



“Overview and Constitutional Foundations”

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Outline

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- a. Course Updates
- b. LH Groups
- c. Topic Paper Redux

II. Evolution and Overview

- a. Overview
- b. Articles of Confederation
- c. Constitutional Convention
- d. Powers of Congress
- e. Electoral System
- f. Who Serves?
- g. Organizing Congress

III. Conclusion



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Course Updates (9/10)

PROMPT SHEETS:

Still 9/29 up. Additional five will be posted tonight.

Will also provide group information.

SLIDES:

On my website, also now on ELC.

E-MAILS:

A few more outstanding, but getting close.

CLASS TIPS:

Be sure to stay up on something...

This lecture is the last real "background" lecture. Monday we will be going through "Why Rules" by Cox, which is an academic article.



Above: According to my wife making these zoom lectures more entertaining by introducing a sock-puppet side kick named "Mr. Schlesinger" represented another terrible idea.

Legislative History Groups (8/27)



Students

Kumar, Starr, Arnow, Waters
 Chatham, Greeson, Vickery
 Englund, Farrell, Warrayat
 Bellando, Williamson
 Kudrimoti, Khan, Bae
 Forrester, Cunningham, Loftin
 Lacourly, Miller, Lovell
 Allen, Eavenson (4790), Zaleski
 Atkinson, Eavenson (4600), Myers, Varshney
 Alford, Martin, Wood
 Baxter, Witmer
 Gelting, Ligon, Priest
 Cochran, Lawler, Lewis
 Fuson, Hatcher, Hughes
 Mafreshi, Flores, Haudey
 Szvetcz, Trentacosta, Lynch
 Lopez, Lowe, Coppage
 Bertschi, Fleenor, Williams
 Luter, Wlosko, Wills
 Bradley, Johnson
 Andrade, Harper, Radford
 Bagwell, Smith, Fisher
 Carannante, Rogers, Wisenbaker
 Patel, Sikes, Vayle, Riggins
 Feely, Rausch, Valladares
 Akers, Evans, Zheng
 Davis, Matthews, Rawlins, Tyson
 Graves, Hines, Etheridge
 Beitzell, Flinn, Sebring

Group #	Congress	Year	Measure
1	111	2010	Affordable Care Act
2	115	2018	Farm Bill 2018
3	107	2002	Military Force Against Iraq
4	73	1933	Banking Act
5	100	1988	Civil Rights Act of 1988
6	100	1987	Civil Rights Restoration Act
7	114	2015	Rohrabacher-Farr Amendment
8	104	1995	Defense of Marriage Act
9	95	1997	Hyde Amendment, Part II
10	92	1972	Equal Rights Amendment
11	114	2015	Every Student Succeeds Act
12	91	1970	Family Planning Services Act
13	75	1938	Foreign Agents Registration Act
14	90	1968	Gun Control Act of 1968
15	104	1996	Illegal Immigration Reform Act
16	89	1965	Immigration and Nationality Act
17	73	1934	Indian Reorganization Act
18	108	2004	IDEA Improvement Act
19	111	2008	Lilly Ledbetter Fair Pay Act
20	103	1993	Motor Voter Act
21	104	1996	1033 Program
22	85	1958	National Defense Education Act
23	101	1990	Oil Pollution Act
24	91	1970	Organized Crime Control Act
25	101	1990	AIDS Resources Emergency Act
26	104	1996	Telecommunications Act
27	92	1972	Title IX
28	97	1981	Voting Rights Amendments
29	93	1973	War Powers Resolution

Timeline

1754 – 1763 – French and Indian War
1765 – Stamp Act
1770 – Boston Massacre
1773 – Boston Tea Party
1774 – First Continental Congress
1775 – Coercive Acts
1775 – Concord
1775 – Prohibitory Act
1776 – Declaration signed
1776 – Common Sense published
1777 – Washington crosses the Delaware
1778 – French Alliance formed
1781 – Battle of Yorktown
1781 – Articles of the Confederation signed
1784 – Treaty of Paris ratified
1786-1787 – Shays' Rebellion
1786 – Annapolis Convention
1787 – Constitutional Convention
1788 – Constitution Ratified
2009 – Prof. Madonna takes wife on romantic vacation to see Liberty Bell, is frequently reminded that his brother-in-law took his sister-in-law to the Caribbean



Top: Washington Crosses the Delaware. Bottom: A plaque commemorating the failed Annapolis convention and a little girl whose expression says "Screw Disneyworld, you made the right call, Dad!"

Topic Paper

THE TOPIC PAPER:

Students are asked to write a short Topic Paper detailing the issue and law the student will be analyzing. The Topic Paper accounts for 5% of the final course grade. ***It is due on Friday, September 17th.***

This paper should include three sections: an introduction, a broad discussion of the policy area, and a paragraph briefly detailing their assigned piece of legislation.

This paper should include three sections: an introduction, a broad discussion of the policy area, and a paragraph detailing the legislation they will be writing their legislative history on. It is expected that students will be able to use their topic paper as part of the final legislative history.

The introduction should be one-three paragraphs and should use contemporary events to highlight how the legislation/policy is relevant today. In short, this section should hook the reader on why the legislation is important. Students ***are required*** to have at least two citations to contemporary newspaper articles in the introduction.

A second section should then highlight debates over the broader policy topic. Is the policy controversial? If so, what are the arguments for reform? What are the arguments for the status quo? If the policy is not controversial today, was it controversial when it was enacted? If so, what were the arguments for and against? Students should have at least two citations to scholarly sources in this section. If possible, students are encouraged to utilize one Congressional Research Service report. This section should be between 3-4 paragraphs.



Above: Former Representative Henry Hyde (R-IL), of "Hyde Amendment" fame.

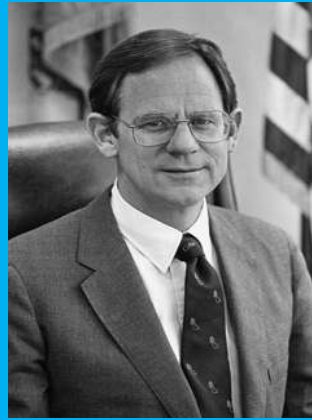
Topic Paper

THE TOPIC PAPER:

Finally, students should conclude with a brief section linking the policy topic to their assigned piece of legislation. Students are welcome to use material from their prompt sheets provided the prompt sheet has been posted. Additional information on the students assigned enactment can be found from the Stathis (2014) readings on ELC.

The topic paper should be turned in as a word document, in 12 point times new roman font and single-spaced. Newspaper sources should be cited in footnotes. Scholarly citations should be presented in a Work Cited section at the end of the paper and follow the Footnote and Citation guidelines. A topic paper template is provided in the instructions.

My preference would be for you to submit the topic paper via ELC as a Microsoft Word document. I do understand if you have to submit it via pdf however.



*Above: It's former Representative Mike Castle (R-DE). He sponsored the IDEA Reauthorization Act of 2004 and holds the world record for eating 47 burritos in 10 minutes.**

**Sources are important!*

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The Articles of Confederation

Provisions of the Articles:

- major laws—such as those dealing with taxes and constitutional change—required the endorsement of nine of the thirteen states
- more fundamental change, such as amending the Constitution, required unanimous agreement
- national authority was so circumscribed that the delegates saw little purpose for an executive or a judiciary



Delegates sought to replicate home rule they had lost.

Drafting The Constitution



The fifty-five delegates meeting in Philadelphia in 1787 were able to draw from their Revolutionary War experience.

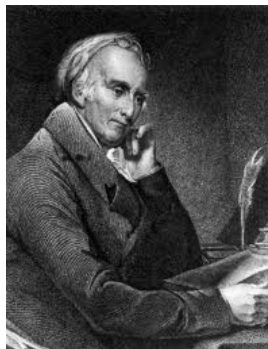
- Most expected limited change
- Youngish (average age of 42), well-educated, white, and male.
- They were also highly conversant in the ideas and theories that abounded during the Age of Reason.



“Few gatherings in the history of this or any other country could boast such a concentration of talent.”

– Melvin I. Urofsky

Drafting the Constitution



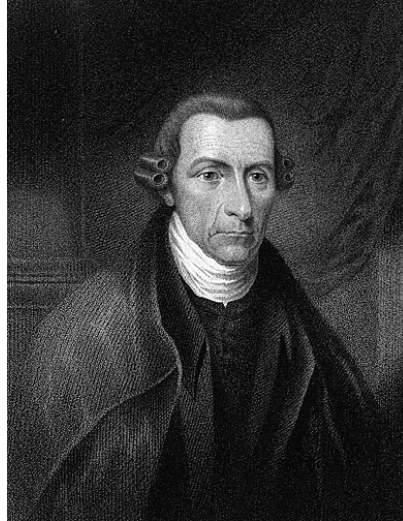
Talented group, but not without limitations and flaws...

“I shall continue to believe that ‘great men’ are a lie and that there is very little difference in that superstition which leads us to believe in what the world calls ‘great men’ and in that which leads us to believe in witches and conjurers.” – Benjamin Rush, to John Adams

Drafting the Constitution

Most delegates were oblivious to the types of sweeping changes that would be proposed by Madison and his allies.

“I smelled a rat.” – Patrick Henry



The Virginia Plan



This plan, introduced by Edmund Randolph, also from Virginia, shifted the focus of deliberation from patching up the confederation to considering what was required to create a national union.

Its centerpiece was a bicameral legislature.

Members of the lower chamber apportioned among the states by population and directly elected.

Lower chamber would elect members of the upper chamber from lists generated by the state legislatures. It would also elect the executive and judiciary.

Also stipulated that the national government could make whatever laws it deemed appropriate and veto any state laws it regarded as unfit.

If a state failed to fulfill its legal obligation the national government could use military force against it.

The Virginia Plan

Opposition grew toward the Virginia Plan from two directions:

- Less-populous states.
- States' rights delegates.

Leads to the creation of the "New Jersey" plan.



The New Jersey Plan



Given its quick creation, it had its own faults: it failed to propose the organization of the executive and judiciary.

It perpetuated the composition and selection of Congress as it functioned under the Articles, but it did give Congress the power to tax.

Debate continued, however, as neither side was happy with the options given by their opponents for the composition of Congress.

Stalemate loomed after weeks of debate and numerous plans were defeated. Finally, a tie vote on a proposal allows the delegates to send the question of Congress to a committee to resolve.

The Great Compromise

Each side got one of the two legislative chambers fashioned to its liking:

- The upper chamber (Senate) would be composed of two delegates sent from each state legislature who would serve a six-year term
- Madison's population-based, elective legislature became the House of Representatives and as an extra compromise to appease Madison's nationalists, House has sole authority to originate revenue legislation
- Unanimity replaced by a rule allowing a majority of the membership to pass legislation



Article 1, Section 8 extended the authority of the national legislature.

- commerce clause (Clause 3)
- necessary and proper clause (Clause 18)

Congress - Constitution

The institutional structure temporarily resolved the conflict of large versus small states.

Also solved the debate over the appropriate degree of popular influence on government.

A two-year term for the House was a compromise between the annual elections advocated by many delegates and the three-year term proposed by James Madison.



A short tenure would keep this chamber close to the people.

The Senate would be more insulated from momentary shifts in the public mood by virtue of a longer term (in addition to their selection by state legislatures).

Qualifications



Qualifications for office also reflected the Framers' concept of the Senate as the more "mature" of the two chambers.

- The minimum age for the House members was set at twenty-five years, whereas it was set at thirty for the Senate.
- House members were required to be citizens for at least seven years, whereas for senators it was nine years.
- Both were required to reside in the state they represented.

Powers of Congress



The Constitution established a truly national government by giving Congress broad powers over crucial economic matters.

Article I, Section 8, of the Constitution sets out the enumerated powers of Congress (examples: impose taxes, regulate interstate and foreign commerce).

At the end of this list a clause authorizes Congress "to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers...." We refer to this as the necessary and proper (or elastic) clause.

Other Powers of Congress



The Senate also approves presidential appointments to the Supreme Court and top executive branch positions.

To a degree, the Framers envisioned the Senate acting as an advisory council to the president.

Other Powers of Congress

The Constitution said very little regarding Chamber rules, stating that: "Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member."

It also sought to balance transparency concerns by providing: "the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal"



Achieving Balance

In distributing power between the House and Senate, the delegates sought a proper balance of authority.

Much debate was given to which chamber would have the authority to raise and spend money.

The final compromise required that bills raising revenue originate in the House, with the Senate having an unrestricted right to amend them.



The Electoral System

Two choices made by the Framers of the Constitution have profoundly affected the electoral politics of Congress: Members of Congress and presidents are elected separately.

- *This is unlike parliamentary systems, where authority resides with the legislature, which chooses the chief executive.*

Members of Congress are elected from states and congressional districts by plurality vote -- that is, whoever gets the most votes wins.

- *Some parliamentary systems use a proportional representation. Under a proportional system a party wins a share of seats in the legislature matching the share of votes it wins on election day.*



Congressional Districts



After the first census in 1790, each state was allotted one House seat for every 33,000 inhabitants for a total of 105 seats.

Total membership was finally fixed at its current ceiling of 435 in 1911 when House leaders concluded that further growth would impede the House's work.

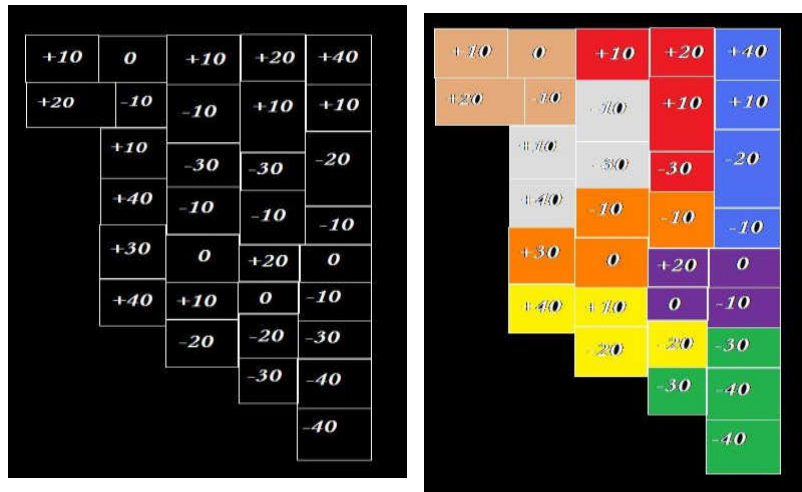
However, the size of each state's delegation may change after each decennial census as state/region populations shift.

Redistricting and the Law



Gerrymandering – Drawing a district so as to concentrate the opposition party's voters in a small number of districts that the party wins by large margins, thus "wasting" many of its votes, while creating as many districts as possible where one's own party has a secure, though not overwhelming, majority.

Redistricting and the Law



- 40,000 voters. Accordingly, if there are 8 congressional seats in the state, your party should hold 3-4 of them. The redistricting plan drawn on the right gives your party 7 of them. It's a gerrymander.

Senate Representation



The fifty Senate constituencies – entire states – may not change boundaries with each census, though they vary greatly in size of population.

Senator Harris of California – 39.25 million people.

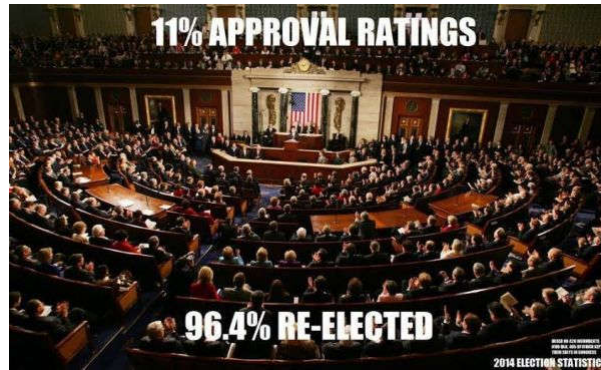
Senator Enzi of Wyoming – 585,501 people.

Average U.S. House member represents nearly 700,000 people.

District of Columbia holds 681,170.

Eight largest states are home to 51 percent of total U.S. population. Leads to unequal representation.

The Electoral Connection



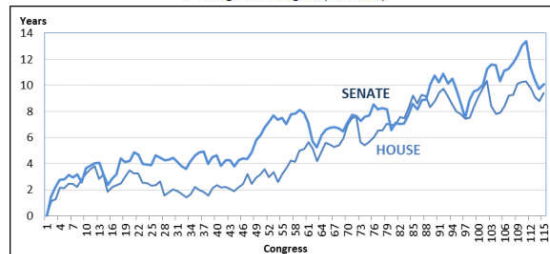
The modern Congress is organized to serve the goals of its members.

Primary goal: keep their jobs! (Or at least their “proximate” goal)

Thus a career in Congress depends on getting elected and reelected again and again.

Who Serves in Congress?

Figure 1. Average Service Tenure, Senators and Representatives
1st through 115th Congress (1789-2019)



115th Congress:

Average age: 57.8 years (House); 61.8 years (Senate)

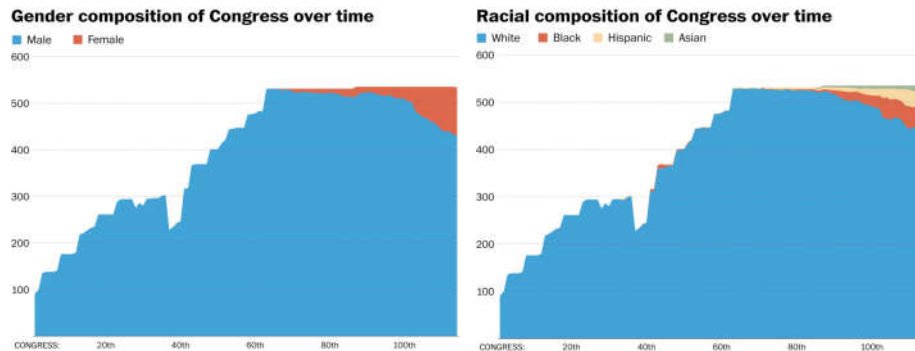
HS Diploma Only: 18 (House); 0 (Senate)

Law Degree: 167, 37.8% (House); 55, 55% (Senate)

Medical: 18 (House), 3 (Senate)

Average Length of Service: 9.4 years (House); 10.1 years (Senate)

Who Serves in Congress?



The 115th Congress is on nearly 20 percent women and just over 19 percent of which is non-white of the most diverse in American history, comprised of.

The Problems of Legislative Organization



To exercise the powers conferred on them by the Constitution, the House and Senate must solve some basic problems:

How to acquire information.

How to coordinate action.

How to resolve conflicts.

How to get members to work for common as well as personal goals.

Organizing Congress



The two most crucial institutional structures created to exercise Congress's constitutional powers are:

- The parties.
- The committee system.

Without them it would be difficult to overcome the barriers to effective collective action.

Questions, Concerns, Angry Rants?



Next: How a Bill Becomes a Law.