

Understanding Congress

Disclaimer

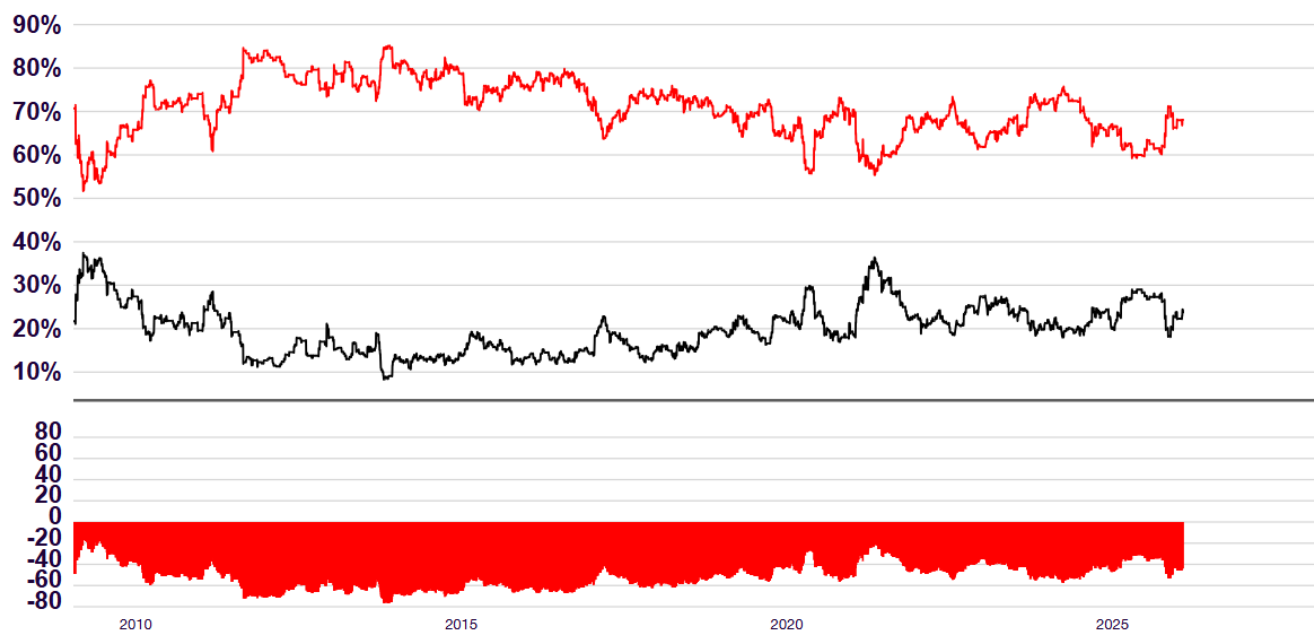
- Topics over the next 3 weeks may upset you. You have a right to feel and believe whatever you want.
- **It is okay to disagree with someone. It is not okay to be disrespectful.**
- This class focuses on what power is, who is supposed to have it in our system and examples of where the goals of that system are failing to match reality.



RealClearPolitics Poll Average

23.5 Approve 68.3 Disapprove -44.8

Congressional Job Approval



Congressional Job Approval, by Political Party

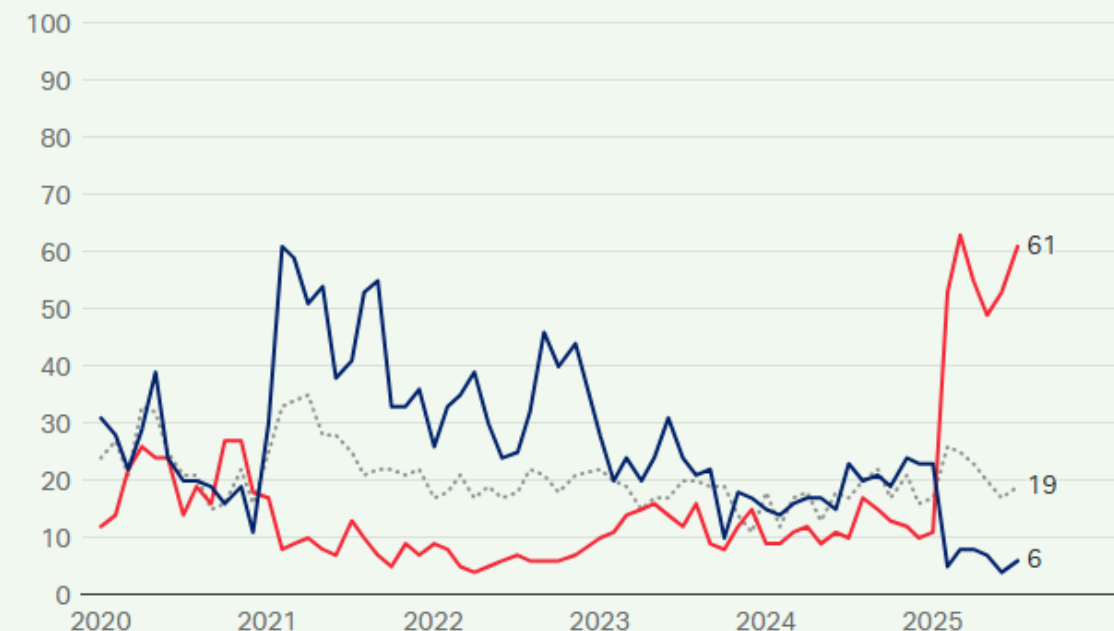
Do you approve or disapprove of the way Congress is handling its job?

% Approve

Use the buttons to expand or contract the trend.

2020-2025 Full Trend

— Republicans - - - Independents — Democrats



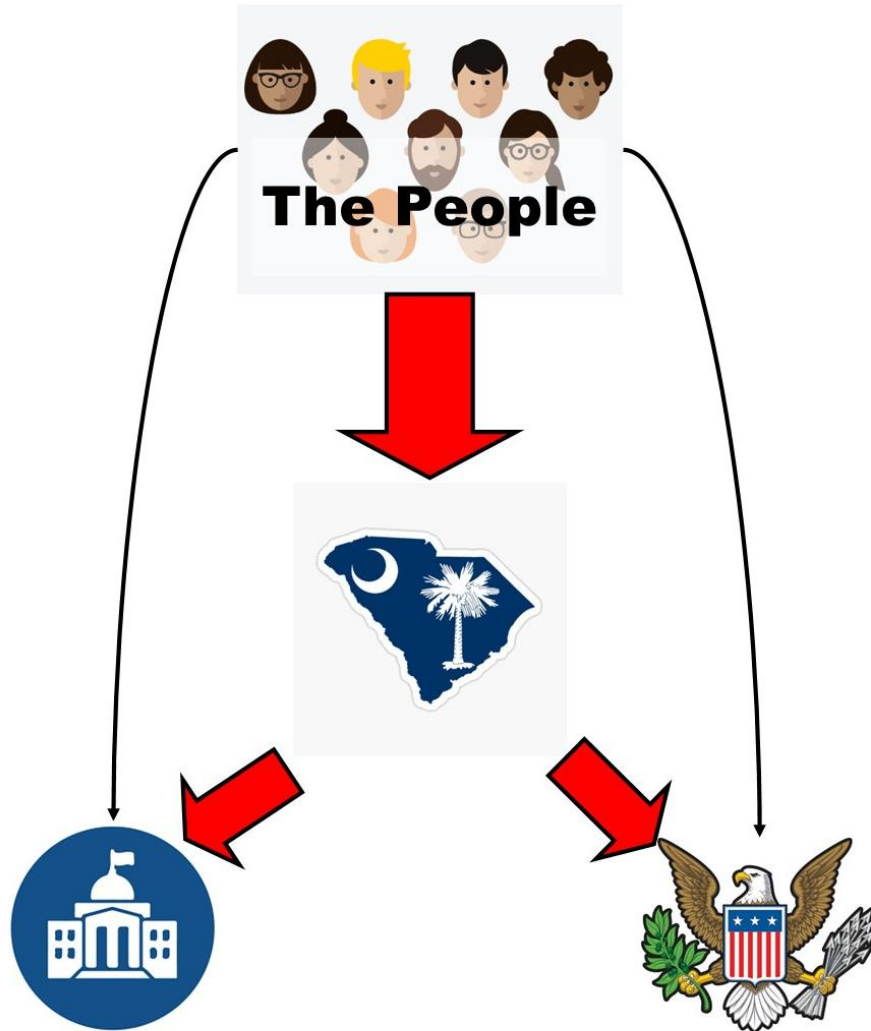
Get the data • Download image

GALLUP

<https://news.gallup.com/poll/693230/record-party-gaps-job-approval-supreme-court-congress.aspx>

<https://www.realclearpolling.com/polls/approval/congressional/approval-rating>

Governing is power



- Power is the ability to either make something happen or keep it from happening
- We have a social contract that ensures we behave so that others behave.
 - Alternative is Hobbesian anarchy
- All power in the US system operates under the rule of law.
 - Our rule of law is based off the British Common Law System
 - All rules, regulations, and laws flow from the foundation of the Constitution of the United States of America

Creation of the Constitution

- Our system was not created in a vacuum
 - Historical events and previous rules of law are important to understand for why we operate how we do
 - Had 13 separate 'governments' trying to unify
 - Think when European Countries created the European Union
 - 13 year gap from declaring Independence to the Constitution
- The Articles of Confederation, 1777–1789:
 - Weak federal system- each state had 1 vote in the Congress, no executive or judicial branches
 - Its failures resulted in the Constitutional Convention and our current Constitution which took effect in 1789

Basics

- 7 articles (chapters)
- 27 amendments
 - Difficult to change
- Ratified in 1788
 - Long process to get to this document
- MANY key compromises
- Final law of the land.

Constitution

Goals of the framers:

- A central government strong enough to promote commerce and protect property against infringement by the states
- Prevent “excessive democracy”
- Emphasize ideas that would generate public support
- Restrain the federal government from impinging on liberties and property rights

Expanding Federal Power

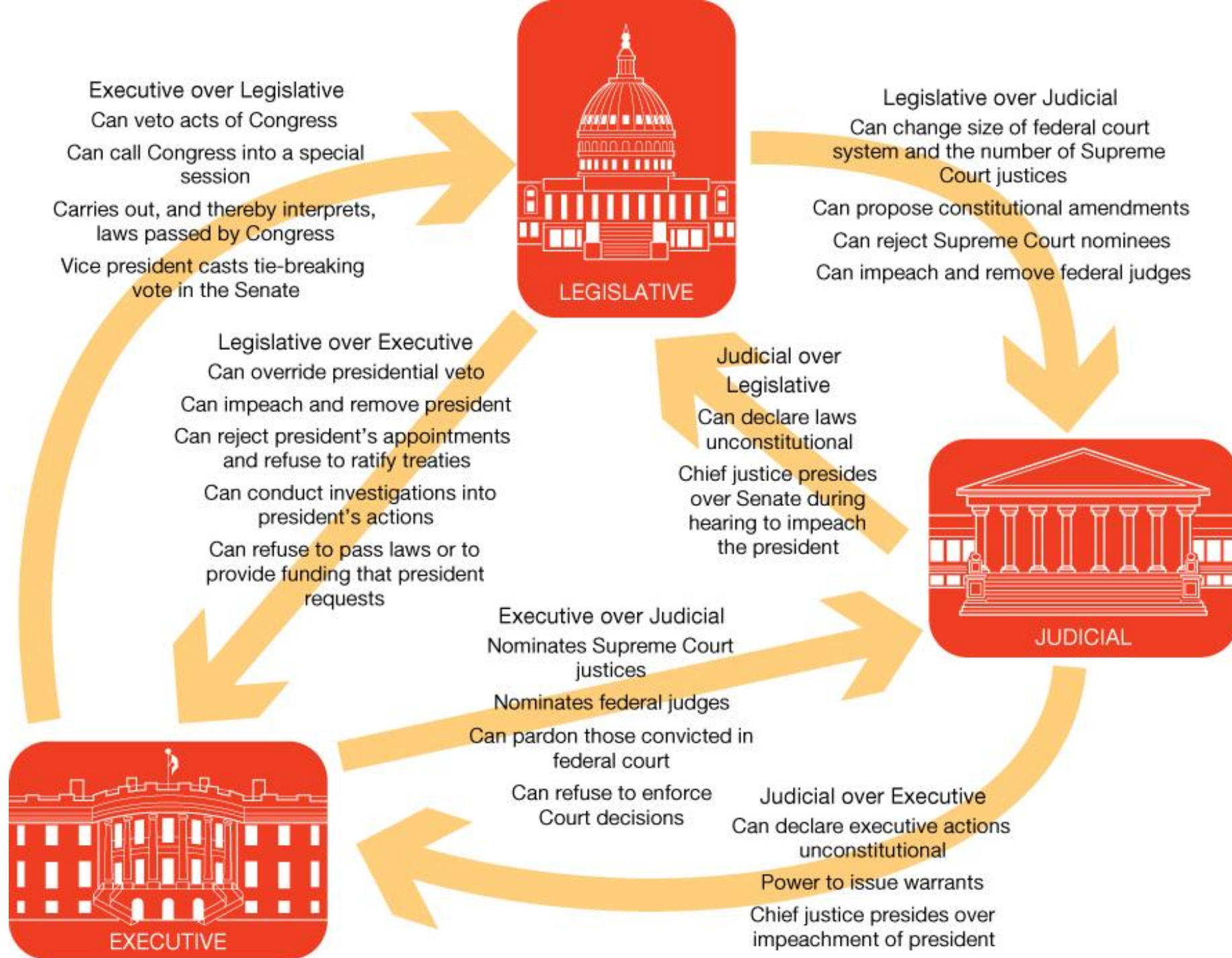
- New federal government far more powerful than the old. How to build public trust?
 - New powers specifically given mostly to Congress
 - Congress directly accountable to the people in the House
 - Congress directly accountable to the states in the Senate
 - New powers were expressly written but flexible enough to adapt and respond to public will

CONGRESS

- Most powerful branch of new government
 - “the people’s branch”- mean to specifically be the House
- Two chambers: House and Senate
 - Each has different powers
 - Each is accountable to a different constituency
 - Different term lengths (2 yrs. House, 6 yrs. Senate)
 - Share some powers with the other branches

Separation of Powers

LEGISLATIVE	EXECUTIVE	JUDICIAL
<p>Passes federal laws</p> <p>Controls federal appropriations</p> <p>Approves treaties and presidential appointments</p> <p>Regulates interstate commerce</p> <p>Establishes lower court system</p>	<p>Enforces laws</p> <p>Commander in chief of armed forces</p> <p>Makes foreign treaties</p> <p>Proposes laws</p> <p>Appoints Supreme Court justices and federal court judges</p> <p>Pardons those convicted in federal court</p>	<p>Reviews lower court decisions</p> <p>Decides constitutionality of laws</p> <p>Decides cases involving disputes between states</p>



Article 1- Congress/Legislative

- Has 10 sections- longest article in the Constitution
- Section 1- Sets up Senate and HOR as legislative power

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

Section 2 THE HOUSE

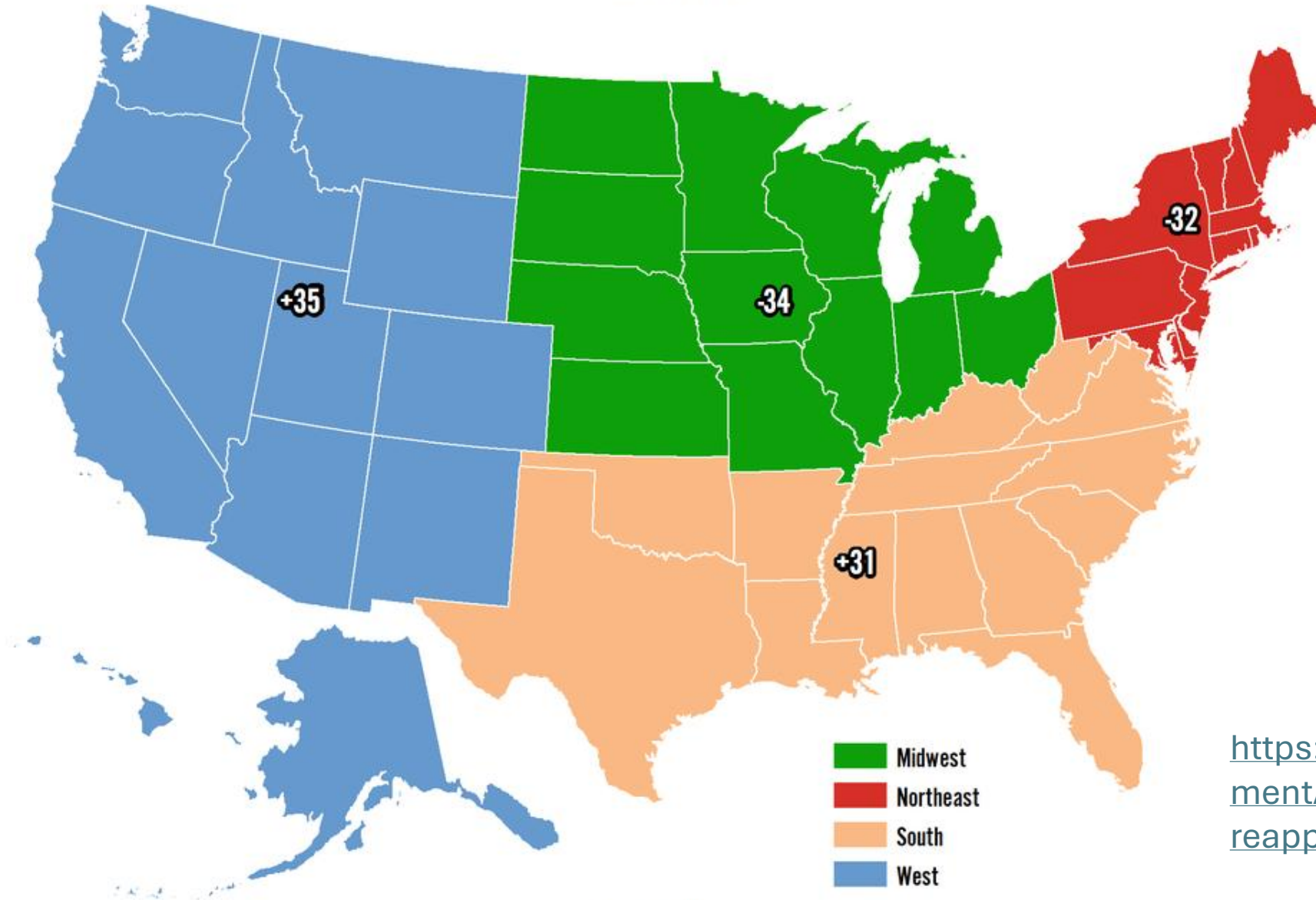
- *The House of Representatives shall be composed of Members chosen **every second Year** by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.*
- *No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.*
- *Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.*
- *When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue **Writs of Election** to fill such Vacancies.*
- *The House of Representatives shall chuse their Speaker and other Officers; and shall have the **sole Power of Impeachment**.*

Section 2- The House of Representatives (HOR)

- When they are elected
- Qualifications for office
- Sets up how they will be apportioned (Currently have 435)
 - Used to be increased as population grew
 - First Congress in 1789 had 59 members from the 11 states that had ratified the Constitution prior to the 1788 election.
 - NC and RI did not ratify until after this, so did not get representation until 1790
 - The Permanent Apportionment Act of 1929 froze the # because the building was out of space (and other reasons).
 - Population represented has TRIPLED SINCE THEN (from ~200k to 760k)
- Also sets up how replacements will be handled
- Grants impeachment powers to the House and ONLY the House

Congressional Reapportionment – Historic Changes 1960 – 2020

■ ■ ■ The American
■ ■ ■ Redistricting
■ ■ ■ Project



■ Midwest
■ Northeast
■ South
■ West

<https://thearp.org/blog/apportionment/modern-congressional-reapportionment-1960-2020/>

Section 3

- *The Senate of the United States shall be composed of **two Senators from each State**, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.*
- *Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that **one third may be chosen every second Year**; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.*
- *No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.*
- *The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.*
- *The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.*
- *The **Senate shall have the sole Power to try all Impeachments**. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.*
- *Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.*

Section 3- The Senate

- Defines who can be in Senate (currently 100)
 - Changed with Amendment (17th Amendment in 1913)
 - Senate set up to protect the STATE interest
 - Similar to the House of Lords
- 6 year terms. Rotating elections- so 1/3 up for election every two years
 - Senators must be older, resident of the state for longer
- Senate is the 'jury' for any impeachment proceedings out of the House
- Vice President breaks any tie, but otherwise is a figurehead in the Senate
- There is holdover from the old Articles of Confederation in how the Senate operates to this day (3/5 senators for Cloture, "Senatorial Courtesy")

Section 4

- *The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.*
- *The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.*
- Date of start of Congress's term changed with the 20th Amendment (Now January 3rd unless a weekend) Ratified in 1933
- <https://www.eac.gov/election-officials/clearinghouse-resources-election-law-policy/overview-federal-election-laws> for federal laws that regulate state elections today- Motor Voter, ADA, HAVA etc.
- **2 U.S. Code § 7** - Time of election -1875 Set the first Tuesday after the first Monday in November

Section 5

- *Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.*
- *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.*
- *Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and 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.*
- *Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.*

20 members have been expelled- mostly because of the Civil War. Most recent was Santos in 2023

Section 6

- *The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.*
- *No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.*

This section and the 27th Amendment are why Congress gets paid in a shutdown.

Says a member of Congress cannot also be an employee of the government.

Lays out the framework for the 'accepting gifts' regulations. Expounded in Section 9

Section 7

- *All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.*
- *Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.*
- *Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.*

Article 1, Section 8

1: 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;

2: To **borrow Money** on the credit of the United States;

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

4: To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

5: To **coin Money**, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

6: To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

7: To **establish Post Offices and post Roads**;

8: 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;

9: To constitute Tribunals inferior to the supreme Court;

10: To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

11: To **declare War**, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

12: To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

13: To provide and maintain a Navy;

14: To make Rules for the Government and Regulation of the land and naval Forces;

15: To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

16: 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;

17: **To exercise exclusive Legislation in all Cases whatsoever, over such District** (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And

18: 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.

- **Section 9**

- *The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.*
- *The Privilege of the **Writ of Habeas Corpus** shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.*
- *No **Bill of Attainder** or **ex post facto Law** shall be passed.*
- *No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or enumeration herein before directed to be taken.*
- ***No Tax or Duty shall be laid on Articles exported from any State.***
- *No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.*
- *No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.*
- *No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.*

Section 10

- *No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.*
- *No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.*
- *No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.*

So...that's what Congress is supposed to do

- Over the last 237 years things have changed. Congress's job description hasn't too much
- Why do we see so much of this now done by the Executive branch (bureaucracy/executive)?
 - Congress has delegated many of its roles, but constitutionally they are still responsible.
 - These jobs are NOT executive power; they are congressional powers.

Rest of the Class

- Will talk about some of the prime roles Congress has delegated
- Will discuss how things have changed
 - Including the introduction of PARTIES!
 - Gerrymandering of the district lines
- Will discuss popular 'reform' ideas and their feasibility
- Can discuss lawmaking specifically if you want
- If you have a specific issue/topic you want covered in this class, email me.
- If you want this slidedeck email me

Allison.joy.Hamilton@gmail.com

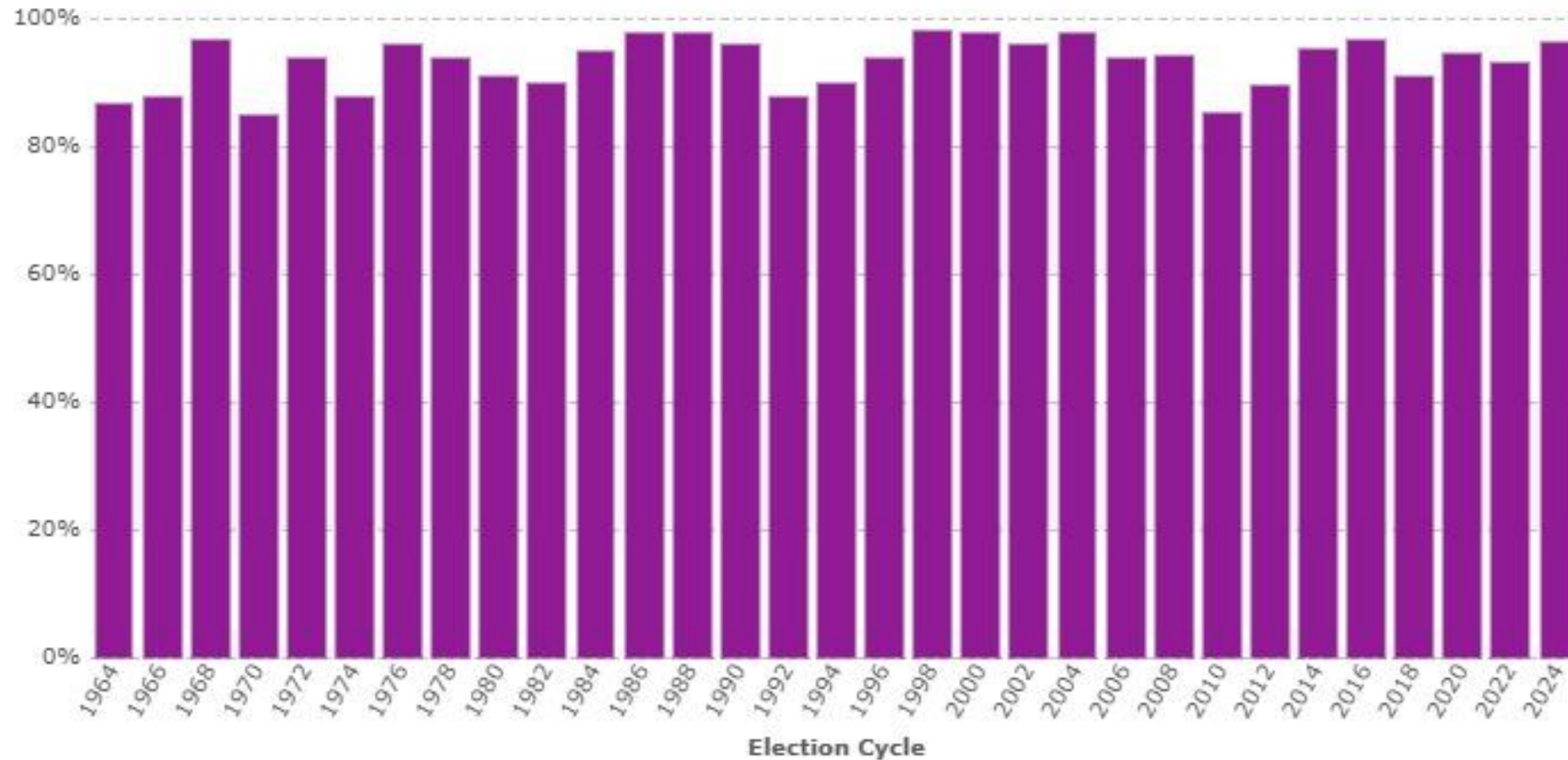
Congressional Elections, Part 1

- Three major factors affect who gets elected:
 - Who runs for Congress – parties cannot control who runs for their nomination
 - Incumbency advantage
 - Redistricting process

The Electoral Connection

- Why do incumbents 'always' win reelection?
- Incumbency advantage
 - Constituency services
 - Ranking privilege
 - Name recognition and title
 - Pork-barrel spending for district

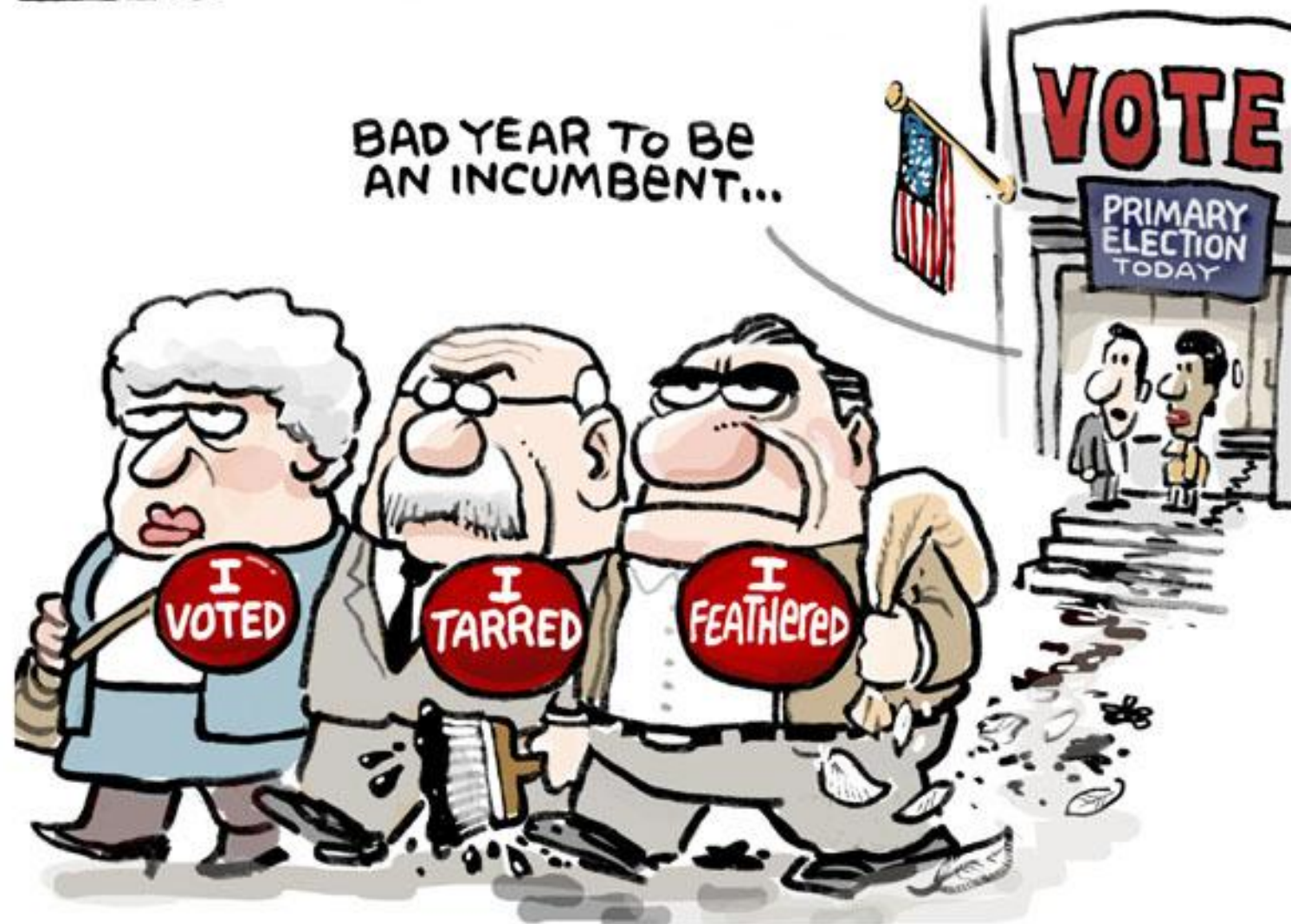
Reelection by Year



- <https://www.opensecrets.org/overview/reelect.php>

The Power of Incumbency

STAR TRIBUNE
SACK



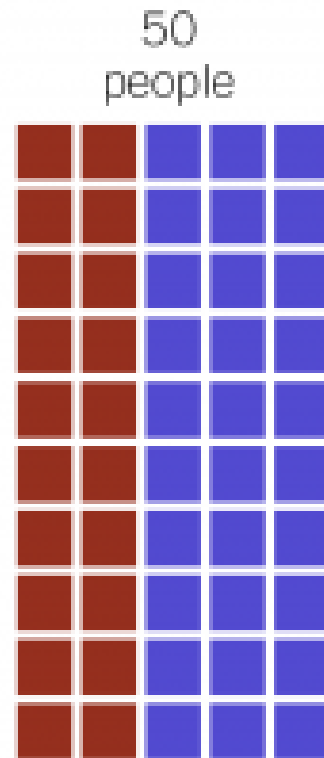
Apportionment, Redistricting, and Gerrymandering

- The vast majority of incumbents represent “safe districts,” where most voters support one party
 - Primaries are therefore the critical elections in these districts
- Apportionment and redistricting happens every 10 years
 - Usually done in *someone’s* interests, either a specific party or incumbents generally
 - See the Constitution for what and why we redistrict
- Gerrymandering- drawing of district lines to benefit one group (group in power)



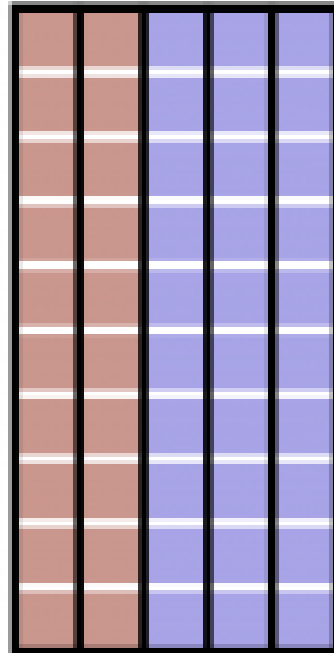
Gerrymandering, explained

Three different ways to divide 50 people into five districts



**60% blue,
40% red**

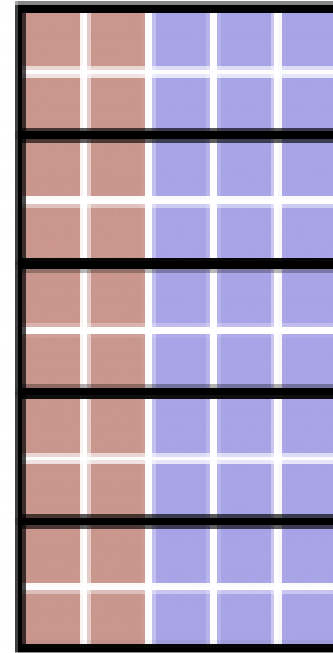
1. Perfect
representation



**3 blue districts,
2 red districts**

BLUE WINS

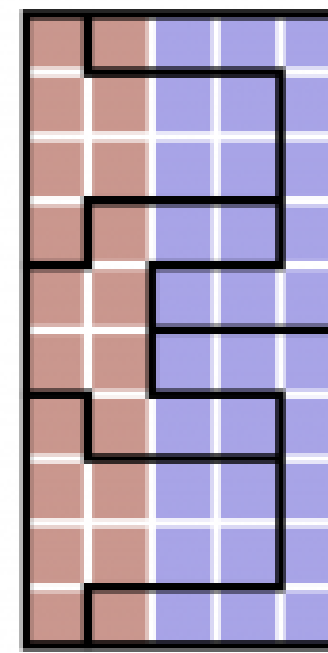
2. Compact,
but unfair



**5 blue districts,
0 red districts**

BLUE WINS

3. Neither compact
nor fair



**2 blue districts,
3 red districts**

RED WINS

“normal District”

