules on floor debate

HOW A BILL BECOMES LAW

FLOOR ACTION

- **Only the Senate can filibuster.**
 - Nonstop debate to kill a bill
 - A threat of a filibuster is almost as good as a filibuster itself – it places pressure on bill’s sponsors to change parts of the bill
 - Especially effective at the end of a term
 - Can be ended by 3/5 vote of CLOTURE
 - Ex: used in the 1950’s and 1960’s to stall civil rights legislation
- **Only the Senate allows non-germane amendments (“riders”).**
“Christmas tree” bills can result.

HOW A BILL BECOMES LAW

FLOOR ACTION

- **Only the Senate uses “unanimous consent agreement”**
 - **Majority and minority leaders (in advance) set the details of how it will consider a bill**
 - **How long it will debate each amendment**
 - **Whether all amendments must be germane (relevant) to the bill's subject matter**
 - **When the final vote will be taken**
 - **Sometimes whole bills are adopted by unanimous consent, if members are able to agree in advance to all of the bill's provisions.**
 - **Help the leadership move noncontroversial matters quickly through the Senate.**
 - **A single senator's objection can stop a unanimous consent agreement, giving the minority another chance to stop or delay the majority from acting.**

HOW A BILL BECOMES LAW

FLOOR ACTION

- Only the Senate allows any member to place a HOLD on a bill or presidential nomination.
 - Not in the Constitution, but another example of a Senate tradition. In the past, this was a temporary delay so that, for example:
 - 1) a senator could have more time to consider a bill, or
 - 2) a senator who was going to be absent when a bill was considered would request that the bill be delayed until he returned.
 - To exercise the hold, a senator informs the floor leader that he/she does not want the bill to be considered – the implied threat of a filibuster and the need for “unanimous consent” for the Senate to proceed on business result in the bill/nomination being held up
 - Holds can be placed anonymously
 - Use has been expanded in 90s as a tactic to kill bills and esp. judicial nominations.

HOW A BILL BECOMES LAW

CONFERENCE COMMITTEE ACTION

- Comprised of members from both houses
- Temporary conference committee reconciles different House-Senate versions of a bill, and then sends it back to each house for a vote.
- Yet another “third house of Congress.”

FREE RESPONSE QUESTION

Members of Congress are charged with three primary duties—writing laws, overseeing the implementation of laws, and serving the needs of their constituents.

- a) *Describe the role of each of the following in lawmaking.*
- *Senate filibuster*
 - *House Rules Committee*
 - *Conference committee*
- b) *Explain how casework affects members' attention to legislation.*

FREE RESPONSE RUBRIC

Part (a): 3 points

Describe the **role** of each of the following in lawmaking (3 points total, 1 point per role):

- Senate filibuster allows a senator on the floor to:
 - Prevent/delay action on a particular bill.
 - Prevent/delay other business from being conducted.
- Rules Committee schedules or manages the flow of legislation on the floor to:
 - Make it easier or more difficult for a bill to pass.
 - Make the process more efficient/orderly/manageable.
- Conference Committee reconciles differences in House and Senate versions of a bill.

Must describe the role in lawmaking explicitly.

Part (b): 1 point

Explain **how** casework affects members' attention to legislation (1 point):

- Diverts time, resources, and staff, thus reducing members' ability to focus on legislation.
- Develops awareness of problems, thus focusing more time and resources on related legislation.

HOW A BILL BECOMES LAW

PRESIDENTIAL ACTION

- **Sign the bill in full.**
- **Veto the bill in full → can be overridden by 2/3 vote in each house.**
 - **Line Item Veto ruled unconstitutional in *Clinton v. New York*.**
- **Ignore the bill.**
 - **After 10 days of sending the bill to President, the bill automatically becomes law.**
 - **If, however, within that ten-day period, Congress adjourns (not recesses), the bill is pocket-vetoed.**

FREE RESPONSE QUESTION

In the United States Congress, the majority party exerts a substantial influence over lawmaking. However, even when one party has a numerical majority in each chamber of the United States Congress, there is no guarantee that legislation supported by that majority party will be passed by both chambers. Rules of each chamber independently influence the likelihood that legislation will pass in that chamber; legislation passed by one chamber is not always passed by the other.

- a) Describe two advantages the majority party in the United States House of Representatives has in lawmaking, above and beyond the numerical advantage that that majority party enjoys in floor voting.*
- b) Describe two differences between House and Senate rules that may make it likely that legislation may pass in one chamber but not in the other.*
- c) Explain how the differences identified in (b) can lead to the passage of a bill in one chamber but not in the other.*

FREE RESPONSE RUBRIC

Part (a): 2 points - One point is earned for each of two descriptions of majority party advantage in the House of Representatives.

The description must include three components:

- Majority party
- Advantage
- Factual statement about the advantage

Acceptable answers may include:

- Holds committee chairs
- Controls Rules Committee
- Sets the agenda
- Controls debate
- Chooses Speaker of the House
- Holds majority on each committee
- Assigns bills to committees

Part (b): 2 points - One point is earned for each of two descriptions of rules differences between the House and Senate. Acceptable answers may include:

	House	Senate
Procedures and rules	More formal	Less formal
Filibuster	no	yes
Holds	no	yes
Unanimous consent agreements	no	yes
Germaneness requirement	yes	no
Rules Committee	yes	no

Part (c): 2 points - One point is earned for each of two explanations of how a rules difference identified in part (b) affects passage of a bill in one chamber as opposed to the other. Acceptable answers may include:

- **Filibuster** — even though the House may pass a bill, the Senate can kill the bill with a filibuster.
- **Holds** — even though the House may pass a bill, the Senate can delay or stop it with a hold.
- **Unanimous consent agreements** — the Senate can ease passage of a bill with unanimous consent agreements, while the House has no such mechanism.
- **Germaneness** — the Senate can add unrelated content that members of the House might find objectionable.
- **Rules Committee** — even though the Senate may pass a bill, the House Rules Committee can hinder passage of that bill in the House.

HOW A BILL BECOMES LAW

WHAT IS A LINE-ITEM VETO?

- Congress gave the president a line item veto in the mid-90s (veto individual parts of a bill)
- Struck down in *Clinton v. NY* (1998) as a violation of separation of powers – IT IS UNCONSTITUTIONAL
- Use of the line item veto would have enabled the president to legislate, a function reserved only for Congress.
- (Most governors do have the power of the line item veto)

INFLUENCES ON MEMBERS OF CONGRESS

- **OTHER MEMBERS OF CONGRESS**

- e.g., party leaders, committee leaders, state delegations, other members with a similar ideology, other members with similar districts. If a member votes according to these, he is said to engage in organizational voting.
 - Use of reciprocity among members (exchange of favors)
 - Use of logrolling among members (exchange of votes)

- **CONGRESSIONAL STAFF MEMBERS**

- As society has grown more complex, and Congress has taken on more responsibilities, Congress has needed to add staff to deal with these realities. Staff can:
 - Control information that members receive
 - Control access to members
 - Help to set committee agenda
 - Make recommendations on legislation
 - Help to write legislation
 - Discuss pros/cons of staffers representing an undemocratic aspect of Congress

INFLUENCES ON MEMBERS OF CONGRESS

- **INTEREST GROUPS/LOBBIES/PACS**
 - Influence through:
 - campaign contributions
 - "report cards"
 - targeting
 - providing information
 - testifying before committees
- **CONGRESSIONAL CAUCUSES**
 - e.g., black caucus, Hispanic caucus, blue collar caucus, women's caucus
- **THE PRESIDENT**
 - Can reward or punish members, particularly those within his own party by:
 - Campaigning for or against members
 - Attending or not attending members' fund raisers
 - Speaking out for or against members
 - Using his "electronic throne" to gain leverage ("going public")

INFLUENCES ON MEMBERS OF CONGRESS

- **CAMPAIGN CONTRIBUTORS**
 - Again, the evidence here is mixed. Some studies show that contributions affect voting behavior, but others have downplayed this, citing other influences such as party membership.
 - If contributions do affect congressional voting, they probably have the greatest effect on narrow issues that are not well known or publicized.
- **THE MEDIA**
 - e.g., through its "watchdog" role

INFLUENCES ON MEMBERS OF CONGRESS

- **IRON TRIANGLES**

- Also known as subgovernments, issue networks, policy networks: a congressional committee, the related federal agency, and the impacted interest groups.
- For example, on the issue of airline deregulation, an iron triangle might consist of:
 - Public Works and Transportation Committee
 - Federal Aviation Administration (FAA)
 - Numerous interest groups such as the Air Transport Assn., mechanics' unions, pilots' unions, etc.

- **PARTY MEMBERSHIP OF MEMBERS**

- This seems to be the best predictor of congressional voting – party unity scores are quite strong. Party affiliation is a particularly strong influence on economic and social welfare issues, and less of an influence on foreign policy and civil liberties issues.

INFLUENCES ON MEMBERS OF CONGRESS

- **CONSTITUENT CONVICTIONS**

- If a member votes according to these, he is said to act in the delegate role and engage in representational voting.
 - Of course, it is often difficult to gauge constituent opinion on a given issue.
 - Most constituents are not even aware of the issues faced by Congress.
 - Another complication is the diversity of interests throughout districts and states.

- **MEMBERS' OWN CONVICTIONS**

- If a member votes according to these, he is said to act in the trustee role and engage in attitudinal voting.

FREE RESPONSE QUESTION

There are several different approaches to representation within a democratic political system.

- a) Define direct democracy.*
- b) Define republican form of government.*
- c) Describe one reason the framers of the United States Constitution chose a republican form of government over a direct democracy.*
- d) Describe each of the models of congressional representation.*
 - Trustee model (attitudinal view)*
 - Delegate model (representational view)*
- e) Explain why a member of Congress might sometimes act as a trustee (attitudinal view) rather than a delegate (representational view).*

FREE RESPONSE RUBRIC

Part (a): 1 point - One point is earned for a correct definition of direct democracy:

- Rule by the people + Individual participation on legislation or policy **OR** Making decisions without delegating authority to elected representatives

Part (b): 1 point - One point is earned for defining a republican form of government:

- Authority is delegated to elected representatives to make decision on behalf of citizens.

Part (c): 1 point - One point is earned for a description of one reason the framers chose a republican form of government.

Reasons include:

- Fear of mob rule (tyranny of the majority)
- Size of country
- Elitism – inadequate education/uninformed public
- Did not trust people
- To counter the influence of factions
- Preexistence of states
- Reinforcement of federalism

Part (d): 2 points - One point is earned for each description of the models of congressional representation.

An acceptable description of the **trustee model** (attitudinal view):

- Decisions made by elected official using their own personal views or decisions made by the elected official based on the public good and **not** on the basis of constituents' views.

An acceptable description of the **delegate model** (representational view):

- Decisions made by the elected official mirror the constituents' views, represent constituents' views, or do what voters tell them to do.

Part (e): 1 point

One point is earned for an acceptable explanation of why a member of Congress might sometimes act as a trustee (attitudinal view) rather than a delegate (representational view).

- Information access
- Reliance on expertise
- Divided constituency
- Saliency of issue
- Vote his or her conscience (explaining why)
- Difficulty determining what voters want

Note: Must close loop to show contrast that the representative is voting regardless of what the constituents want.

THE CASE AGAINST CONGRESS

CONGRESS IS INEFFICIENT

- **Bicameralism**
- **Decentralization of Congress has excessively spread out power.**
- **So many power centers make it difficult to get things done.**
- **Proponents of a bill need many victories, but opponents need only one.**
- **Excessive electioneering and fundraising are a drain on members' time.**
- **Partisanship interferes with efficiency**

CONGRESS IS UNREPRESENTATIVE

- **Represents narrow geographical interests at expense of national interest. Public likes their own representatives, but dislike the Congress as a whole.**
- **“All politics is local” = members place state and local interests over the national interest in order to get reelected.**
- **Criticism that Congress is a club for white, male, middle-aged, Protestant lawyers.**
- **Though the seniority system has been modified, the older members still generally get chairmanships.**
- **Unequal representation**
 - **Alaska, with only a fraction of the population of California, has the same representation as the more populous state in the Senate.**
- **An unelected staff**
- **Lack of 3rd party representation**

THE CASE AGAINST CONGRESS

CONGRESS IS UNETHICAL

- Numerous scandals
- Excessive/unethical fund raising
- PAC influence
- **Junkets: Interest groups or donors contribute money to a non-profit organization, which then pays for trips of members of Congress. These indirect contributions are technically legal, but seem to violate the spirit of the rules against financial wrongdoing**
- Logrolling
- **Lobbying by family members of Congress, who may not be subject to the same ethical restrictions as members of Congress themselves.**
- Corporate hiring of family members of Congress
- Lobbying of Congress by former members of Congress

THE CASE AGAINST CONGRESS

CONGRESS IS IRRESPONSIBLE

- **Diffusion of power allows members to be absolved of any individual responsibility. Thus, we find the curious paradox of the American people liking their own individual members of Congress, but distrusting the body as a whole.**
- **Diffusion of power allows a "watering down" of bills when opponents throw so many obstacles at a bill that proponents simply have to give in and compromise to get anything at all.**
- **"Spending bias" of Congress. Members are more likely to receive voter approval for projects in their districts than they are for cutting federal spending -> a natural instinct for spending rather than cutting spending. "Earmarks" are consistent w/this charge against Congress.**