

# EUROPEAN PARLIAMENT

DELEGATION FROM THE EUROPEAN PARLIAMENT

for the relations with the

UNITED STATES CONGRESS

Information Note

on

the United States Congress

DIRECTORATE GENERAL FOR COMMITTEES  
AND INTERPARLIAMENTARY DELEGATIONS

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The United States Constitution of 7 Articles and 26 Amendments is, despite its brevity, the foundation stone of that country's system of government. In it are established the three branches of government, the legislature, the executive and the judiciary. There, the three arms of government are given separate powers but are also linked together in a system of checks and balances. It is a federal constitution assuring States rights and duties as well as attributing powers to the federal government. Amendments to the Constitution guarantee basic freedoms<sup>1</sup> (of speech, of religion, of the press, of peaceful assembly, to petition the government for a redress of grievances, to a public trial, from imprisonment without due process, to vote in elections, establish certain practices concerning election offices (limiting tenure of the Presidency, and assuring his succession in the event of death etc.). This paper is intended as a brief guide to the legislative arm of government. References are made to the executive and judiciary where appropriate but their roles are not extensively described. Members seeking detailed analysis of the procedures and history of the legislature and of the other two arms of government are referred to articles and books listed in the bibliographic appendix.

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Article 1 of the United States Constitution begins:

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

The article goes on to describe Congress' powers and functions, the electoral procedures for, and certain requirements of, Members. It is followed by articles on the executive power, which "shall be vested in a President ...", and the judicial power, "vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish." Each power is distinct in theory and in practice, unlike in many European countries where the executive is composed from among members of the legislature.

The Constitution ascribes the two Houses' different sizes, methods of apportionment, frequency of election, and membership qualifications and powers. After the Constitution was ratified the United States Congress consisted of a Senate of 26 members and a House of Representatives of 65 members, compared to 100 Senators and 435 Representatives now. Two Senators are elected for six year terms in each State, regardless of population size; Representatives are elected in districts of approximately equal population size at biennial elections.

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<sup>1</sup>The first Ten Amendments are often called the Bill of Rights. They were ratified in 1791; coming so soon after the ratification of the Constitution in 1787, they are generally considered as part of the original Constitution.

Thus elections for one-third of the Senate and the whole of the House (as well as for many State and local elective offices) take place once every two years in November. Every second Congressional election coincides with the Presidential election (a President is elected for a four year term).

Though no mention is made of political parties in Article 1 of the Constitution, all but one of the current Members of Congress are Members of one of the two major national political movements, the Democratic or the Republican Party (often called the GOP or Grand Old Party). These political movements have rather different organizations and roles during elections and in Congress than most major national political parties within the EC.

Since 1971 adults 18 years or older are eligible to vote in Congressional elections, which are conducted by secret ballot with the winner gaining the most votes in the district (Representative) or State (Senator). In the 1978 elections only about 35% of the voting age population participated, the lowest level for an election which does not coincide with a Presidential one - a midterm election - since the wartime campaign of 1942.<sup>1</sup> The party composition of the House after these latest elections and the parties' share of the votes are summarized below:

	<u>Seats</u>		<u>Share of votes</u> <sup>2</sup>		
	Democrats	Republicans	Democ.	Rep.	Others
US House of Representatives	277	158	53.4%	44.7%	1.9%
US Senate	58	41	49.8%	48.3%	1.9%

Three hundred of the 435 Members of the House were elected with over 60% of the votes, and 70 of these did not face major party opposition at the polls. Nearly 40 different parties contested the 1978 elections (including gubernatorial campaigns) from the Tea Party '78 to Honest Government. All but 2% of the votes went to the major party candidates.

Once elected and convened, the Members of the House elect their Speaker, currently the Honourable Thomas P. O'Neill Jr., and each party selects its floor leader. The President of the Senate is the Vice President of the United States, currently the Honourable Walter Mondale, who has no vote save in the event of a tie. Senators vote in a President Pro Tempore who presides when the Vice President is absent or is exercising the office of President of the United States. The Honourable Warren G. Magnuson currently holds the office of President Pro Tempore in the Senate. Each party group also selects its own Senate floor leader.

<sup>1</sup> Congressional Quarterly 31 March 1979, p. 574.

<sup>2</sup> Congressional Quarterly 31 March 1979, p. 571. The chart is based on official vote totals from all States except Colorado. In eight districts Representatives were returned unopposed.

The short term of office influences the way Congressmen work, in that many of their activities may be geared towards the next election. But who may be elected to these offices? A Representative must be at least 25 years old and a citizen of the US for 7 years, a Senator at least 30 years of age and a US citizen for 9 years. Each must be, when elected, a resident of the State for which he has been chosen. The President, who is also elected by adult national suffrage, mediated by an electoral college, must be at least 35 years old, resident in the United States for at least 14 years and a natural born citizen of the US (or "a citizen at the time of the adoption of the Constitution"). He cannot be a Member of Congress while holding the office of President. Nor can any members of the Cabinet or administration be an elected Member of the Congress or a State Legislature at the same time. (Even the members of the administration whom the President does not appoint, e.g. civil servants, cannot serve as members of Congress simultaneously.)

What powers has Congress? Article I Section 8 of the Constitution specifies baldly Congress' powers:

"The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post offices and post roads;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries; (patents and authors' rights)

To constitute tribunals inferior to the Supreme Court;

To define and punish piracies and felonies committed on the high seas, and offences against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a Navy;

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;

To provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

To exercise exclusive legislation in all cases whatsoever, (... over the District of Colombia) the seat of Government of the United States ...; And

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

The following section forbids Congress from

- suspending the writ of habeas corpus, "unless when in cases of rebellion or invasion the public safety may require it".
- passing bills of attainder or ex post facto laws.
- levying capitation or other direct taxes "unless in proportion to the census ..."
- levying taxes or duties on exports from any State.
- giving preference to any ports of one State over those of another, or requiring inter State trade to be subject to duties.
- raising revenue without due legislation and without publication of "a regular statement and account of the receipts and expenditures of all public money".
- granting a title of nobility.

Each House also has certain exclusive powers. The House of Representatives may impeach members of the administration and the President and Vice President, but the Senate shall try all impeachments. The House of Representatives originates all money bills. The Senate approves or rejects treaties negotiated by the executive, and has the duty of vetting Presidential nominations to senior government posts, such as Cabinet members, Ambassadors, judges of the Supreme Court, and senior administration officials, generally in Committee hearings, in public. Finally the House elects the President of the United States if no candidate receives a majority of the electoral college votes at the election, while the Senate elects the Vice-President in these circumstances.

Congress has the power to initiate amendments to the Constitution "when two-thirds of both Houses deem it necessary." Amendments are ratified when three-quarters of the State legislatures or when three-quarters of the State Conventions approve.

Who initiates legislation for Congress? Most legislation is actually drafted by congressional committees although the Congressman himself may and sometimes does originate legislative proposals which he then introduces into Congress. His constituents individually, or organizations or groups within his district or outside, may forward him their proposals. A major source is the "executive communication" - letters from members of the President's Cabinet, or from independent agencies, from the administration, or from the President himself, transmitting drafts of proposed bills to the Speaker of the House of Representatives and the President of the Senate. Once transmitted to Congress, the executive cannot intervene directly in the legislative process in the two Houses - though naturally contacts between the administration and legislators are close throughout the passage of a bill through Congress. Many executive communications arise from the President's message on the State of the Union given at the beginning of each Congress, and the annual message from the President transmitting the proposed budget to the Congress forms the basis of several appropriation bills which are drafted by the House Committee on Appropriations.

How are bills made law? The bill is only one of the four main forms of initiative within Congress, though it is by far the most common legislative instrument. Others are the joint resolution, the concurrent resolution and the simple resolution.

To become law bills and joint resolutions have duly to be passed by both Houses of Congress and to receive the President's assent. If the President vetoes legislation it may become law if two-thirds of the Members of each House vote to override the veto. Legislative procedures in both Houses are somewhat similar, though the Senate having fewer Members with broader interests has relied on more flexible use of its rules (or agreement to suspend them) than the House.

A joint resolution may originate in either House and differs little from a bill. Its initial statement will include the formula, prescribed by statute in 1871,

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That ..." and may be preceded by a preamble indicating the need for the joint resolution. Each is designated with a unique number beginning "H.J.Res....." (for those originating in the House) or "S.J.Res....." (for those originating in the Senate). Joint resolutions become law in the same manner as bills.

Concurrent resolutions on the other hand are not usually legislative "but are used merely for expressing facts, principles, opinions and purposes of the two Houses.<sup>1</sup>" Such resolutions are designated "H.Con.Res....." or "S.Con.Res....." together with a number. Once agreed by both Houses the resolution is signed by the Clerk of the House and the Secretary of the Senate and transmitted to the Administrator of General Services for publication in a special part of the Statutes at large.<sup>2</sup>

Simple resolutions concern the workings of only one House and are designated "H.Res....." or "S.Res....." followed by a number. Once approved by the House in which they were introduced they are attested by the Clerk of the House or Secretary of the Senate and published in the Congressional Record.<sup>3</sup>

Bills begin with the formula, prescribed since the statute of 1871:

A BILL

To approve and implement the trade agreements negotiated...etc.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, ....

They may be introduced in either House, with the exception of revenue raising bills which have to be introduced according to Article I of the Constitution in the House of Representatives. Designation numbers are preceded by the letters "H.R." (House of Representatives) or "S." (Senate). Bills, except Financial bills, may be introduced simultaneously in the Senate and the House and may be considered at the same time. They may also be introduced first in the Senate. Below, a bill is followed from House to Senate.

Once recorded as having been introduced, the bill (or petition setting out the legislative objectives) is printed and referred directly by the Speaker without debate to the responsible committee.

Both Houses of Congress have Committees on subject areas through which all major legislation passes. In the 96th Congress there are 16 Senate and 22 House committees (listed in the annex). Each committee contains a majority of the majority party.<sup>4</sup> There are two Joint Committees, one on Taxation and a Joint Economic Committee, but conferences of the two Houses are also established when a specific bill having passed through the second house contains amendments which the first cannot accept. Such conferences assure the resolution of such problems. Members rank in seniority in committee in accordance with the date of their appointment to the committee. Chairmanships normally pass to the most senior member of the majority party in the Committee. Most of the committees set up subcommittees specializing in particular classifications of bills. Most Senators are members of two or three committees, while most Representatives are members of one or two.

<sup>1</sup>Charles J. Zinn. How Our Laws Are Made. US Government Printing Office: Washington.

<sup>2</sup>The permanent collection of the laws of each session of the Congress in chronological order prepared by the General Services Administration, which are legal evidences of the laws contained therein.

<sup>3</sup>The daily proceedings and debates of the two Houses.

<sup>4</sup>Except the House Standards of Official Conduct Committee which has an equal number of each.

No legislative proposal is in order without committee review, though in exceptional circumstances when the House has decided to suspend its rules by unanimous consent, the committee stage has been omitted.

The committee stage allows Members an opportunity for careful criticism and amendment of the bill. Several bills on the same matter may be taken up by the Committee, who will choose which bill to discuss. Often hearings are held either in public or in private to which are invited Members of the administration concerned, experts, and interest groups. These hearings may last several months. The evidence given by witnesses, made up of their prepared statements and their cross-examination by the Members and staff of the committee is printed and widely circulated. 'Mark-up' or drafting sessions of the committee follow such hearings, or take place as the committee stage if there are no hearings. The committee then decides either to report the bill favourably with or without amendment, to report it unfavourably or not to proceed with it. Unfavourable reports are rare, since a committee may decide to table it (not to proceed with it) which effectively prevents further action.

If the committee favours the bill the staff of that committee is selected to write the report to the House containing committees' amendments, if any. Where relevant, the estimated cost of putting the measure into effect is given for the current year and for each of the next five, and comparable estimates made by a government department or agency are also included. Any member of the committee who wishes to do so may have his individual views included in the report, and sometimes a minority section of the report is submitted on behalf of a group of committee members.

Upon filing, the report is placed on one of the Calendars of the House, the Union Calendar or the House Calendar being the most usual for large bills. The rules of the House provide that there shall be:

"First. A calendar of the committee of the Whole House on the State of the Union, to which shall be referred bills raising revenues, general appropriation bills, and bills of a public character directly or indirectly appropriating money or property."

The bill will subsequently be considered by the House.

"Second. A House Calendar through which shall be referred all bills of a public character not raising revenue nor directly or indirectly appropriating money or property."

All bills reported from committee have to be considered by the entire membership of the House. The distinction between the Union Calendar and the House Calendar is important since the Committee of the Whole House effectively reduces quorum from 218 to 100.

Certain measures may be more important and more urgent than others introduced earlier (and therefore higher on the Union or House Calendar). In order to bring most bills to the House Floor, a special resolution (or 'rule') must be reported by the Rules Committee to set conditions for their consideration including limiting the time of the debate. This Committee serves, therefore, as a 'traffic' control for most of the work of the House.

There are various other procedural means of accelerating the debate on a bill in the House and a limited number of different voting procedures which can be adopted. To conclude the debate the Speaker puts the question "Shall the bill be engrossed and read a third time?" If it is so decided the bill is read a third time by title only (unless a full reading is demanded) and a pro forma motion is generally tabled to reconsider it, to forestall such a motion at a later date. The engrossed bill is formally and ceremoniously transmitted to the Senate.

The President of the Senate refers the engrossed bill to the appropriate Committee of the Senate which considers it in a similar way to the appropriate House Committee. The suitably amended bill that emerges from the committee in the report is introduced into the Senate on the single Calendar of Reported Bills, unless the Senator making the report asks for unanimous consent for the immediate consideration of the bill. The Senate does not resolve itself into a Committee of the Whole, nor does it have a Consent, Private or Discharge Calendar. A Senator may move an amendment in Committee or on the floor of the House which need not be germane to the bill. A simple majority of the Senate will vote on the amended bill and a motion to reconsider may then affirm this vote.

The original engrossed House bill together with the engrossed Senate amendments, if any, is returned to the House which then reconsiders the Senate amendments. If they are acceptable (a judgement arrived at with the help of the chairman of the responsible committee) the bill is ready to be enrolled for presentation to the President. If not, a conference is formally requested. The conference will bring together a small number of Members from both parties in each House proportionate to their relative party strength in each, and generally from the responsible committees, to discuss the amendments. Here compromises are struck, sometimes with voting conducted separately by each delegation and the bill is reported back to its respective House. The conferees report back to their respective chambers which have to consider and vote upon the compromise.

The constitution states that "Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States." If the President approves the bill he signs it. If not he returns it, stating his objections, and the House then reconsiders the bill. If fewer than two-thirds of the Members present constituting a quorum approve of the bill, it is killed. If not it is conveyed to the Senate where a similar procedure is followed. If then passed

by the Senate with a two-thirds affirmative vote the bill becomes the law of the land notwithstanding the objections of the President.

### Postscript

The role of the legislature is of course central to the system of government in all pluralist democracies. But whereas in Europe the executive arm of government often has effective control of the legislature because the executive is part of the legislature (and has the administrative information system to back its action), in the United States the Congress is independent in many respects of the executive, (in a sense creates the administration through legislative acts), has its own formidable information gathering machine, and has powers in policy areas which most European legislatures only scrutinize - such as foreign policy. Two "insiders" recently pointed out the great role Congress has assumed in security matters, and in the actual execution of foreign policy. They voice qualms about how the separation of powers currently works in this area and propose certain improvements. As they poignantly illustrate "When President Carter went to the Bonn Economic Summit in July 1978, his power to commit his country was in large measure a prediction of how Congress (would) eventually legislate on energy policy."

They conclude: "the separation of powers produces a healthy and potentially creative tension between the legislative and executive branches ... But the alternative to trying to make the system work better can be chaos and an ineffective foreign policy for a complex world."<sup>1</sup> Their reforms propose greater direct executive involvement in the legislative process - consultation between the White House and State Department and bipartisan ad hoc groups in Congress in times of foreign policy crisis, regular State Department briefings of Members and frequent informal briefings, a question hour period where the President and Secretaries of State and Defense would answer questions from Members in as informal a setting as possible, tighter security procedures for classified information within Congress, and Congress' use of the legislative veto to ensure effective prior consultation.

<sup>1</sup>Lee H. Hamilton and Michael H. Van Dusen "Making the Separation of Powers Work" Foreign Affairs Fall 1978 pp 17-39.

List of permanent Committees of the US Congress and their chairmen

96th Congress 1st session

Senate

Chairman

Agriculture, Nutrition and Forestry	(18 members)	H.E. TALMADGE
Appropriations	(28 " )	W.G. MAGNUSON
Armed Services	(17 " )	J.C. STENNIS
Banking, Housing and Urban Affairs	(15 " )	W. PROXMIRE
Budget	(20 " )	E.S. MUSKIE
Commerce, Science and Transportation	(17 " )	H.W. CANNON
Energy and Natural Resources	(18 " )	H.M. JACKSON
Environment and Public Works	(14 " )	J. RANDOLPH
Finance	(20 " )	R.B. LONG
Foreign relations	(15 " )	F. CHURCH
Governmental Affairs	(17 " )	A.A. RIBICOFF
Judiciary	(17 " )	E.M. KENNEDY
Labor and Human Resources	(15 " )	H.A. WILLIAMS Jr.
Rules and Administration	(10 " )	C. PELL
Small Business	(17 " )	G. NELSON
Veterans Affairs	(10 " )	A. CRANSTON
Ethics	( 6 " )	H. HEFLIN <sup>1</sup>

House

Agriculture	(42 members)	T.S. FOLEY
Appropriations	(54 " )	J.L. WHITTEN
Armed Services	(44 " )	M. PRICE
Banking, Finance and Urban Affairs	(42 " )	H.S. REUSS
Budget	(25 " )	R.N. GIAIMO
District of Columbia	(13 " )	R.V. DELLUMS
Education and Labor	(36 " )	C.D. PERKINS
Foreign Affairs	(34 " )	C.J. ZABLOCKI
Government Operations	(39 " )	J. BROOKS
House Administration	(25 " )	F. THOMPSON Jr.
Interior and Insular Affairs	(40 " )	M.K. UDALL
Interstate and Foreign Commerce	(42 " )	H.O. STAGGERS
Judiciary	(31 " )	P.W. RODINO Jr.
Merchant Marine and Fisheries	(39 " )	J.M. MURPHY
Post Office and Civil Service	(25 " )	J.M. HANLEY
Public Works and Transportation	(48 " )	H.T. JOHNSON
Rules	(16 " )	R. BOLLING
Science and Technology	(42 " )	D. FUQUA
Small Business	(39 " )	N. SMITH
Standards of Official Conduct	(12 " )	C.E. BENNETT <sup>2</sup>
Veterans Affairs	(32 " )	R. ROBERTS
Ways and Means	(36 " )	A. ULLMAN

<sup>1</sup>Three members from each party

<sup>2</sup>Six members from each party

Joint Senate-House Committees

Joint Committee on Taxation

(10 members) A. ULLMAN  
(House) Chairman  
R.B. LONG  
(Senate) Vice Chairman

Joint Economic Committee

(20 members) L.M. BENTSEN  
(Senate) Chairman  
R. BOLLING  
(House) Vice Chairman

## Bibliographic Appendix

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