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**Civics 101**

**Midterm Edition: House v Senate**

**Archival Audio:**  Mr. President, Mr President I call my amendment per the order. The court will report the amendment...

**Hannah McCarthy**: Nick, What is going on why are you making me listen to this?

**Nick Capodice**: Ok this is from a youtube video from 2009 and it’s called Senate Chaos. Senator Bernie Sanders from VT he’s just proposed an amendment to a healthcare bill, and as usually happens,  he asks the amendment be considered as read. Since senators usually get these bills and amendments in advance, there’s no need to read them aloud.

**Archival Audio**: (I object, objection is heard)

**Nick Capodice:** Alright, Right there, Senator Tom Coburn from Oklahoma (I object) objects.  So the clerk has to read the whole thing aloud. It’s 767 pages. That would take over 14 hours. After two hours of reading, Sanders withdraws the amendment. Alright, Listen to this.

**Archival audio:** And had the courage to change from green to red or red to green! (chants of ‘Shame, shame, shame!)

**Hannah McCarthy**: Whoah, what is going on

**Nick Capodice**: What’s going on Hannah is the House of Representatives. Such a magical place.

**Nick Capodice**: Welcome to Civics 101 I’m Nick Capodice

**Hannah McCarthy:** And I’m Hannah McCarthy

**Nick Capodice**: And we’re continuing our series on the upcoming midterms. Today? Something many Americans are going to see on their ballot, and a question I’ve wanted to ask since day 1. What is the difference between the House and the Senate?

They mostly have the exact same powers, with a few exceptions which we’ll talk about, but they both propose bills that might  become laws. Bills can start in either the house or the senate, but they have to be passed by both houses before they go to the president to be signed into law. Though to really understand their key differences, we need to go back...through the annals of history.

**Hannah McCarthy**: Please don’t do this.

**Nick Capodice** :  Oh ho, it appears we’re at the old City Tavern in Philadelphia in 1787, Hannah!

**Hannah McCarthy**: Please

**Nick Capodice**:  Why is that James Madison over there? The Sage of Montpelier?

**Archival**: Yes but ours will be different. Since our plan expands the powers of congress, we will check that power by dividing it into two houses; an upper house, and a lower house.

**Hannah McCarthy**: What is that from?

**Nick Capodice**: You’ve never seen A More Perfect Union, the bread and butter of the 8th grade social studies class?

**Nick Capodice**:Ok, fine. Forget it. Scrap it. But What I’m tryin’ to get at is, During the great debates at the constitutional convention, there was this huge question of representation. Who should make our laws? How many people? Should the big states have more power, because they have a bigger population? Or should all states have equal representation? To make a long story short, we’ve ended up with both. We have a two house Government. A bicameral legislature.  The names can be kind of tricky though. Here’s teacher and former California State Assembly member Cheryl Cook Kallio

**Cheryl Cook-Kallio:** And so Congress is technically both the House of Representatives and the Senate. Members of the Lower House, the House of Representatives have always been addressed as Congress Members, and members of the Upper House have been addressed as Senator.

**Hannah McCarthy**: So a senator is technically a congressperson, but you would never call them that.

**Nick Capodice**: Yeah, no, and the senate is technically one of the ‘houses’ in congress, but when we say ‘the House’ we mean the house of Representatives.

**Hannah McCarthy**: I’m glad we got that out of the way I have always wondered.

**Cheryl Cook-Kallio:** the Framers created a two house legislature in order to make sure that the needs of the people as well as the states were addressed. The House of Representatives, the length of term is shorter it's every two years. It's a more frantic place. It takes on a sense of urgency. The Senate on the other hand is up every six years.

**Nick Capodice**: Length of term is a major thing that differentiates the house and the senate. The next key difference is the number of members. Our current House has 435 members apportioned by state population; California has 53 congresspeople, we in NH have 2. And the senate has 100, two from each state.

**Dan Cassino:** The founders were trying to give the public some power for trying to have some element of democracy. The problem is they didn't trust the people as far as they could throw them.

**Nick Capodice**: This is Dan Cassino, political science professor at Farleigh Dickinson University

**Dan Cassino:** They didn't like the people at all. They even called democracy mob-ocracy because they don't like the idea of the people actually running anything. The reason we have the House of Representatives is to give the people a voice but to make sure that voice can't actually do anything. The House is supposed to be representative of the people but as far as the founders are concerned the people the United States were kinda like the people of Springfield and The Simpsons;

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**Dan Cassino:** They're ready to jump on any bandwagon with pitchforks and torches and protest against anything. And we've seen this repeatedly throughout American history. In the early 19th century. We had the first major third party in American politics the anti-Masonic party, a party devoted entirely to a conspiracy theory that Masons were murdering people in upstate New York dumping the bodies, then masonically-oriented police and judges were covering the whole thing up.

**Hannah McCarthy**: That was their sole platform? Not liking the Freemasons?

**Dan Cassino:** That seems a little ridiculous except those folks into Masonic party won a bunch of seats and statehouses and even won a bunch of seats in the House of Representatives. So why does it matter? Well the Founders saw this. They thought this would happen. So what they did was they made it so the house or reserves couldn't really do anything. House of Representatives is subject to the whims of the people. So if anti-Masonic party is really popular for two years, guess what they can take some seats in the House. But if they took every seat that was up for them in the Senate they could never control more than a third of the Senate. The House is there to represent the whims of the people. The Senate is there to make sure that the people can't  actually get anything done. Now that's inefficient of course. But that's exactly the way the founders set things up. The people can pass whatever they want in the house and it'll die in the Senate.

**Hannah McCarthy**: So it sounds like Dan is saying the senate is...should I say superior? Superior to the house?

**Nick Capodice**:I don’t know! I mean, the house *does* get some bills out there. I’ve gotta be fair, but Dan told me that number it’s like 9%.

**Hannah McCarthy**: Wow

**Nick Capodice**: And most of them are pretty uncontroversial bills.

**Hannah McCarthy**: So like naming a holiday or something like that

**Nick Capodice**: Yeah. And in the Senate honestly it’s not too much better right now, it’s about 15% of bills proposed in the Senate become law. But back in the 60s it was much higher, over half of Senate bills became law.

**Hannah McCarthy**: I want to know what they think of each other, does the House have an inferiority complex?

**Nick Capodice**: Well let’s see what they have to say for themselves. I got a former senate staffer, Justin Leblanc

**Justin Leblanc:** We jokingly often refer to the House and the Senate with reference to what the British Parliament calls them and that is obviously the House of Commons and the House of Lords. The Senate chamber itself is I think very austere. You feel like you're walking on sacred ground.

**Nick Capodice**: And a former house staffer, Andy Wilson

**Andy Wilson:** Despite the House and the Senate being coequal branches of government, there's very much a feeling of the Senate is sort of the upper chamber

**Hannah McCarthy**: Wait, are they coequal?

**Nick Capodice**: They are, but that doesn’t stop the sense that one of them is more ‘uptown’

**Andy Wilson:** It's more stately it's more dignified etc. So there's sort of a different feeling about even the Senate side of the Capitol complex versus the House side.

**Nick Capodice**: Justin and Andy have both left congress since, Justin is now the founder and president of Lobbywise, and Andy works for a PR firm in NYC.

**Andy Wilson**: Well I'm I'm a House guy so I quite enjoyed the the free flowing nature of the House. Other members other people that might have worked in the Senate might might feel more proud of having sort of that stately Senate vibe. But I like the House.

**Hannah McCarthy**: I think I might be a house gal

**Nick Capodice**: It sounds like a little more fun, doesn’t it? Look, I want to make it clear, Andy and Justin were in no way throwing shade towards each other’s chambers, but there is some good-natured ribbing that goes on.

**Hannah McCarthy**: So I’ve got a good feel for their differences due to size and term length, but what are the specific differences in their powers?

**Nick Capodice**: here’s what Justin said about that.

**Justin Leblanc:** I think the most significant difference between the Senate and the House really comes down to two things. While they both have to pass legislation and they have to pass the identical legislation in each chamber before it can go to the president for signature into law, only the Senate has the the constitutional responsibility and authority to advise and consent the White House on treaties and so any treaty agreed to by the White House has to be approved by the United States Senate. The House does not have such similar authority.

**Nick Capodice**: And not just treaties, but the senate confirms all Presidential appointments; cabinet secretaries

**Hannah McCarthy**: Secretary of state, secretary of defense, etc?

**Nick Capodice**: Yeah, and ambassadors, and Supreme Court Justices.

**Justin Leblanc:** And then on the flip side all appropriations measures that is all measures that fund the federal government,  those let, those bills must begin in the House. The Senate does not have the authority to initiate an appropriations process.

**Nick Capodice**: This has a fun name by the way, the “Power of the Purse”, the framers wanted the House, the voice of the people, to be dominant when it comes to how we tax and spend money. The Senate cannot make money bills. But besides, money, there’s also impeachment powers. Here’s Cheryl Cook Kallio again.

**Cheryl Cook Kallio**: The other specific job the House of Representatives have is that any articles of impeachment for any elected federal official goes through the House of Representatives. If they are if they are passed in the House of Representatives, the trial is held in the Senate. That's a specific job of each house.

**Nick Capodice:** Voting is different, too.

**Andy Wilson:** In the House. It's a majority rule. So in order to pass a piece of legislation in the house it's 50 percent of the votes plus one. So if you know if the Republicans have a 20 seat majority they can basically do whatever they want whereas in the Senate people might be familiar with the filibuster which frequently requires 60 votes for something to pass.

60 percent of the of the Senate has to agree for something to be passed which requires a great deal of consensus a greater deal of coalition building even once a party is in majority they may not have enough to pass that 60 vote threshold. And so you have to work with the opposing party or at least some members of the opposing party. So it's much more of a collegial feeling in the Senate versus sort of our side versus your side view and feeling in the House of Representatives.

**Hannah McCarthy**: It kinda sounds like the filibuster, which we kinda think of as a strongarming tactic that gets in the way of things, .it sounds like it actually forces people to reach across the aisle and work together.

**Nick Capodice**: Yeah, and it’s totally different in the house.

**Dan Cassino**: The House of Representatives has 435 voting members. Now the problem is that’s so many people that you’re never gonna be able to wrangle all of them, if you let everybody talk, they're never going to shut up.  There's one thing politicians love it's the sound of their own voice. As a result the House of Representatives is incredibly tightly controlled. Everything that happened the House Reps as first has to go through what's called the Rules Committee, a Committee that doesn't even exist in the Senate

**Hannah McCarthy**: What?

**Nick Capodice**: I know, they don’t have a rules committee

**Dan Cassino:** and the Rules Committee is going to decide for any bill that comes out of committee, if that bill is ever gonna make it to the floor or not;  what terms that bill would be argued under and how much debate you' re going to have. Now we say how much debate you might be thinking to senators, two representative to come up and debate and talk back and forth but that never actually happens outside of Hollywood and in the House of Representatives, the most common rule we get is what's called a closed rule meaning there's gonna be no amendments allowed whatsoever. And they’re gonna allow somewhere around 15 minutes of debate. So you get 15 mins of Republicans talking about the bill 15 minutes of Democrats talking about the bill and then you're going to have an up or down vote on the bill. And that's all you're going to get because if they actually allowed amendments, you have all these radicals from both sides there. Nothing is ever going to happen. They’ve basically given up on trying to build consensus in the House of Representatives. House of Representatives is all about mobilizing your party in ramming through whatever you can. And the Speaker of the House because of that becomes enormously powerful if the Speaker of the House doesn't like a bill that bill is dead.

**Nick Capodice**:  Failure to act on a bill is the equivalent of killing a bill. So the Speaker of the house can just refuse to allow any bill to come to the floor, so it will never be voted on. Unless you do something called a ‘discharge petition’ but that’s gotta be in another episode.

**Hannah McCarthy**: Gotcha.

**Dan Cassino:** So the Senate is supposed to be this great debating place where all these members stand up and actually talk to each other and have back and forth and unfortunately that basically never happens. If you watch C-SPAN or C-SPAN or C-SPAN 3 or C-SPAN history if you're a real nerd, if  you ever watch the C-SPANs you'll notice they focus on the person who's talking and never focus on anyone else. They don't show you who's in the gallery. The reason they don't show you that is because there's nobody else. When the members of Congress are speaking. They are in fact talking to themselves. Nobody else is hanging out. Why not? Because they've got other stuff they need to  be doing, either go in a committee hearing or they're raising money which a lot of members of congress spend up five six hours a day doing.

**Nick Capodice**: And this is something both Houses have in common. Campaigning , a lot. Five to six hours a day to stay in office. Here’s former state rep and CNN political analyst Bakari Sellers;

**Bakari Sellers:** Let me just say that when you're in the House of Representatives the campaigns never end. You're in a perpetual sense of campaigning because it's that two year period.  You don't stop you don't take a reprieve you win an election and you and you move on to the next elections.

**Dan Cassino:** If you want to run for the House the big thing you have to have is name recognition in your community, in a relatively small community 700,000 people for most House seats. You have to people have to know who you are and you have to be able to knock on doors and mobilise people to knock on doors for you.

**Nick Capodice**: What does it take to campaign for senate?

**Bakari Sellers:** If you're campaigning for the United States Senate you should have been campaigning your entire life. And there's no there's no waiting until the filing period. And I love to see that you had these like billionaires or millionaires who, or people who have this amazing sense of self and they wait until the filing period which is usually like March for June or July or August primary and they think they can just parachute in and run a race and spend money on TV.

**Dan Cassino:** If you want to for the Senate the big thing you need is either be really rich yourself or to know a whole lot of rich people because that Senate race is gonna  cost you tens of millions of dollars and you're never able to knock on enough doors. So the types of candidates you get are going to be very very different. This is also one of the reasons why we see a lot more women running for the House than we do for the Senate. While women are able to mobilize other voters just as well as anyone else they actually have a harder time raising money because they don't necessarily have the business connections because of lots of other things going wrong in our society. They'll let them easily run for the Senate.

**Nick Capodice**: And that doesn’t just effect gender in the Senate

**Bakari Sellers:** It's you can literally still count on less than two hands. But you know if you go back in history and you're talking about Ed Brooke and Mo Cowan and Carol Moseley Braun and Cory Booker and Kamala Harris and Tim Scott. I just ran through... there may be one that I'm missing or two but I just ran through the African-American members of the United States Senate in history. And so it's a very it's a very deliberative body. But it's also a very old white male body as well. Usually there's a sense of patriarchy that puts you in a position to run for that office.

**Nick Capodice**: And going by the numbers he’s right, as of this recording, October 2018, there have been 10 total African-American US senators. Ever.

**Hannah McCarthy**: So 10 total in the history of the country

**Nick Capodice**: Ten total in the history of the US. Currently the senate is 1/50th African-American but by contrast the house is 10% African-American, so it’s a huge difference.

**Hannah McCarthy**: Yeah it is huge.

**Nick Capodice**: I asked Justin and Andy, former congress staffers,  for their final thoughts on both Houses and the system as a whole

**Justin Leblanc:** The elected officials your elected officials and their staff work incredibly hard and they're they're not particularly well-paid and they're working long hours. Most senators and their staff are in the office from 7:00 or 8:00 in the morning until 9 or 10 at night every day of the week. And when they when they go home they're working all weekend. And when we talk about congressional recesses that is times where the House and the Senate are not actually in session and can't vote on legislation, they're not on vacation. Their staff are still showing up on the Hill every day to do their jobs. And the members are back in their states continuing to work. And so whether you agree or disagree with the policy positions your elected officials may take, I would never accuse any one of them or their staff of being lazy or not hardworking.

**Andy Wilson:** Sometimes it's easy to look at the House of Representatives or the Senate or the Executive branch and think of it kind of like a machine. It's just this big bureaucracy that exists and it kind of churns on and on and on. But it's really a very human enterprise. It's really about how do you work with your colleagues. How do you have relationships with them. And you know who do you know well do you work with well et cetera. So it's very much a human enterprise. The second piece which follows off on that is its own the system is only as good as the people that are involved in it whether that's voting whether that's running for Congress or whether that's working as a staffer, whether that's getting involved in local political debates or local government issues, state government issues county government issues et cetera. So it's easy to sit back and say these bums don't do anything or they're good for nothing or something like that but it's really just a bunch of people that are elected by people in states and districts across the country. And so if you have a complaint or if you have a priority then the only way to to push for it or the only way to make a difference or make things different is to get involved and you can do that.

**Hannah McCarthy**: I have one last question

**Nick Capodice**: What is it?

**Hannah McCarthy**: It...I mean it just all sounds so ridiculous.  Senators talking to an empty room, the House not even debating, everybody stopping anything from getting done

**Nick Capodice**: Yes, so that was my final question for Dan, it sounds like the whole thing is broken. That it is a farce, that it doesn’t work. Is that true?

**Dan Cassino**: Even though all this is absurd all the we were doing things and passing bills is absurd it doesn't make any sense, this is exactly the way the founders wanted it to work. The mechanisms like cloture and filibusters and gerrymandering, none of that was forseen by the founders, but the general principle, the house is subject to the whims of the people, the anti  Masonic party the Tea Party whatever, they get in there. They pass crazy bills that should never work and they're allowed to do that because that's what the people want and then it goes the Senate and the Senate doesn't do anything. And that's exactly the way the whole system is supposed to work. The Senate is supposed to be the branch of government that stops anything from ever actually happening. And today we view that as a bug we think that's a bad thing we want our government to be really much more efficient. The way you see parliamentary systems working in most the world. But our government is not set up to be efficient. It's set up to be inefficient. It's set up to make sure that no big change can actually happen unless the voters for years on end, four six years all are voting in support of this and all three branches of government are in accord with it. It's really easy to kill a law. It's almost impossible to pass one.

**Hannah McCarthy**: I’ve never considered that inaction could be a comforting thought.

**Nick Capodice**: Me neither, and sometimes I need to be reminded that this machine has human hands at the wheel

**Hannah McCarthy**: Yeah

**Nick Capodice**:Well, before we go we have our snapshot midterm from us history, delivered by none other than Brady Carlson, former NHPR reporter, current afternoon host at Wisconsin Public Radio, and the author of Dead Presidents.

**Brady Carlson:** Today we’re talking about the midterm of 1894. It’s not a very well known midterm, but if you wanna talk about a wave election, this was the wave election to end all wave elections. Up to this point, the democratic party had majorities in both the House and the Senate. They had won back congress in the 1892 election when Grover Cleveland had won back the White House from Republican Benjamin Harrison. This is when Grover Cleveland became the only president to serve two non-consecutive terms, so this was his moment with destiny.

A week before Cleveland came back to the presidency, there had been a financial collapse in the railroad industry. And that sort of tipped off the domino train. A number of key industries fell and the market fell as a whole and this is what was later known as the Panic of 1893.

So the Democrats have just returned to power, they’ve got the White House, they’ve got majorities in congress, and the economy falls apart. People were calling on the president to do something about the panic, there was even a march on Washington. Grover Celeland saw himself as what’s sometimes called a Guardian President. His thinking was Congress steers the ship of state, the president really only steps in to administer the laws and to stop congress when they go too far, so he didn’t really think it was up to him to get in the way of the economic cycle and intervene in the economy.

The catch was that a lot of the people who had put him back in power were workers, immigrants, farmers, the people who were being hurt by the panic. And at the same time in 1894 there was a very prominent railroad strike, the Pullman Strike in which hundreds of thousands of railroad workers walked off the job. They had had their wages cut and they were protesting. And this is the time where the president thought he should step in, so he sent Federal troops to break it all up and that got plenty of pushback, though as a conciliatory gesture he proposed  the holiday in honor of workers that we now call Labor Day.

So it was sort of a way to get everybody to feel like they had been heard even when they maybe quite hadn’t been.

In the midterm of 1894 Cleveland and the democrats had 220 seats in the House and they lost 113 of those. The biggest loss in history. And then they also lost enough seats in the Senate, not nearly that many, but they lost enough in the Senate to  lost majority control there, so they went from having all the power to almost none of the power, and they wouldn’t regain those majorities in congress for almost two decades. So it was really a political version of what goes up must come down.

 It was really a case where people were saying; we blame you for this and we are going to put other people in power because we don’t think what you’ve done is the right policy and the right way to handle this economic crisis.

**Nick Capodice:** Thank you Brady for the story of the greatest lost in midterm history. Today’s episode was produced by me, Nick Capodice and Hannah McCarthy.

**Hannah McCarthy:** Our staff includes Ben Henry and Jacqui Helbert, our Executive Producer is Erika Janik, Maureen McMurray is totally a House Gal.

**Nick Capodice:** Music for today’s episode comes from Blue Dot Sessions, Creo, Broke For Free, Jahzzar, and Electric Needle Room. Special thanks to one of the NICEST greatest member stations out there, WOVV in Okracoke

**Hannah McCarthy**: More midterms prep is coming down the pipe, so be sure to subscribe! You can also say hi and listen to all our episodes at civics101podcast.org.

**Nick Capodice**: Civics 101 is a production of NHPR, New Hampshire Public Radio.