

Educator Resource Series: Teacher Guides for Civic Literacy Enhancement



THE LEGISLATIVE BRANCH

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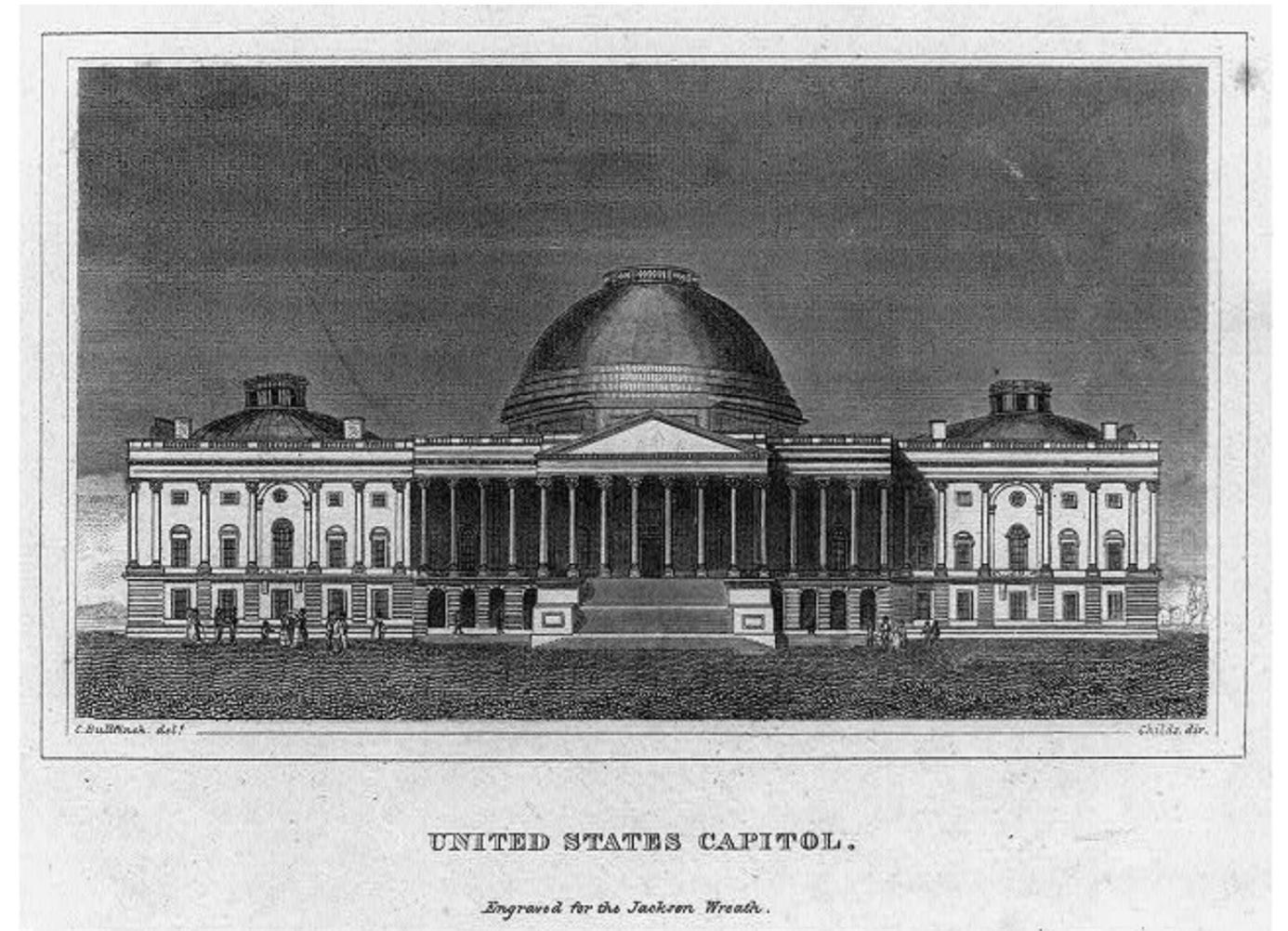


Illustration of the U.S. Capitol as it appeared in 1829.
Courtesy of the Library of Congress.

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THE LEGISLATIVE BRANCH



View of the U.S. Capitol Building, 1900.
Courtesy of the Library of Congress.

The Legislative Branch

The Legislative branch of our government creates our country's laws and is outlined under Article I of the U.S. Constitution. It is composed of the two houses of Congress—the House of Representatives and the Senate—as well as several supporting agencies, including the Library of Congress and the Congressional Budget Office. Article I establishes the duties and responsibilities of the Legislative branch, including passing laws, declaring war, and levying taxes.

The Legislative branch is housed in the U.S. Capitol in Washington, D.C. President George Washington laid the initial cornerstone of the Capitol in 1793, and it was first occupied in 1800. It was burnt by the British in the War of 1812 and rebuilt, and has been renovated and added to many times over its history. The most recent addition is the U.S. Capitol Visitor Center, which opened in 2008.

Who makes up the House of Representatives?

The House of Representatives is made up of 435 members, plus six non-voting members, elected by the people of each state, Washington D.C., and the U.S. territories for two-year terms. The number of representatives each state is allowed is determined by its population. The House is led by the Speaker of the House, who is elected by the majority party in the House, and is next in line to the presidency after the vice president. At their election, members of the House must be 25 years old, have been citizens of the United States for at least seven years, and reside in the state they are representing. If a representative has to leave office, a special election is held to fill the seat until the next regularly scheduled election takes place.

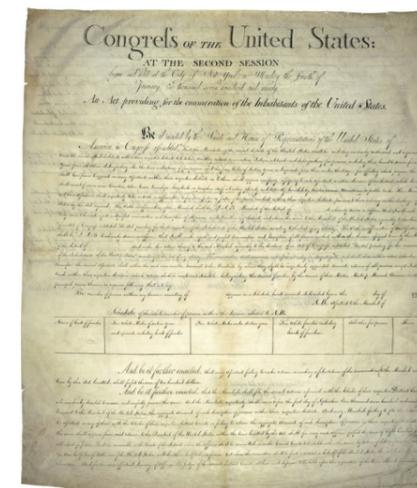
What does the House of Representatives do?

Census

One primary duty given to the House of Representatives is to conduct the census every 10 years. Census results determine the number of representatives each state will be allotted. The House was originally instructed by the Constitution to take the first census within three years of its first meeting, then every 10 years thereafter.

Impeachment

Congress holds the sole power of impeachment. The House can initiate impeachment charges against the president, vice president, or other federal officials. These charges can come from the House as a whole by resolution, or individuals



Census Act of 1790.
Courtesy of the Census Bureau.



can introduce impeachment bills themselves. The Judiciary Committee determines whether or not impeachment proceedings should be pursued. If the committee agrees that they should be, the impeachment articles are sent for a vote on the House floor. If the articles are adopted by the House, members are selected to serve as prosecutors during the Senate trial.

Impeachment proceedings have been filed over 60 times in the history of the House. Only eight people have actually been removed from office; all eight were federal judges. Three presidents have been impeached by the House, but were not removed from office by the Senate—Andrew Johnson (1868), Bill Clinton (1998), and Donald Trump (2019). One Cabinet secretary and one senator have been impeached.

“Power of the purse”

According to Article I, Section 7, Clause 1, all bills dealing with revenue must originate in the House of Representatives. This is often referred to as “the power of the purse.” Congress has the ability to tax and spend public money collected by the government. It was determined early on that the House of Representatives, the larger of the two houses, had more voting members and therefore it better represented the will of the people in the spending of public money.

Who makes up the Senate?

The Senate is composed of 100 members, or two per state.

Senators are elected by popular vote for six-year terms. Prior to 1913 and ratification of the 17th Amendment, senators were selected by state legislatures, not the people. At election, senators must be at least 30 years old, have been citizens of the United States for nine years, and live in the state they will represent. One-third of the Senate is up for election every two years. If a senator must vacate his or her seat, a special election is held to fill the seat, until the next regularly scheduled election for that seat (as stipulated in the 17th Amendment). The vice president is the head of the Senate, and acts as a tie-breaker in the event of a tied Senate vote. Otherwise, he has no vote.

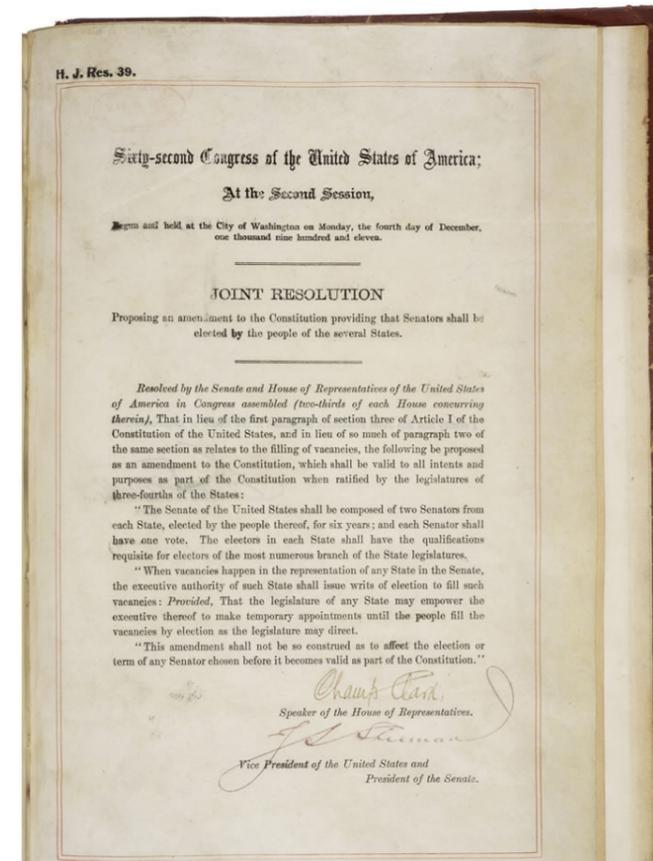
What does the Senate do?

Presidential appointments

The Senate alone can confirm presidential appointments, including U.S. Supreme Court justices, other federal judges, U.S. Marshals, Cabinet secretaries, and more. The president makes nominations, which must be approved “by and with the Advice and Consent of the Senate” (Article II, Section 2). The exception to this is vice presidential appointments. If a new vice president is appointed, the nomination also requires the approval of the House of Representatives.

Impeachment trials

Only the Senate has the power to remove a president or other government official from office, following impeachment by the House of Representatives. When a president is put on



trial in the Senate, following impeachment by the House, the Chief Justice of the Supreme Court presides over the trial, and two-thirds of the senators must vote to remove the official. Since 1798, the Senate has conducted 20 impeachment trials, including trials of three presidents.

Treaties

Any treaties negotiated by the president and Executive branch must be approved by a two-thirds vote of the Senate. Treaties go through a process similar to other bills—they must go to committee first, then go to floor for full approval or rejection. The Senate does not often reject treaties that have made it through committee, but the president does have the option to recall them from consideration. The Senate may amend any treaty it is sent to approve. There is one exception to this Senate power—any treaty involving trade with foreign governments must also be approved by the House of Representatives.

ABOVE: Joint Resolution proposing the 17th Amendment to the Constitution. Courtesy of the National Archives and Records Administration.

What can the two houses do together, and what can they not do?

Each house of Congress conducts its own business, determines its own meetings, and sets its own rules, but there are several duties that the two houses must work together to accomplish. The duties and powers assigned to Congress include:

- > 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 a 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;
- > To constitute Tribunals inferior to the supreme Court;
- > To define and punish Piracies and Felonies committed on the high Seas, and Offenses 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;

ABOVE: Congressional hearing. Courtesy of gps.gov

- > 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 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: 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.



ABOVE: The Library of Congress in 1853, while located in the U.S. Capitol. Courtesy of the Library of Congress.

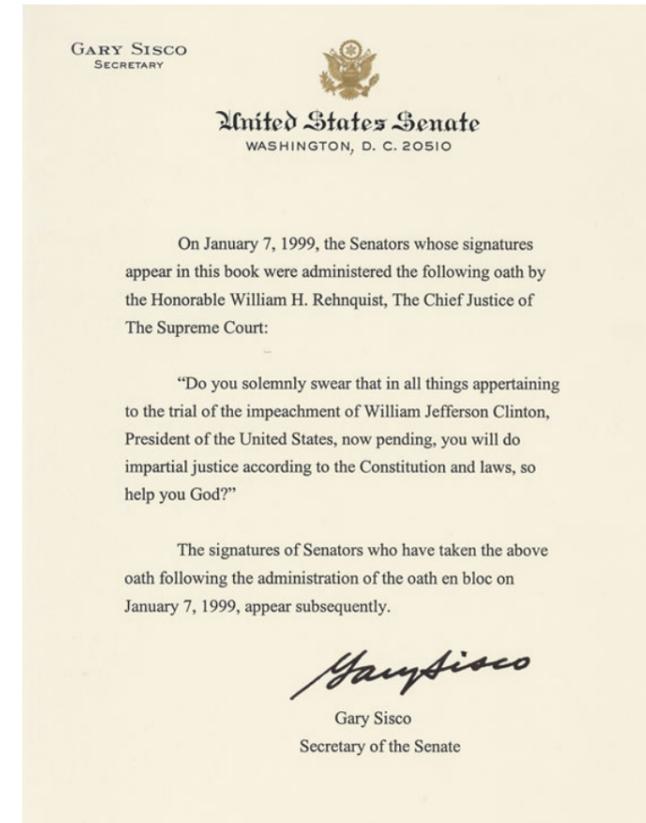


Though not mentioned in the Constitution, Congress also has the power to conduct investigations. This is believed to be an *implied* power, and has been backed by the Supreme Court, in the clause giving Congress “all legislative powers,” as part of their need to seek out information.

The Constitution also gives us a very clear list of powers not given to Congress.

- > 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 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.

ABOVE: “It’s Not Going to be Such a Restful Month at That.” Political cartoon by Clifford Berryman. Courtesy of the National Archives and Records Administration.



> 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.

How does a bill become a law?

Only members of Congress can introduce legislation for consideration to become a law. The president can request legislation, such as the federal budget, but it must be submitted by a congressional member.

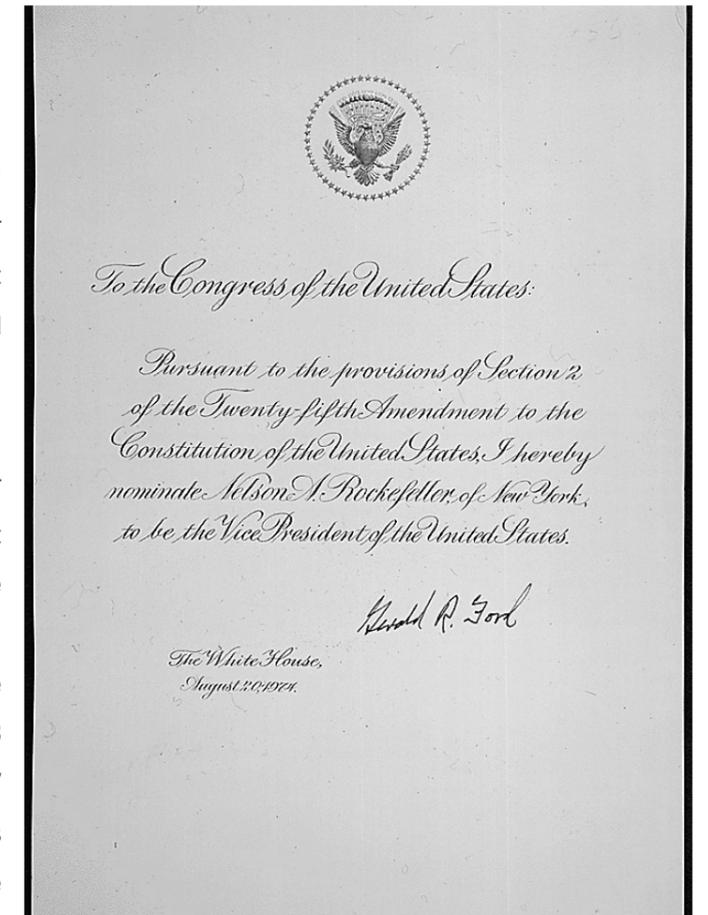
After a bill is introduced, it is sent to the appropriate committee for review. The House of Representatives has 23 committees and 104 subcommittees, and the Senate has 17 committees and 70 subcommittees, though these numbers are fluid and can change with each new Congress. Bills are first sent to subcommittee, where they are investigated, and if approved they move on to committee for the same process.

ABOVE: Oath of Senators for the impeachment trial of President William Jefferson (Bill) Clinton. Courtesy of the National Archives and Records Administration.

If the full committee approves the bill, it goes to the floor for a full house vote. Leadership of that house decides the best time for the bill to be voted on, and adds it to the calendar. Many factors, such as national emergencies, determine when, or if, a bill will be voted on.

Each house of Congress has different processes to guide a bill from the floor to the final vote. Members are given time to speak in support of or against the bill, and amendments may be offered. Once debate is over, a vote is taken.

A bill must pass both houses of Congress. If two different versions of the bill pass in the two houses, a Conference Committee with members of both houses is formed to reconcile the two versions. Once an agreement is reached,



ABOVE: Nomination of Nelson Rockefeller for Vice President by President Gerald Ford, 1974. Courtesy of the National Archives and Records Administration.

the two houses vote again on the final version of the bill. The bill is then sent to the president for a signature. Once it is signed, it becomes a law.

The president has several choices—he can veto the bill if he does not approve, return it to Congress for amendments, or simply not do anything. If he does not sign the bill, veto it, or return it to Congress within 10 days, the bill automatically becomes a law. If the president vetoes a bill, it may return to Congress for another vote. Congress can override a presidential veto with a two-thirds vote in each house. Every bill that passes Congress must be presented to the president, except moves to adjourn in each house.

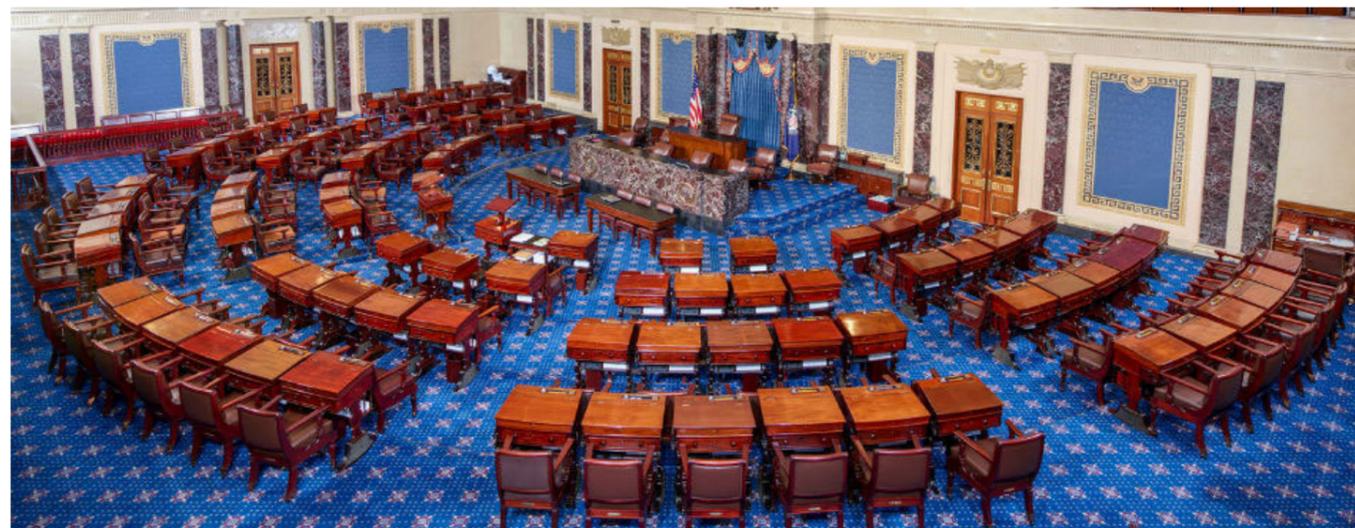
What other agencies support the Legislative branch?

- Architect of the Capitol
- Congressional Budget Office
- Congressional Research Service
- Copyright Office
- Government Accountability Office
- Government Publishing Office
- House Office of Inspector General
- House Office of the Clerk
- Joint Congressional Committee on Inaugural Ceremonies

- Library of Congress
- Medicaid and CHIP Payment and Access Commission
- Medicare Payment Advisory Commission
- Office of Compliance
- Open World Leadership Center
- Stennis Center for Public Service
- U.S. Botanic Garden
- U.S. Capitol Police
- U.S. Capitol Visitor Center

Conclusion

The Legislative branch has the great responsibility to create the nation's laws. The people vote representatives from each state into office who they believe will work toward legislation that is in their best interests. These laws must be able to pass a Constitutional test if challenged in the court system, and should also be able to gain the support of the president. Congress must work closely with both of the other branches of the government to support the Constitution, and create laws that will continue to ensure the health of our democracy.



ABOVE: Senate Chamber, U.S. Capitol. Courtesy of the U.S. Senate.

Recent Speakers of the House



Dennis Hastert
1999–2007



Nancy Pelosi
2007–2011



John Boehner
2011–2015



Paul Ryan
2015–2019



Nancy Pelosi
2019–Present





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