



## THE LEGISLATIVE BRANCH: HOW CONGRESS WORKS

- **bicameral:** having two chambers or houses
- **checks and balances:** a system where each branch of government can limit the power of the other branches
- **clause:** a part of a written document, like a law, that explains a specific rule or condition
- **congress:** the part of the U.S. government that makes laws; it is made of of two houses, the Senate and the House of Representatives
- **House of Representatives:** the lower and larger house in the U.S. Congress
- **landmark ruling:** an important decision made by a court that changes the way laws are understood or applied
- **Senate:** the upper and smaller house in the U.S. Congress
- **separation of powers:** dividing government powers into different branches
- **circumspection:** being careful and thinking about risks before acting or making a decision
- **consensus:** when most people in a group agree on something
- **deliberation:** talking and thinking carefully about something before making a decision
- **discrimination:** treating people unfairly, commonly because of their race, gender, or other difference
- **excesses:** actions that represent an overreach of power
- **faction:** a group of people who are acting in their own self-interests
- **framework:** a basic plan or structure that helps organize and support something
- **jarrings:** loud or harsh disagreements or conflicts between people or groups
- **limitations:** things that stop or restrict what you can do, such as rules or boundaries
- **mandate:** an official order or command to do something
- **monopoly:** when a company or group controls all or most of the supply of a product or service, leaving little or no competition
- **obstruct:** to block or stop something from happening
- **reconcile:** to bring two parts together in agreement
- **salutary:** something that is helpful
- **scope:** the range or extent of something, like how big or far-reaching it is

## Topic 1: The Role and Responsibilities of the Legislative Branch

The concept of separation of powers and checks and balances was critical to ensuring that no one branch of this new national government would have too much power or influence. Many founders considered this branch of government the most powerful and, therefore, potentially the most dangerous.

### The Founders and Article I

The founders recognized that the powers held by the legislative branch were significant and that they should not necessarily rush the process of making laws. They believed the process should involve debate and compromise, hopefully leading to better laws. The founders also hoped that this process would help prevent government abuses, protect the rights of minority groups, and prevent a government led by factions (we would call these “parties” today).

Alexander Hamilton wrote about Congress in Federalist No. 70:

“The differences of opinion, and the jarrings of parties in [Congress], though they may sometimes obstruct salutary plans, yet often promote deliberation and circumspection, and serve to check excesses in the majority.”

- 1. Hamilton was expressing that the founders wanted to slow down the political process in Congress. Why do you think this was? (1-2 sentences)**

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## Article I

Article I of the Constitution outlines the framework for the legislative branch of government, which is responsible for making laws. It outlines the structure and responsibilities of Congress, the bicameral legislature composed of the House of Representatives and the Senate. This section of the Constitution ensures a system of representation, providing a balance between the needs of individual states and the will of the people. Importantly, Article I also includes the powers of Congress and lists certain limits to those powers.

**2. What is Congress' main responsibility? How does Congress represent the country? (2-3 sentences)**

## A Bill Becomes a Law

A bill is an idea for a new law or a change to an existing law. Before it becomes a law, it goes through a process that includes careful discussion, or deliberation, by lawmakers. During deliberation, different viewpoints are shared, and possible effects of the bill are debated. The goal of this process is to reach consensus, where most people agree on the best way forward, even if it requires compromise. The founders hoped this process would ensure that laws are created thoughtfully and fairly.

Although Congress holds the primary responsibility for creating laws, its role and authority have not developed in isolation. The Supreme Court, established by the judicial branch, has played an important role in shaping the powers and limits of Congress through landmark rulings.

**3. Explain how deliberation is important to the lawmaking process in your own words. (2 sentences)**

## Topic 2: Congress Over Time

### Clauses

Over decades, Congressional powers have been shaped by several Supreme Court rulings, often redefining the balance of power within our government. In fact, several key court decisions influenced the role of Congress and its place in the federal system. By interpreting the Constitution, the Court has clarified how far congressional authority extends.

Two of these important clauses are The Commerce Clause and the Necessary and Proper Clause, both are found in Article I, Section 8.

The Congress shall have Power...

**Commerce Clause:** To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

**Necessary and Proper Clause:** 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.

4. After watching the video and taking notes, write what you think these two clauses mean in your own words.

**Commerce Clause:**

**Necessary and Proper Clause:**



## CLAUSE CLUES

Several key court decisions influenced the role of Congress and its place in the federal system. As you watch the video, listen for clues to help you understand the meaning of two important clauses in Article I: The Commerce Clause and the Necessary and Proper Clause.

Hint! Clause clues can include words, phrases, ideas, cases, people or places, etc.

Clues to the Commerce Clause	Clues to the Necessary and Proper Clause

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## ARTICLE I SCAVENGER HUNT

**Instructions:** Locate the answers to the following questions in Article I of the Constitution. Write down the section number where you located the information.

Clue	Section	Answer
How many houses are in Congress, and what are they called?		
How long is a term for a representative?		
How is the number of representatives determined for each state?		
Who presides over the Senate when the vice president is absent?		
What is the minimum age to serve as a senator?		
What powers does Congress have regarding taxes?		

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Clue	Section	Answer
Who has the power to declare war?		
What is one power Congress does NOT have?		
What specific powers does Congress have over the military?		
How does Congress regulate commerce between states and countries?		
How often does Congress meet?		
What is the purpose of the "Necessary and Proper Clause"?		
Who has the power to impeach federal officials?		
How can Congress override a presidential veto?		



## SUPREME COURT CASES OVER TIME

While the Constitution establishes the powers of Congress, the Supreme Court is empowered to interpret the Constitution. In this way, the Court has helped resolve disputes about the scope of Congressional power. In some cases, the Court has read Congress's constitutional power broadly, permitting an expansive view of the branch's power. At other times, the Court has read this power narrowly, seemingly limiting Congressional power. Review the cases below. Did the ruling indicate a broad or narrow reading of Congress's power? How so?

### Gibbons v. Ogden (1824)

**Background:** Aaron Ogden owned a steamboat company that operated in New York waters. Thomas Gibbons owned a different steamboat company licensed by the federal government to operate between New York and New Jersey. However, New York did not allow Gibbons to operate in New York waters.

**Question before the Court:** Does the Commerce Clause give Congress authority to control navigation on the water between states?

**Ruling:** The Court ruled that New York could not exclude Gibbons from New York waters because that interfered with interstate commerce.

- 1. Did this ruling indicate a broad or narrow reading of Congress's powers? Explain.**

**United States v. E. C. Knight Co. (1895)**

**Background:** In 1890, Congress passed the Sherman Antitrust Act, a law designed to break up large monopolies. One such monopoly was the E. C. Knight Company, which controlled almost all of the sugar refining in the United States. The E. C. Knight Company argued that it was engaged in manufacturing, not commerce.

**Question before the Court:** Does the Commerce Clause give Congress the power to regulate manufacturing in the states?

**Ruling:** The Court ruled that since the manufacturing was occurring within the state, it was not commerce.<sup>1</sup>

**2. Did this ruling indicate a broad or narrow reading of Congress's powers? Explain.**

**Swift & Co. V. United States (1905)**

**Background:** In the city of Chicago, a handful of meatpacking companies controlled the entire industry there. This meat was then shipped to states around the country. President Theodore Roosevelt argued that this was a monopoly in violation of the Sherman Anti-Trust Act.

**Question before the Court:** Does the Commerce Clause give Congress the power to regulate local businesses if those practices affect interstate commerce?

**Ruling:** The Court ruled that the Commerce Clause gave Congress the power to regulate the local businesses because they affected interstate commerce.

**3. Did this ruling indicate a broad or narrow reading of Congress's powers? Explain.**

<sup>1</sup> This precedent was later eroded by decisions in the early 20th century, which adopted a broader view of the Commerce Clause.

**Hammer v.  
Dagenhart  
(1918)**

**Background:** In 1916, Congress passed a law making it illegal to ship goods made with child labor between states. This was part of a larger program to end child labor in the country. Roland Dagenhart was the father of two children who worked in a cotton mill. He argued that state labor laws were not interstate commerce.

**Question before the Court:** Did Congress have the power to regulate labor within a state through the Commerce Clause?

**Ruling:** The Court ruled that the 1916 law was unconstitutional because production was not the same as commerce.

- 4. Did this ruling indicate a broad or narrow reading of Congress's powers? Explain.**

**Wickard v.  
Filburn  
(1942)**

**Background:** In 1938, Congress passed the Agricultural Adjustment Act to address the needs of struggling farmers during the Great Depression. This act stabilized agricultural prices by limiting the amount of food that farmers could grow. Filburn was a small farmer in Ohio who grew more wheat than he was allowed. He argued that the extra wheat was being used on his farm and not being sold.

**Question before the Court:** Does the Commerce Clause give Congress the power to regulate growing food for personal use?

**Ruling:** The Court ruled that the Commerce Clause does give Congress the power to regulate growing food for personal use because that action still affected interstate commerce.

- 5. Did this ruling indicate a broad or narrow reading of Congress's powers? Explain.**

**Heart of Atlanta Motel v. United States (1964)**

**Background:** The 1964 Civil Rights Act made it illegal for public accommodation businesses like restaurants and hotels to discriminate against people on the basis of race. The Heart of Atlanta Motel refused to admit Black customers, arguing that the operation of the hotel was not interstate commerce.

**Question before the Court:** Did Congress have the power under the Commerce Clause to regulate local businesses like the motel?

**Ruling:** The Court ruled that the Commerce Clause does give Congress the power to regulate such local businesses because refusing local service at a motel did impact interstate travel and economic activity.

**6. Did this ruling indicate a broad or narrow reading of Congress's powers? Explain.**

**United States v. Lopez (1995)**

**Facts of the Case:** Texas high school student Alfonso Lopez was caught with a handgun in school. He was charged with violating a federal law prohibiting having firearms in schools. Lopez argued that the federal law was unconstitutional because possessing a gun at a school was not interstate commerce.

**Question before the Court:** Does Congress have the power under the Commerce Clause to regulate firearms possession in a school zone?

**Ruling:** The Court ruled that possessing a firearm at school was not an economic activity. As a result, Congress could not use the Commerce Clause to justify a law regulating this activity.

**7. Did this ruling indicate a broad or narrow reading of Congress's powers? Explain.**

National  
Federation  
of  
Independent  
Business  
v.  
Sebelius  
(2012)

### National Federation of Independent Business v. Sebelius (2012)

**Background:** The 2010 Affordable Care Act (ACA) sought to expand health insurance coverage to millions of uninsured Americans. One part of this law was an individual mandate requiring Americans to buy health insurance or pay a penalty. A group of private businesses argued that requiring people to purchase health insurance was not a congressional power.

**Question before the Court:** Does Congress have the power under the Commerce Clause to force people to purchase health insurance?

**Ruling:** The Court ruled that Congress did not have the power under the Commerce Clause to force people to purchase health insurance. It reasoned that the Commerce Clause gives Congress the power to regulate economic activity, not inactivity. But the Court declared the mandate was constitutional under Congress's taxing power. It could tax people who didn't purchase insurance.

8. Did this ruling indicate a broad or narrow reading of Congress's powers? Explain.



## A BILL BECOMES A LAW

**Step 1:** A bill begins as an idea...by a lawmaker, a group, or even a citizen; but only members of Congress can introduce a bill. Once with a member of Congress, it's time to get to work.

- Identifying existing laws related to the issue
- Ensuring the proposed law does not conflict with current laws or the Constitution



**Step 2.** A member of Congress (House of Representatives or Senate) drafts the bill.

- Working with lawyers to ensure the language is clear
- Verifying that the bill adheres to the U.S. Constitution and does not overstep federal or state powers
- Identifying how the bill aligns with existing laws



**Step 3:** The bill is usually assigned to a committee of people to study and discuss the bill.

The committee may ask for:

- Legal opinions or analyses during their review
- Expert opinions
- Legal implications or similar laws



**Checkpoint: The committee can approve, amend, or table/reject the bill.**



**Step 4:** The bill goes to the House of Representatives or Senate for floor debate and voting. During the floor debate, lawmakers might consider:

- Constitutional challenges
- Issues with state or international laws
- The wisdom of the policy

In the House of Representatives: Debate is guided by rules set by the House Rules Committee.

In the Senate: Debate is more open, and filibusters may occur to delay or even block a vote.

A filibuster is a procedure used in the Senate to delay or block legislative action. The practice developed in the early 1800s, as Senators recognized that, by refusing to stop speaking, they could prevent the chamber from voting. In 1917, the Senate introduced a rule to end debate if two-thirds of senators voted for it (called a cloture vote). The required number was later reduced to 60 senators, which stands today.

**Checkpoint: The bill must pass by a majority vote.**

**Step 5:** The bill is sent to the other chamber of Congress (House or Senate) to go through steps 3 and 4 again. Once again, the bill must pass by a majority vote.

**Step 6:** If the two chambers pass different versions of the bill, a legal review occurs to make sure both versions of the bill are reconciled.

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**Step 7:** Once both chambers approve a final version of the bill, it goes to the president.

- The president can:
  - Sign the bill into law.
  - Veto the bill, returning it to Congress with reasons for the veto

**Step 8:** If the president vetoes the bill, Congress has the option to override the veto. This requires a two-thirds majority vote in each chamber. If this occurs, the bill then becomes law. If both chambers cannot reach that high threshold, the president's veto stands.

**Step 9:** The bill becomes law. But wait, there's more!

- Even though a law has been passed, the law can still be challenged in state or federal courts. These challenges help establish legal precedent through the way the justices interpret the Constitution. Congress can also change or get rid of the law with a new bill!

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### BILL BUILDER

Each item is one step in the process. Tear off these last two sheets of paper, then cut out each of the steps and tape them in the correct order on the back of this packet.

1

**The president signs the bill.**

2

**A member of Congress drafts the language of a bill.**

3

**The bill is sent to the floor for debate and a vote.**

4

**A lawmaker, group, or citizen has an idea that is shared with a member of Congress.**

5

**The bill is assigned to a committee of people to study and discuss the bill.**

6

**The committee approves, amends, or rejects the bill.**

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7

**The bill is sent to the other chamber of Congress for floor debate and a vote.**

8

**The bill goes to the president to sign or veto.**

9

**The House and Senate review and reconcile differences in versions of the passed bill.**

10

**The bill becomes law.**