Congress of the United States

Congress of the United States the legislature of the United States of America, established under the Constitution of 1789 and separated structurally from the executive and judicial branches of government. It consists of two houses, the Senate (q.v.), in which each state, regardless of its size, is represented by two senators, and the House of Representatives (see Representatives, House of), to which members are elected on the basis of population. Among the express powers of Congress as defined in the Constitution are the power to lay and collect taxes, borrow money on the credit of the United States, regulate commerce, coin money, declare war, raise and support armies, and make all laws necessary for the execution of its powers.

Although the two chambers of Congress are separate, for the most part, they have an equal role in the enactment of legislation, and there are several aspects of the business of Congress that the Senate and the House of Representatives share and that require common action. Congress must assemble at least once a year and must agree on the date for convening and adjourning. The date for convening was set in the Constitution as the first Monday in December; however, in the Twentieth Amendment to the Constitution the date was changed to January 3. The date for adjournment is voted on by the House and the Senate.

Congress must also convene in a joint session to count the electoral votes for the president and vice-president. Although not required by the Constitution, joint sessions are also held when the president or some visiting dignitary addresses both houses.

Of common interest to both houses of Congress are also such matters as government printing, general accounting, and the congressional budget. Congress has established individual agencies to serve these specific interests. Other agencies, which are held directly responsible to Congress, include the Copyright Royalty Tribunal, the Botanic Garden, and the Library of Congress.

The term of Congress extends from each odd-numbered year to the next odd-numbered year. For its annual sessions, Congress developed the committee system to facilitate its consideration of the various items of business that arise. Each house of Congress has a number of standing (permanent) committees and select (special and temporary) committees. Together the two chambers of Congress form joint committees to consider subjects of common interest. Moreover, because no act of Congress is valid unless both houses approve an identical document, conference committees are formed to adjust disputed versions of legislation.

At the beginning of a session, the president delivers a State of the Union address, which describes in broad terms the legislative program that the president would like Congress to consider. Later, the president submits an annual budget message and the report on the economy prepared by the president's Council of Economic Advisors. Inasmuch as congressional committees require a period of time for preparing legislation before it is presented for general consideration, the legislative output of Congress may be rather small in the early weeks of a session. Legislation not enacted at the end of a session retains its status in the following session of the same two-year Congress.

In terms of legislation, the president may be considered a functioning part of the congressional process. The president is expected to keep Congress informed of the need for new legislation, and government departments and agencies are required to send Congress periodic reports of their activities. The president also submits certain types of treaties and nominations for the approval of the Senate. One of the most important legislative functions of the president, however, is that of signing or vetoing proposed legislation. The president's veto may be overridden by a two-thirds vote of each chamber of Congress; nevertheless, the influence of the president's potential power may extend to the procedures of Congress. The possibility that a bill may be vetoed gives the president some influence in determining what legislation Congress will consider initially and what amendments will be acceptable. In addition to these legal and constitutional powers, the president has influence as the leader of a political party; party policy both in Congress and among the electorate may be molded by the president.

Although the U.S. Supreme Court has no direct relations with Congress, the Supreme Court's implied power to invalidate legislation that violates the constitution is an even stronger restriction on the powers of Congress than the presidential veto. Supreme Court and federal court decisions on the constitutionality of legislation outline the constitutional framework within which Congress can act.

Congress is also affected by representative interest groups, though they are not part of the formal structure of Congress. Lobbyists play a significant role in testifying before congressional hearings and in mobilizing opinion on select issues.

Many of the activities of Congress are not directly concerned with enacting laws, but the ability of Congress to enact law is often the sanction that makes its other actions effective. The general legal theory under which Congress operates is that legal authority is delegated to the president or executive departments and agencies and that the latter, in turn, are legally responsible for their actions. Congress may review any actions performed by a delegated authority; and in some areas of delegated legislation, such as in proposals for governmental reorganization, Congress must indicate approval of specific plans before they go into effect. Congress may also retain the right to terminate legislation by joint action of both houses.

Congress exercises general legal control over the employment of government personnel. Political control may also be exercised, particularly through the Senate's power to advise and consent to nominations. Neither the Senate nor the House of Representatives has any direct constitutional power to nominate or otherwise select executive or judicial personnel (although in the unusual event that the electoral college fails to select a president and vice-president, the two houses, respectively, are expected to do so). Furthermore, Congress does not customarily remove officials. Congress, however, does have the power of impeachment. In such proceedings the impeachment is made by the House of Representatives, and the case is tried before the Senate--a vote of two-thirds of the senators present is required for conviction.

The power to levy and collect taxes and to appropriate funds allows Congress considerable authority in fiscal matters. Although the president has the initial responsibility for determining the proposed level of appropriations, once estimates for the next fiscal year are submitted to Congress, a single budget bill is not enacted, but rather a number of appropriation bills for various departments and agencies are passed during the first six or seven months of a session.

In its nonlegislative capacity, Congress also has the power to initiate amendments to the Constitution, and it must determine whether the states should vote on a proposed amendment by state legislatures or by special state conventions. Finally, Congress has the right to investigate any subject that affects its powers. Congressional investigating committees may call witnesses and require them to produce information. These committees may also be given the power that persons who deliberately block the legislative process may be charged with contempt of Congress and may be issued warrants for their arrests.

Powers of Congress

Congress has no general legislative power such as is enjoyed by the British Parliament, and to a lesser degree by the legislatures of the American states; it has only such functions and authority as are expressly conferred on it by the Constitution or are implied in the Constitution. Many of the express powers are defined in Article I, Section 8. Among these are the power “to lay and collect taxes,” “borrow money on the credit of the United States,” “regulate commerce with foreign nations and among the several States,” “coin money,” “establish post offices,” “declare war,” “raise and support armies,” and “make all laws” necessary for the execution of its own powers and “all other powers vested by this Constitution in the government of the United States.” This section also empowers Congress to administer the District of Columbia, which contains the seat of the federal government. Other express powers are conferred on Congress in other articles of the Constitution. Among the implied powers of Congress is the right to establish legislative machinery to give effect to its express powers.

In most respects the two houses of Congress have an equal role in the enactment of legislation, but a number of functions are reserved by the Constitution to each house. The confirmation of presidential appointments, by a simple majority of those voting, and the consent to treaties, by a two-thirds majority of those voting, is reserved to the Senate. The Senate also has “the sole power to try all impeachments,” which, however, may be initiated only by the House of Representatives. Only the House may initiate revenue bills.

Limitations and Restrictions

Important limitations on the powers vested in Congress are defined in Article I, Section 9, and in the first ten amendments to the Constitution, known as the Bill of Rights. These limitations are primarily in the form of general prohibitions against the abridgment or destruction of fundamental rights.

Apart from these limitations and a number of others found or implied in parts of other articles of the Constitution, two general and important restrictions are placed on the powers of Congress: the presidential veto and the invalidation of legislation as unconstitutional by the U.S. Supreme Court. The veto power of the president is defined in Article I, Section 7. Every bill passed by Congress must be submitted to the president, who, according to the Constitution, has ten days in which to sign or veto the bill. If vetoed by the president, a bill cannot become law unless passed a second time and by a two-thirds majority of those voting in each house. If the president fails to act within ten days, the bill becomes law without the presidential signature, if Congress is in session. If Congress has adjourned in the interim, the bill lapses, and failure of the president to sign it is known as a pocket veto.

A stronger restriction than the presidential veto on the power of Congress is the power of the Supreme Court to invalidate legislation that violates the Constitution. Although not specifically vested with this power, the Supreme Court, in the case of Marbury v. Madison in 1803, held for the first time that its right to invalidate legislation as unconstitutional was implied in the Constitution. With occasional exceptions, the power thus assumed by the Supreme Court has been honored ever since that time. The power of judicial review has, however, been used sparingly against Congress.

When the Supreme Court invalidates federal laws, Congress may redraft them, eliminating the provisions found objectionable by the Court. Or it may initiate an amendment to the Constitution, establishing its right to enact legislation of the type desired. In this way a Supreme Court decision, holding that a tax on income derived from property had to be apportioned among the states, led to the enactment of the 16th Amendment (1913), giving Congress the power to levy “taxes on incomes, from whatever source derived, without apportionment among the several States … ” It is also within the power of Congress to initiate a constitutional amendment depriving the Supreme Court of its power to invalidate legislation. Although an amendment of this type has been suggested as a means of increasing the power of Congress, none has been adopted.

Political Parties and Congress

Although not contemplated by the Founding Fathers and not provided for in the Constitution, political parties are important in the functioning of Congress. Party programs, policies, and interests influence the votes of members of Congress. All committees in both houses are composed of members of the majority and minority parties in proportion to their strength. Members of the majority party chair the committees. A majority and a minority leader in each house are chosen by caucuses of their respective fellow party members. As political leaders they are not, in that capacity, officers of Congress, but are influential in scheduling and shaping legislation and in determining the attitude of Congress toward the executive branch of the government.

The Constitution leaves to the states the right to fix “the times, places and manner of holding elections for Senators and Representatives.” Each house, however, is the judge of the qualifications and fitness of its members and may punish and expel them for cause. Members of Congress cannot be sued for utterances made in Congress, and, while attending congressional sessions, senators and representatives also enjoy immunity from arrest, except in cases involving “treason, felony and breach of the peace.” Their remuneration is fixed by their respective house. Members of Congress are provided with offices and secretarial and clerical assistance; those who serve for six years or more are eligible to retire on annuity at the age of 62.

Congressional Sessions

The term of a Congress extends from each odd-numbered year to the next odd-numbered year; the 1st Congress convened in 1789. The 20th Amendment, in effect since 1933, provides for an annual meeting of Congress, called a session, commencing on January 3, unless Congress itself designates another date. By terms of the Legislative Reorganization Act of 1946 (Public Law 601), Congress must adjourn its annual meeting sine die by July 31 at the latest, except in time of war or other national emergency, when the meeting may be extended by the Congress itself. When Congress is not in session, the president is empowered by the Constitution, on “extraordinary occasions,” to call special sessions of Congress or of either house. Thus, at least two, and sometimes more, sessions are held in each Congress.

The houses of Congress meet separately in the Capitol, Washington, D.C., but convene in joint session to receive important communications from the president or, occasionally, to listen to an address by a visiting foreign dignitary. Most sessions of Congress are open to the public and are reported by the press, television, and radio; the occasional executive sessions of the Senate are not. Except for material deemed secret because of its crucial importance to the national welfare, the proceedings of Congress are published in the Congressional Record.

Once in session, neither house may adjourn for more than three days, or to another place, without the consent of the other house. A disagreement between the two houses over the date of adjournment may be resolved by the president, who is empowered by Article II, Section 3, of the Constitution to “adjourn them to such time as he shall think proper.” No president has ever exercised this power.

Each house makes its own rules of procedure, but the Constitution stipulates that a majority in each house constitutes a quorum. If fewer members than a majority are in attendance, they may compel the attendance of a sufficient number, present in the Capitol but not in the chamber, to form a quorum.

The Committee System

Both houses facilitate business by a committee system, and each has a fixed number of permanent committees, called standing committees, the chief function of which is considering and preparing legislation. Each house may create an indeterminate number of impermanent committees, known as select committees, for investigations of profiteering in war contracts, of election frauds, and of subversive activities. These select committees, which expire when their purposes are fulfilled, are created on the theory that their investigations are useful in framing legislation. Since 1800, Congress has found it expedient to establish a number of joint standing committees. Temporary joint committees are also established occasionally by Congress. A notable one was the Joint Congressional Committee on Labor-Management Relations, created by the Labor-Management Relations (Taft-Hartley) Act of 1947, to observe the operation of that law and to make a final report on it to Congress on January 2, 1949. Differences between the two houses of Congress over legislation, usually in the form of amendments made by one house to bills initiated by the other, are generally reconciled in conference committees consisting of managers appointed by the presiding officers of the two houses. If no agreement is reached by the conference committees, the legislation in dispute fails.

Senate

Senate one of the two houses of the legislature of the United States, established in 1789 under the Constitution. Each state elects two senators for six-year terms, the terms of about one-third of the Senate membership expiring every two years.

The role of the Senate was conceived by the Founding Fathers as a check on the popularly elected House of Representatives. Thus each state, regardless of size or population, is equally represented. Further, until the Seventeenth Amendment of the Constitution (1913), election to the Senate was indirect, by the state legislatures. They are now elected directly by voters of each state.

The Senate shares with the House of Representatives responsibility for all lawmaking within the United States. For an act of Congress to be valid, both houses must approve an identical document.

The Senate is given important powers under the "advice and consent" provisions (Article II, section 2) of the Constitution: ratification of treaties requires a two-thirds majority of all senators present and a simple majority for approval of important public appointments, such as those of Cabinet members, ambassadors, and judges of the Supreme Court. The Senate also adjudicates impeachment proceedings initiated in the House of Representatives, a two-thirds majority being necessary for conviction.

As in the House of Representatives, political parties and the committee system dominate procedure and organization. Each party elects a leader, generally a senator of considerable influence in his own right, to coordinate Senate activities. The Senate leaders also play an important role in appointing members of their party to the Senate committees, which consider and process legislation and exercise general control over government agencies and departments. Sixteen standing committees are grouped mainly around major policy areas, each having staffs, budgets, and various subcommittees. Among important standing committees are those on appropriations, finance, government operations, and foreign relations. At "mark-up" sessions, which may be open or closed, the final language for a law is considered. Select and special committees are also created to make studies or to conduct investigations and report to the Senate--for example, the Select Committee on Ethics and the Special Committee on Aging.

The smaller membership of the Senate permits more extended debate than is common in the House of Representatives. To check a filibuster--endless debate obstructing legislative action--three-fifths of the membership must vote for cloture; if the legislation under debate would change the Senate's standing rules, cloture may be invoked only on a vote of two-thirds of those present. There is a less-elaborate structure of party control in the Senate; the position taken by influential senators may be more significant than the position (if any) taken by the party.

The constitutional provisions regarding qualifications for membership of the Senate specify a minimum age of 30, citizenship of the United States for nine years, and residence in the state from which elected.

House of Representatives

Representatives, House of, one of the two houses of the U.S. Congress, established in 1789 by the Constitution.

The first Congress had 59 members in the House; membership reached 435 in 1912. Two additional representatives were added after the admission of Alaska and Hawaii as states in 1959, but at the next reapportionment membership returned to 435, the number authorized by a law enacted in 1941. The allocation of seats is based on population within the states; membership is reapportioned every 10 years, following the decennial census. House members are elected every two years from one-member districts of approximately equal population created for this purpose.

The House of Representatives shares with the Senate equal responsibility for lawmaking within the United States. As conceived by the Founding Fathers, the House was to represent the popular will, and its members were to be directly elected by the people, rather than indirectly, as originally provided for the Senate.

The Constitution vests certain exclusive powers in the House of Representatives, among the most important of which are the right to initiate impeachment proceedings and the right to originate revenue bills.

The organization and character of the House of Representatives have evolved under the influence of political parties, which provide a means of controlling proceedings and mobilizing the necessary majorities. Party leaders, such as the speaker and the majority and minority leaders, came to play a central role in the operations of the House. Party discipline is not always strong, however, in a body whose members stand for reelection every two years and who tend to look toward their districts rather than to parties for support.

A further dominating element of House organization is the committee system, under which the membership is broken up into smaller groups for such purposes as selecting agenda, preparing bills for the consideration of the whole House, and regulating House procedure. Each committee is controlled by the majority party. Almost all bills are first referred to a committee; the House ordinarily cannot act on a bill until the committee has "reported" it for floor action. There are more than 20 standing committees, organized mainly around major policy areas, each one having staffs, budgets, and subcommittees. They may hold hearings on questions of public interest, propose legislation that has not been formally introduced as a bill or resolution, and conduct investigations. Among important standing committees are those on appropriations, on ways and means, and on rules. Select and special committees are also appointed, usually for a specific project and for a limited period.

The committees also play an important role in the control exercised by Congress over governmental agencies. Departmental heads and other responsible officials are frequently summoned before the committees to explain policy. The Constitution (Article I, section 6) prohibits members of Congress from holding offices in the executive branch of government--a chief distinction between parliamentary and congressional forms of government.

One important result of population changes in the United States in the decade 1970-80 was the gain under reapportionment of 17 congressional seats in states of the South and West; states of the Northeast lost 9 and those of the North Central region 8. For the first time in the 20th century, the majority in the House of Representatives was not based in the traditional North.

The constitutional provisions regarding eligibility for membership of the House of Representatives specify a minimum age of 25, U.S. citizenship for at least seven years, and residence within the state from which a member is elected.

Library of Congress

The U.S. Library of Congress in Washington, D.C., is probably the largest national library, and its collection of modern books is particularly extensive. It was founded in 1800 but lost many books by fire during a bombardment of the Capitol by British troops in 1814. These losses were to some extent made good by the purchase of Thomas Jefferson's library shortly thereafter. The library remained a strictly congressional library for many years, but, as the collections were notably enlarged by purchases and by additions under the copyright acts, the library became and remained--in effect, although not in law--the national library of the United States. The public has access to many of the collections.

Supreme Court of the United States

Final court of appeal and final expositor of the U.S. Constitution. Within the framework of litigation, the Supreme Court marks the boundaries of authority between state and nation, state and state, and government and citizen.

The court was instituted by the Constitution of 1787 as the head of a federal court system with the authority to act in cases arising under the Constitution, laws, or treaties of the United States; in controversies to which the United States is a party; in controversies between states or between citizens of different states; in cases of admiralty and maritime jurisdiction; and in cases affecting ambassadors, other public ministers, and consuls.

The size of the court is set by Congress; it varied during the 19th century from 6 to 10 members before stabilizing in 1869 at 9. Appointments to the Supreme Court and to the lower federal courts are made by the president with the advice and consent of the Senate. Tenure is during good behaviour, subject to expulsion by conviction on impeachment. Only one justice has been impeached, Samuel Chase, who was acquitted in 1805. In 1969 one, Abe Fortas, was forced to resign, however, because of his outside financial dealings.

In maintaining the constitutional order, the Supreme Court from an early date has exercised the power of declaring acts of Congress or of the state legislatures unconstitutional. Such power of judicial review, however, is not expressly conferred by the Constitution (see judicial review). Executive, administrative, and judicial actions are also subject to review by the Supreme Court. Relatively few cases are brought in the original jurisdiction of the court. The great bulk of the court's business comes to it in its appellate jurisdiction. Depending on the nature of the decision in the state or lower federal court, the route to the Supreme Court is by appeal or certiorari. The difference between the two is that an appeal obliges the court to review the case, whereas a review under certiorari is discretionary.

The development of this bifurcated jurisdiction reflects a response by Congress to a long struggle by the court to cope with the volume of cases annually docketed. In 1891 a measure of relief was afforded by the Circuit Court of Appeals Act, which set up intermediate courts with final authority over appeals from federal district courts, save in cases of exceptional public importance. The Judge's Act (Feb. 13, 1925), sponsored by the court itself, carried the reforms further and greatly limited the obligatory jurisdiction, giving the court a large measure of control over its business by placing most classes of cases under certiorari.

Any assessment of the unifying forces in U.S. society must ascribe an important role to the Supreme Court. The chief technical instrument employed by the court has been the commerce clause of the Constitution, applied to nullify state laws of taxation or regulation that discriminate against or unduly burden interstate commerce; the clause has also been used to uphold the power of Congress to regulate vast sectors of the economy.

While the commerce clause has been the chief doctrinal source of power over the economy, the due process and equal protection clauses have been the principal sources of protection of persons and corporations against arbitrary or repressive acts of government. These clauses were used at first to protect property rights, but by the 20th century they began to be applied to the area of civil liberties, particularly in the extension of Bill of Rights guarantees to state actions. By the mid-20th century the equal protection clause of the Fourteenth Amendment, which had been designed for the benefit of emancipated blacks, began to serve its historic purpose as a barrier to racially discriminatory laws.

The opinions of the court have often been the epitome of reasoned elaboration. In conjunction with its long tradition of dissent, it serves to clarify, refine, and test the philosophic ideals written into the Constitution and translate them into working principles for a federal union under law. Beyond its specific contributions, this symbolic and pragmatic function may be regarded as the most significant role of the court in the life of the nation.

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