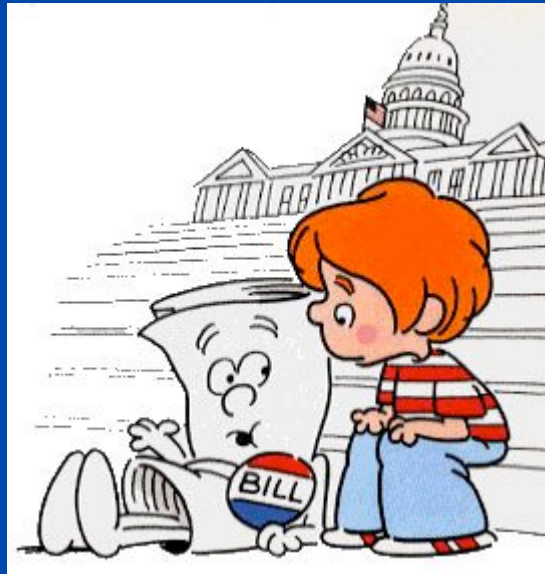


# Congressional Policy-Making



How does a Bill become a Law?

# Recap: Political Competition

- Interest group competition
- Distributive politics
- Collective action and free riding
  
- Useful for understanding which interests will be active but ignores institutional details

# Overview

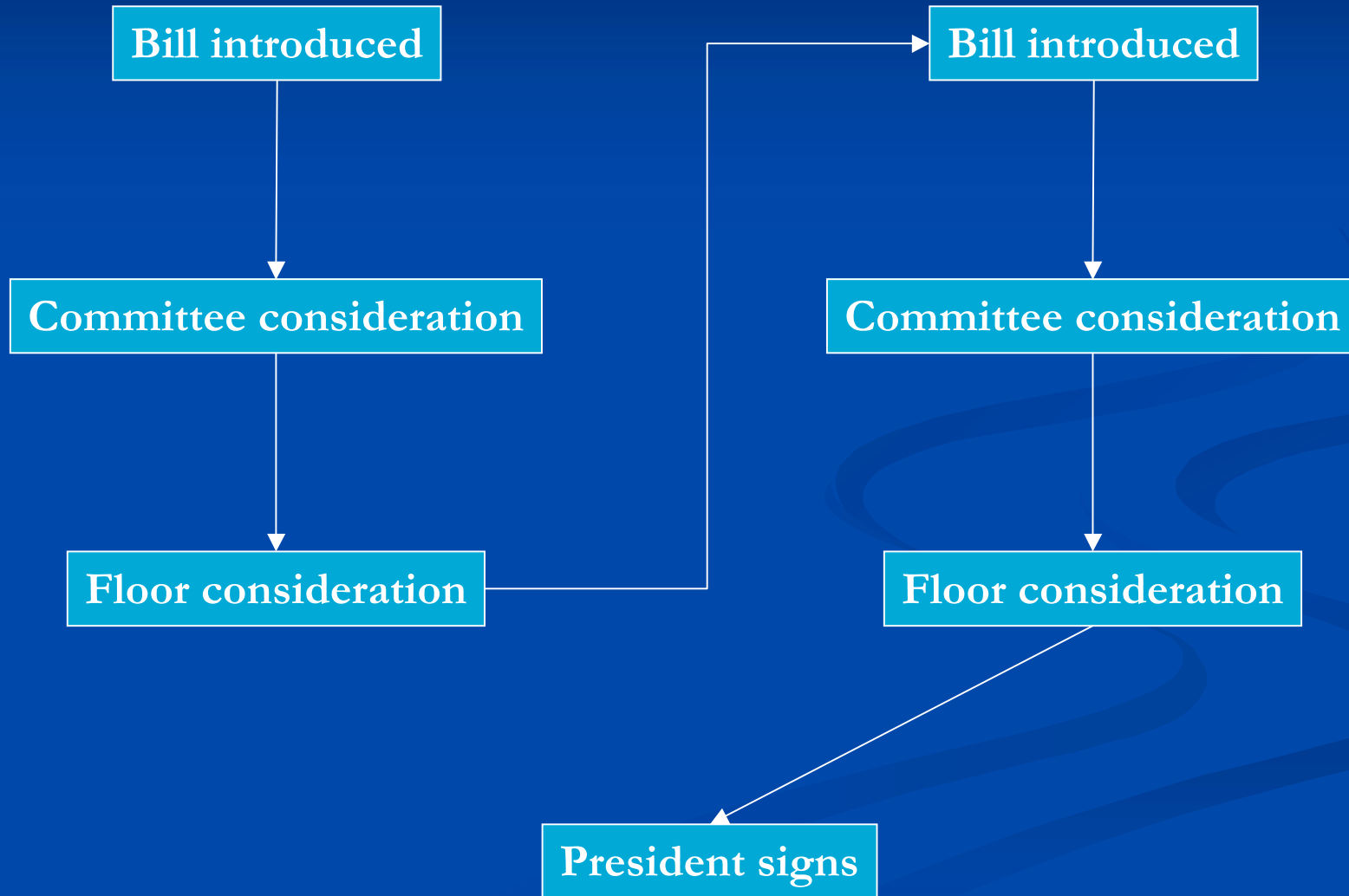
- Basic legislative procedure
- Committees
- Agenda setting
- Conference committees

# Legislative procedure

# Constitutional Requirements

- Both chambers must pass identical bills
- Requires presidential approval or veto override
- Each chamber can determine its own rules

# Basic version

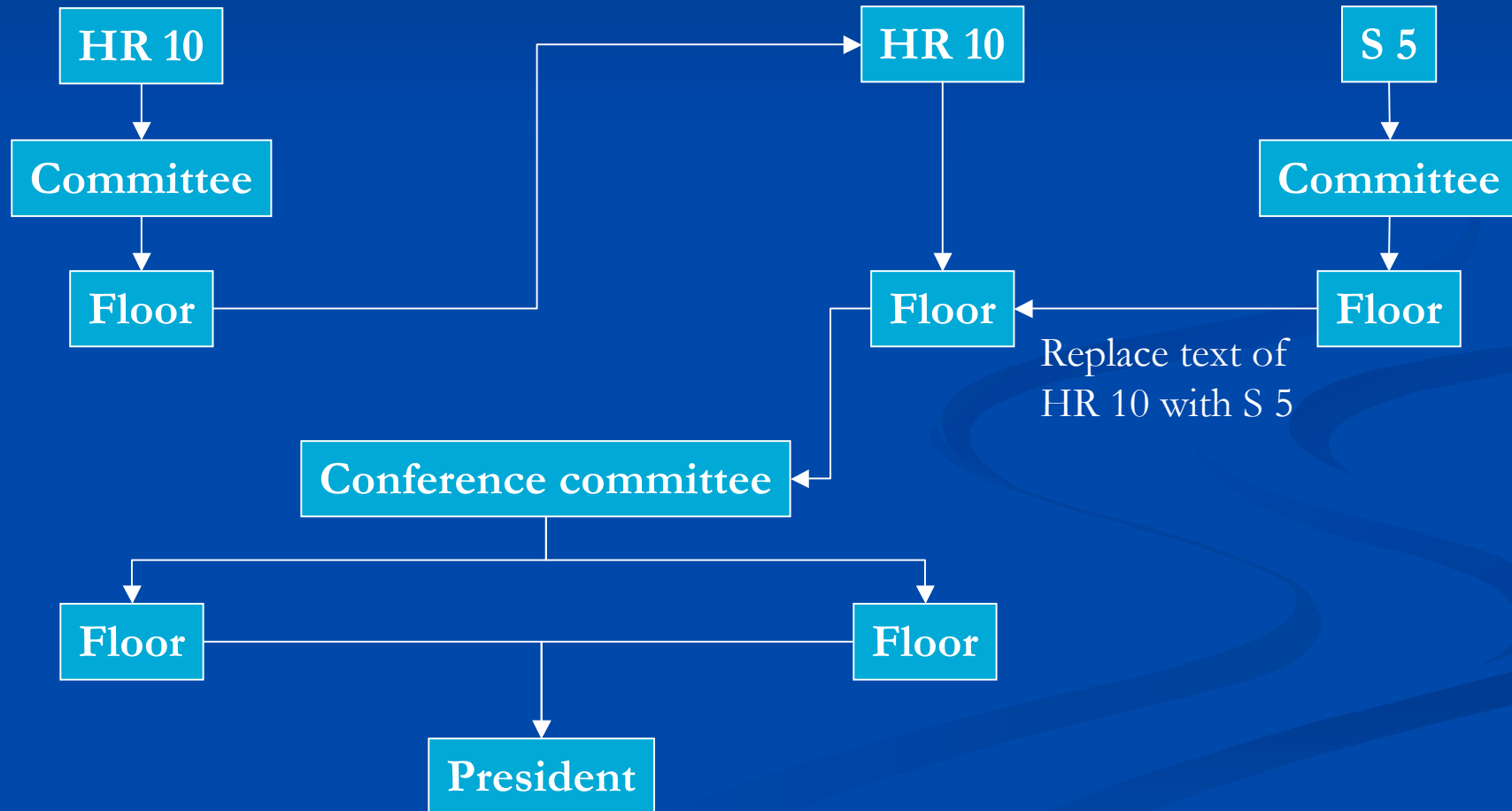




# Sample path for major legislation

## House

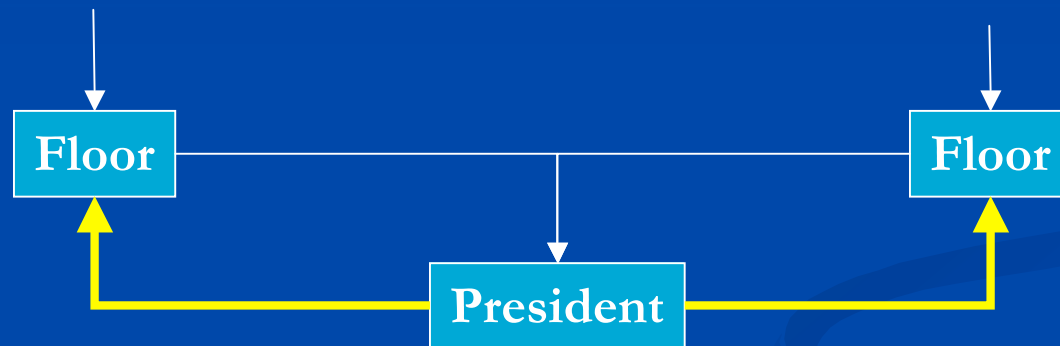
## Senate



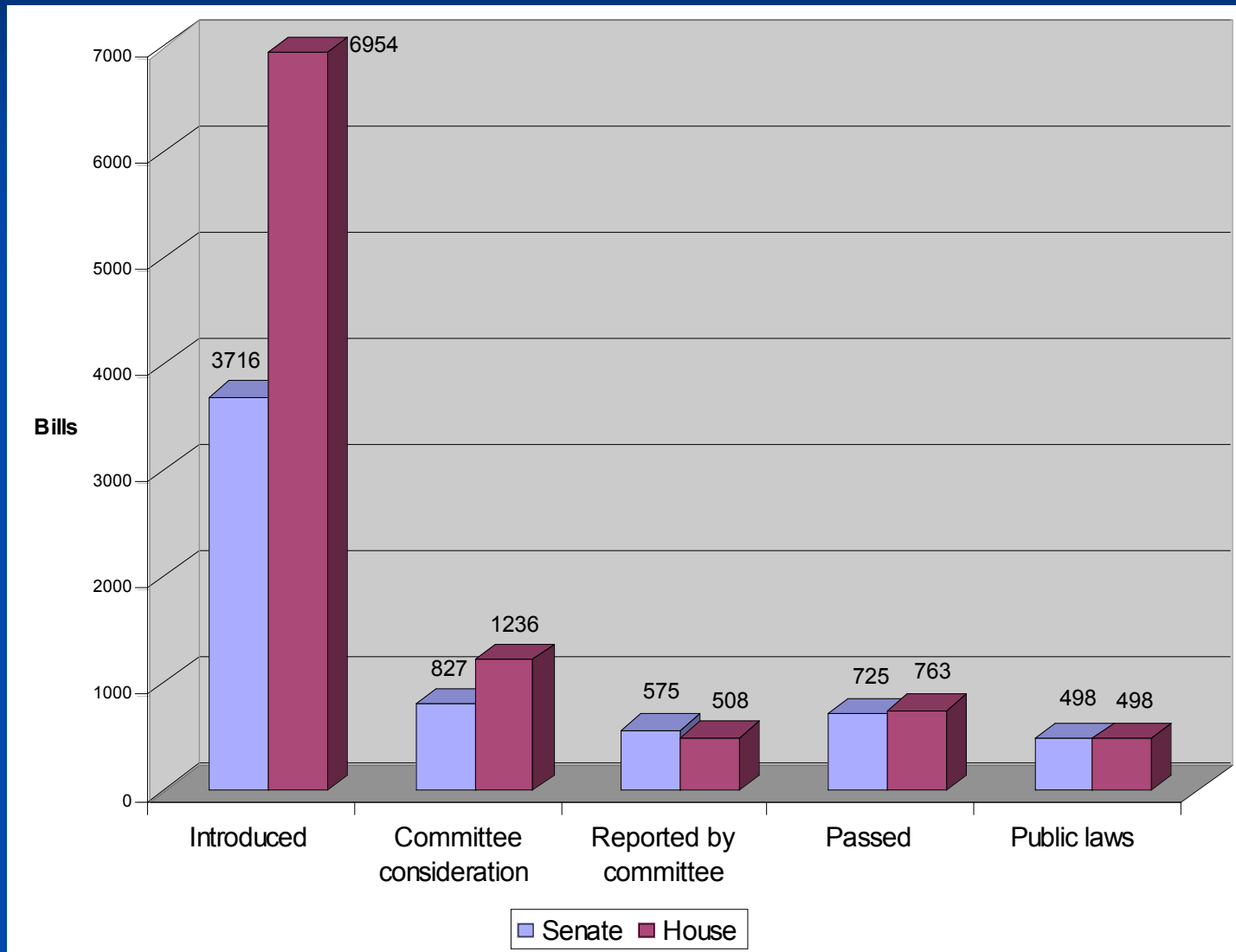
# If there is a veto...

House

Senate



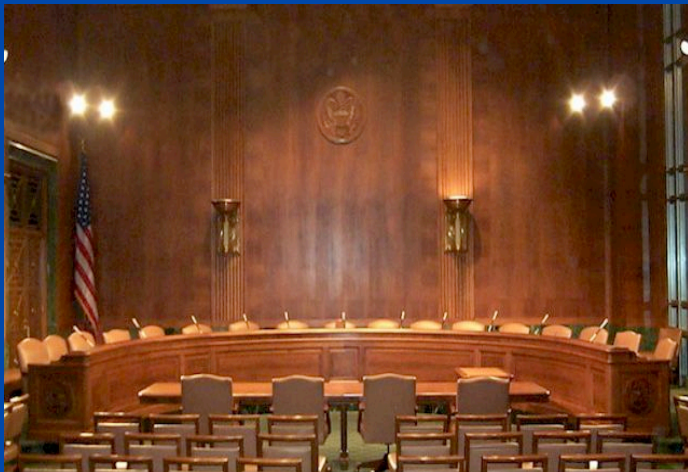
# Hurdles, workload, and productivity



# Implications for non-market strategy

- By design, Congress is “conservative”
- Easier to block bills than to pass them
- Many possible places to kill a bill
- Usually requires supermajorities to pass

# Congressional Committees



# Woodrow Wilson, *Congressional Government* (1885)

Congress in session is Congress on public exhibition, whilst Congress in its committee-rooms is Congress at work.



# Why committees?

- Division of labor
- Information: hearings and investigations



# Standing Committees (109<sup>th</sup>)

## House

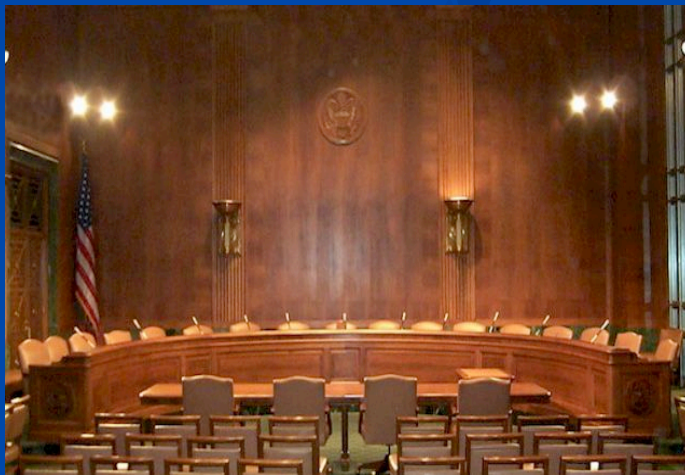
- Agriculture
- Appropriations
- Armed Services
- Budget
- Education and the Workforce
- Energy and Commerce
- Financial Services
- Government Reform
- Homeland Security
- House Administration
- International Relations
- Judiciary
- Resources
- Rules
- Science
- Small Business
- Standards of Official Conduct (Ethics)
- Transportation and Infrastructure
- Veterans' Affairs
- Ways and Means

## Senate

- Agriculture, Nutrition, and Forestry
- Appropriations
- Armed Services
- Banking, Housing, and Urban Affairs
- Budget
- Commerce, Science, and Transportation
- Energy and Natural Resources
- Environment and Public Works
- Finance
- Foreign Relations
- Health, Education, Labor and Pensions
- Homeland Security and Governmental Affairs
- Judiciary
- Rules and Administration
- Small Business and Entrepreneurship
- Veterans Affairs

## More from Woodrow Wilson:

The fate of bills [in committee] is generally not uncertain...it crosses a parliamentary bridge of sighs to dim dungeons of silence whence it will never return...



# Overlapping jurisdictions

- Toxic substances
  - Senate Commerce, Science, and Transportation (consumer products)
  - Senate Environment and Public Works (environmental effects)
- Pharmaceuticals
  - House Energy and Commerce (biomedical research and consumer affairs)
  - House Judiciary (patents)
  - House Science (NSF and NIH)

# House Committees with Jurisdiction over the Environment

- Agriculture: pesticides, soil conservation
- Appropriations: funding for programs
- Energy and Commerce: health effects, clean air
- Financial Services: open space acquisition in urban areas
- Government Reform: EPA oversight
- Natural Resources: land management, national parks, endangered species
- Science: environmental research
- Ways and Means: tax incentives for businesses

# Strategic opportunities

- 1964 Civil Rights Act
  - Senate Judiciary chair James Eastland, Southern Democrat (Miss.) opposed to civil rights
  - Commerce committee chairman Warren Magnuson, liberal Democratic supporter of civil rights
- Sam Brownback and human cloning ban (107<sup>th</sup>)
  - Then-Judiciary chairman Orrin Hatch (R-UT) supports scientific endeavors to cure diseases
  - Health committee chairman Judd Gregg (R-NH) more sympathetic to Brownback

# Congressional Leadership

# Leaders' Powers

- Agenda setting
- Call meetings and hearings
- Block legislation by refusing to consider (e.g. civil rights)
- Hire/fire staff
- Manage legislation on floor
- Refer bills to subcommittees

# Condorcet's Paradox

Group decision: which fruit to buy?

Individual preferences:

1

apples

bananas

cherries

2

bananas

cherries

apples

3

cherries

apples

bananas

# Condorcet's Paradox

1

apples

bananas

cherries

2

bananas

cherries

apples

3

cherries

apples

bananas

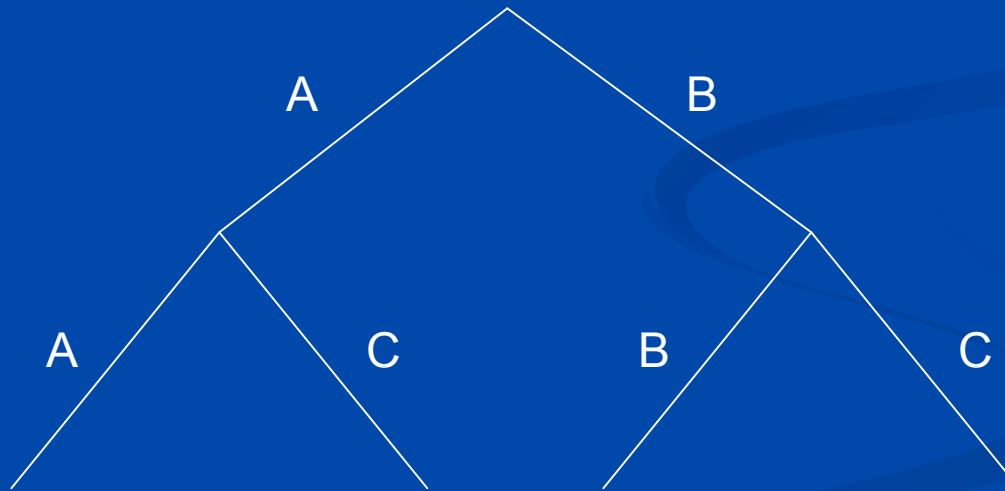
apples vs bananas: 2 votes for apples

apples vs cherries: 2 votes for cherries

cherries vs bananas: 2 votes for bananas

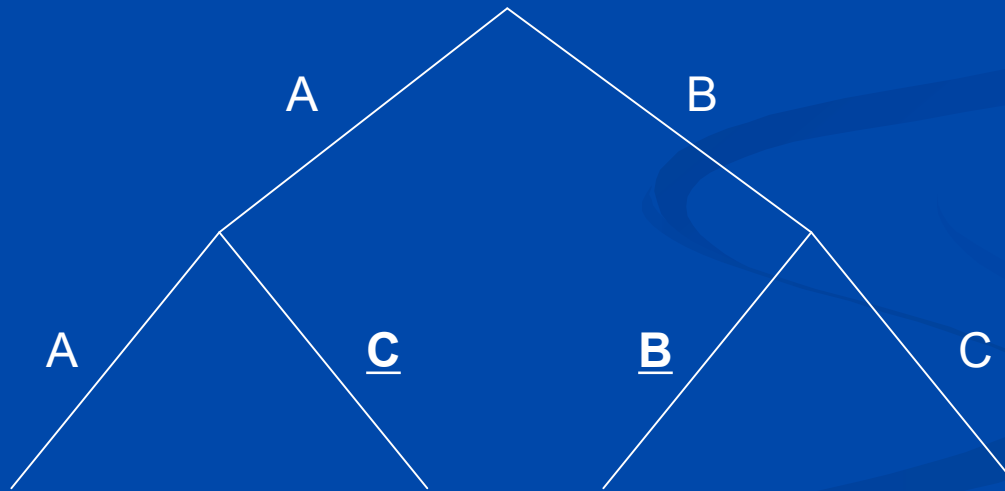
# Voting Agendas

- Vote 1: A vs B
- Vote 2: Winner of Vote 1 vs C



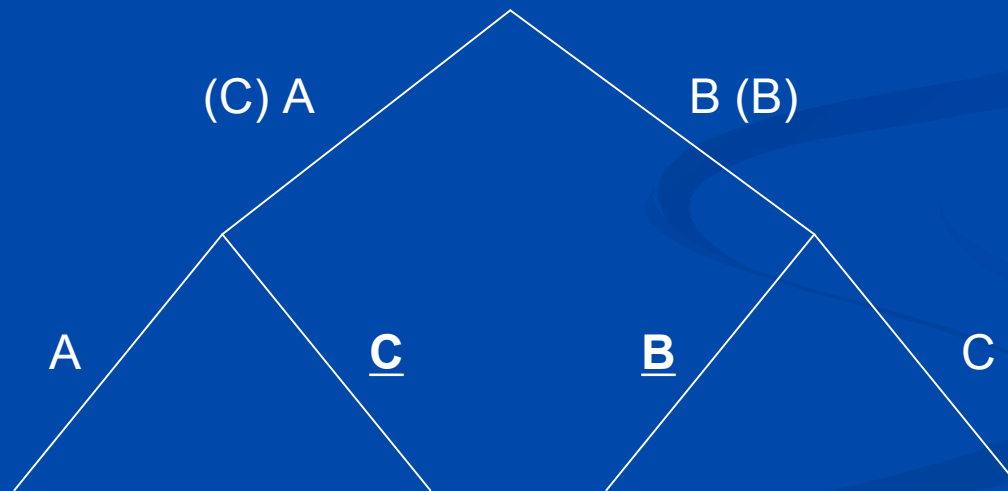
# Voting Agendas

- Forward looking voting
- What would happen in second stage?



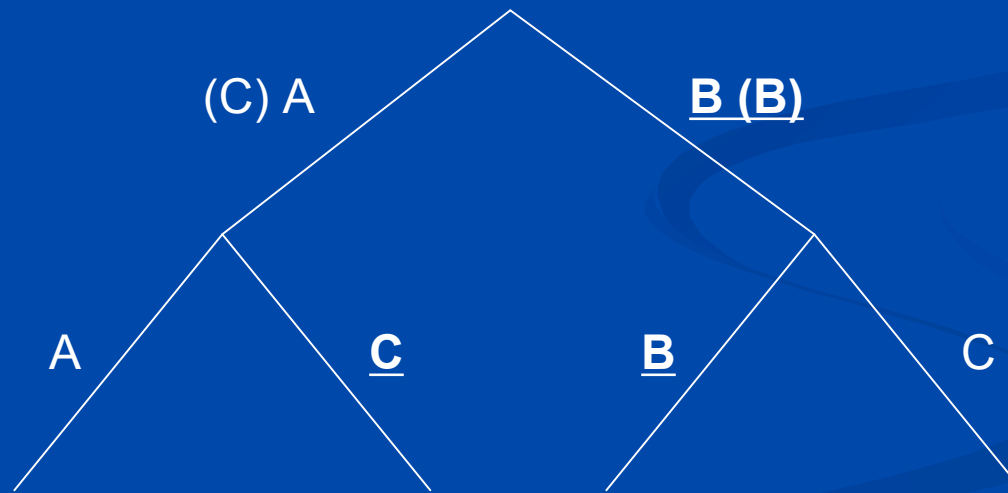
# Voting Agendas

- Strategic voting
- First stage is really B vs C:



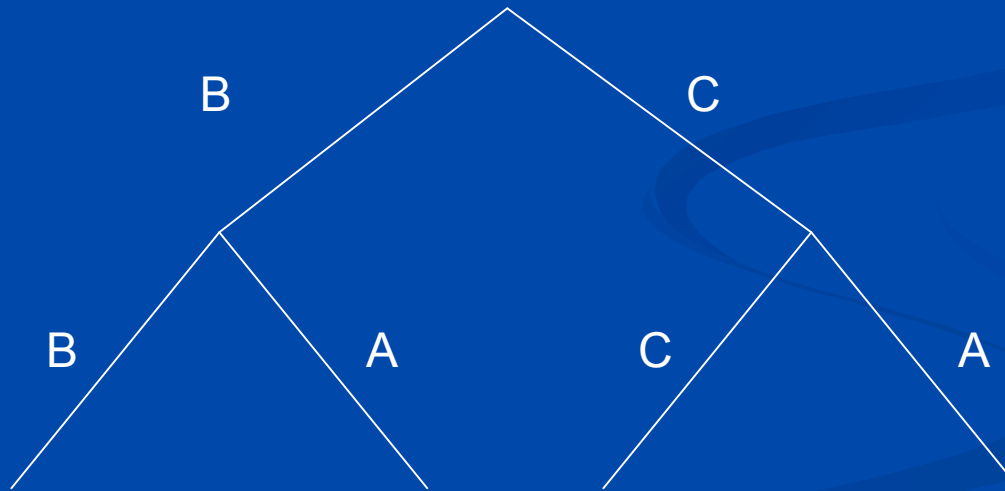
# Voting Agendas

- Strategic voting
- First stage is really B vs C:



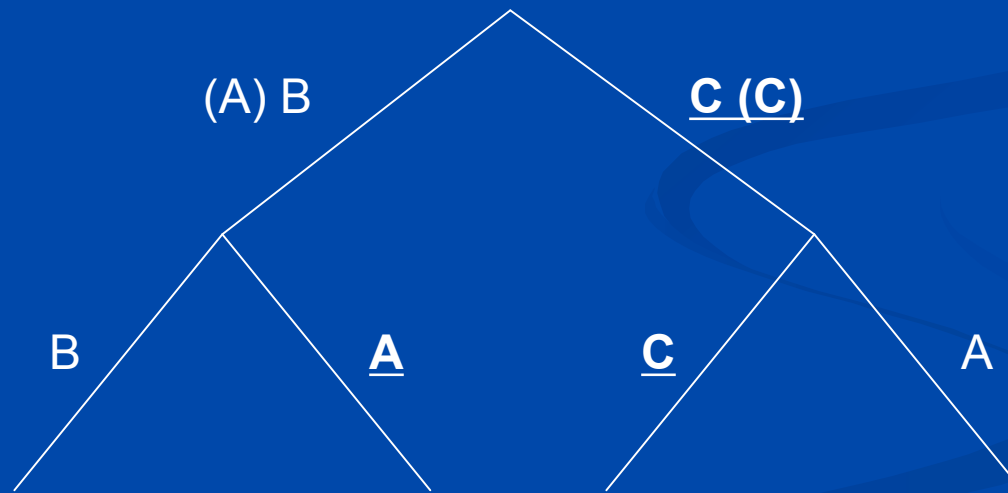
# Agenda 2

- What about a different agenda?
- B vs C, then winner vs A:



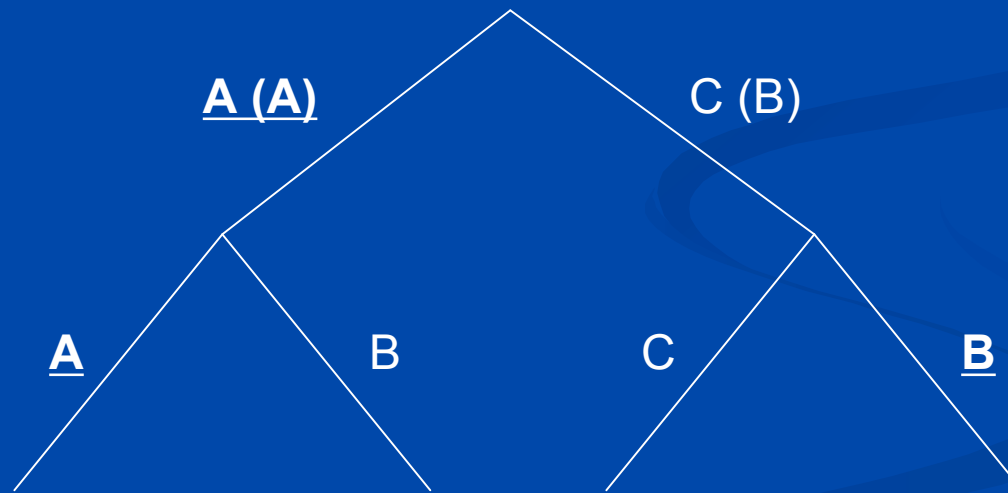
# Agenda 2

- Strategic voting: First vote A vs C
- C wins



# Agenda 3

- There is a third possible agenda
- Here, A wins



# Agenda Setting

- Each agenda produced a different final outcome!
- Control over the agenda  $\Rightarrow$   
significant influence over policy choices

# Conference Committees

# Resolving differences

- Recall constitutional requirement that identical language pass both chambers
- Amendments between chambers
- Chamber can “disagree” to other chamber’s amendments and request conference committee

# Conference Committees

- Usually small or moderately sized (avg 25 from House, 12 from Senate)
- No formal rules  $\Rightarrow$  Bargaining and negotiation
- Requires simple majority of conferees from each chamber
- Last-mover advantage: Take it or leave it offer



## late Sen. Paul Wellstone, D-MN

I used to teach political science classes...I need to refund tuition to students for those 2 weeks I taught classes on the Congress. I was so off in terms of a lot of the decision-making.

I should have focused on the conference committees as the third House of Congress, because these folks can do any number of things. And the thing that drives me crazy is you can have a situation where the Senate did not have a provision in the bill, and the conference committee just puts it in the bill. Then it comes back for an up-or-down vote. No opportunity to amend.

# Conference committees

“Conferences are marvelous. They’re mystical. They’re alchemy. It’s absolutely dazzling what you can do.” (former Sen. Alan Simpson, R-WY)

Example: In 1999, conferees added the \$313 BILLION Labor-Health and Human Services appropriations bill to the \$429 MILLION D.C. appropriations bill.

# Inserted in 2005 emergency supplemental conference report

- \$2 million for Drew University (NJ), which has 2,600 students
- \$2 million for National Center for Manufacturing Sciences (MI)
- \$4 million to pay debt of Fire Sciences Academy (NV)
- Allow natural gas exploration in a National Park (MS)

	A	B	C	D	E	F	G
Bill vs SQ	B	B	B	B	B	B	SQ

	A	B	C	D	E	F	G
Bill vs SQ	B	B	B	B	B	B	SQ
Amended Bill vs SQ	AB	AB	AB	AB	SQ	SQ	SQ

# Implications for non-market strategy

- Up or down votes  $\Rightarrow$  Last mover advantage
- Have congressional allies insert provisions in must-pass legislation



# Summary

- Many hurdles and decision points
  - ⇒ process biased against new laws
- Many alternative paths for enacting laws
  - ⇒ committees with overlapping jurisdictions
  - ⇒ last-minute provisions in conference committees
- Institution's procedures matter
  - ⇒ knowledge of procedure provides strategic advantages

# Implications for Strategy

- Easier to prevent than to obtain policy change
- Know key players whose support you may need
  - Committee and subcommittee chairmen
  - Committee and subcommittee members
  - Median voter, potential filibusters
- Write legislation to fall in the jurisdiction of favorable committees
- Take advantage of conference committees' last mover advantage

# Next week

- Representation
- Lobbying
- Political strategy