

Congress: The Legislative Branch

Essential Question What powers does the Constitution give to Congress?



About the Photo

One of the most recognizable symbols of American government, the United States Capitol building in Washington, D.C., is where the Congress conducts its work. Construction began on the original building in 1793. It has since expanded and renovated several times. In 1863, workers completed the cast-iron dome currently in place, atop which stands a bronze statue of Freedom. In the 1870s, landscaping and terraces were added outside the building. Inside, the Capitol building contains over 500 rooms, as well as the expansive House and Senate chambers.



CHAPTER AT A GLANCE

SECTION 1 Congress

- Members of Congress strive to represent the interests of their constituents while keeping in mind the needs of the country as a whole.
- Congress is a bicameral legislature with a House of Representatives and a Senate.
- Congress plays a vital role in the system of checks and balances.

SECTION 2 The Powers of Congress

- Congress has extensive expressed, inherent, and implied powers.
- The extent of Congress's implied powers is a subject of debate.
- The powers of Congress have expanded over time with the growth of government.

SECTION 3 The House of Representatives

- Membership in the House of Representatives is apportioned to each state on the basis of its population. After each census, seats in the House are reapportioned among the states and new district boundaries are drawn.
- The Speaker of the House is one of the most powerful leaders in government.
- The House relies on a committee system to conduct much of its business.

SECTION 4 The Senate

- Each state has two senators, regardless of population. Like the House, the Senate relies on a system of committees.
- Senate traditions, such as open debate, make it a distinctive body.

SECTION 5 Congress at Work

- Bills may be introduced in either house and usually get assigned to committees for analysis and revision.
- Floor debates differ in the House and Senate.
- Differences between House and Senate versions of a bill are resolved in a conference committee.
- The president needs to sign a bill for it to become law.

CONNECTING TO THE CONSTITUTION



Our nation's system of government is based on constitutional law established by the United States Constitution. See the "We the People: The Citizen and the Constitution" pages in this chapter for an in-depth exploration of the sources of congressional legislation.

SECTION 1

Congress

BEFORE YOU READ

Main Idea

The voters elect members of Congress to represent them and to enact laws in their name. Congress plays a vital role in our government's system of checks and balances.

Reading Focus

1. How does Congress represent the people?
2. Why is the structure of Congress important?
3. What is the role of Congress in the system of checks and balances?

Key Terms

constituents
apportionment
appropriation
impeachment
oversight

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TAKING NOTES

Use the graphic organizer online to take notes on the powers and features of Congress.

WHY IT MATTERS

The People's Representatives Every two years, in January, members of Congress—535 of them—convene in the Capitol to open a new Congress. They are people from different regions of the country and different walks of life. They bring different viewpoints and life experiences. They come to Washington, D.C., to speak for over 300 million of their fellow Americans.

Opening day of a new Congress is a relaxed time. The business of legislating has not begun. For returning members, it is a chance to meet old friends and congratulate them on winning re-election. For new members there is the satisfaction of

knowing they have two years to pursue the policies and agendas that motivated them to run for Congress.

Senate procedures on opening day are fairly routine. Newly elected and re-elected members, about a third of the Senate, take the oath of office, and the chamber passes resolutions on rules. In the House of Representatives, the clerk calls the House to order, checks the roll, and then the members-to-be formally elect a Speaker, who swears in the other 434 representatives.

The oath points to the serious purpose of the day. Before they begin to carry out the people's business, each member swears to "preserve, protect, and defend the Constitution." ■

Opening Day in Congress

With family members present on opening day 2009, House members take the oath of office in the House Chamber.

Congress and the People

The opening words of the Constitution—“We the People”—signal that, in our nation, it is the people who are sovereign. Yet the people do not take part in national government directly. They do so by electing representatives, whose job it is to make and carry out laws.

Article I of the Constitution gives the law-making power to Congress. It also specifies that the “people of the several States” shall choose the members of Congress in regularly scheduled elections. The U.S. Congress, then, is the body through which the will of the people is made into law.

Representing the People Each member of Congress represents the people of a particular geographic area. The people who live within that area are called the member’s **constituents**. Thus, one way in which a member of Congress represents the people is by representing his or her constituents.

Most constituents have particular interests and concerns. Those interests may be economic—for example, related to their jobs and industries. Interests may also be philosophical or personal—for example, a constituent may have a strong belief in environmental protection. Indeed, constituents may hold a variety of interests. Sometimes these various interests are in conflict with each other, which complicates the job of a member of Congress pledged to represent the constituents’ interests.

Members of Congress must also deal with the demands of organized groups of like-minded people who join together to influence government and its policies. These organized groups, called interest groups, may draw their membership from across the nation and represent only a small number of any one of a Congress member’s constituents. Still, members of Congress must deal with pressure applied by interest groups as they attempt to represent “the people.”

In addition to representing their constituents, members of Congress also keep in mind the needs of the country as a whole. They try to balance their constituents’ special needs with a desire to promote the common good—the outcome that is best for all.

This can be a difficult task. Sometimes members seek to serve their constituents directly—for example, by working to bring federal funding to their home district or answering a query. In fact, each member employs a staff of assistants to act on queries from constituents. Other times, members may vote based on what they think is in the best interest of the nation, even if it conflicts with the views of their constituents. These are both ways in which members of Congress represent the people.

Members of Congress Who are these men and women representing the people of the nation? How did they get their jobs? Beyond certain minimal requirements of office, which will be explained in detail in Sections 3 and 4 of this chapter, the Constitution places few limits on who can be a member of Congress. Still, members of Congress tend to have more in common with each other than with the constituents they represent.

Members of Congress tend to be older than the average age of the general population. The average age of members in recent Congresses has been in the mid-to-upper fifties. Members of Congress are also much wealthier than the general population. In recent years there have been dozens of millionaires in Congress.

Most members of Congress are white men. The number who are women, African Americans, Hispanics, or members of other minority groups is low compared to these groups’ percentage of the general population. In recent years, however, Congress has become more diverse. The 110th Congress elected the first female Speaker of the House, Nancy Pelosi (D, California). The numbers of women and African Americans in the 112th Congress (which began in 2011) were at an all-time high.

READING CHECK Identifying the Main Idea

What groups do members of Congress represent?

The Structure of Congress

As you know, Congress is a bicameral legislature. Its two houses are the House of Representatives and the Senate. These houses differ significantly in key details.



How might members of Congress balance their roles as delegates of their constituents and trustees of the common good?

The House of Representatives The Constitution states that seats in the House “shall be apportioned among the several States . . . according to their respective Numbers.” **Apportionment** means the distribution of House seats among the states based on population. Each House seat is meant to represent about the same number of people. The larger a state’s population, the more representatives it has. Each state, however, is guaranteed at least one House member.

Today the total number of House seats is 435. That number was fixed by law in 1929. Congress has since added nonvoting delegates from the District of Columbia, Guam, the U.S. Virgin Islands, and American Samoa. House members serve two-year terms. All seats are contested at the same time. This can result in a rapid swing of control of the House from one party to another after an election.

The Senate The Constitution fixes membership in the Senate at “two Senators from each state.” As a result, the Senate today has 100 members.

Originally, the Constitution gave the power to choose senators to state legislatures rather than to the voters. This changed in 1913, when the Seventeenth Amendment, requiring popular election of senators, was ratified. This amendment made the Senate a more democratic institution.

Unlike their colleagues in the House, senators serve six-year terms. These terms are staggered so that every two years, one-third of the seats are up for election. Staggered elections prevent major changes in Senate membership due to any one election.

The Two-House Structure Why did the Constitutional Convention create a bicameral legislature? The Framers were familiar with the two-house British Parliament. Several of the states also had bicameral legislatures. These models no doubt had an influence on the Framers’ thinking. The decision at the Convention, however, was a result of the Great Compromise—one of the most important compromises of the Convention.

The Great Compromise combined elements of the Virginia Plan, which called for a bicameral legislature with representation based on state population, and the New Jersey Plan, which proposed a one-house legislature in which all the states would be represented equally. States with large populations favored the Virginia Plan, and those with small populations favored the New Jersey Plan. The plan accepted in the Great Compromise featured two houses, one in which small states and large states had equal representation and one in which representation was based on population.

The Great Compromise also settled a Convention debate over how much say to give the voting public. The House, with its frequent direct elections, would more closely reflect the people’s will. The Senate, with no direct elections and longer terms, would be less subject to public passions. George Washington compared the two-house system to drinking a cup of hot coffee. “We pour legislation [from the House],” he explained to Thomas Jefferson, “into the senatorial saucer to cool it.”

READING CHECK Summarizing What are the key features and purposes of the bicameral structure?

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CONGRESSIONAL REPRESENTATION SELECTED STATES, 2009

State	Population*	House Members	Senate Members
California	36,961,664	53	2
Florida	18,537,969	25	2
Georgia	9,829,211	13	2
Illinois	12,910,409	19	2
Indiana	6,423,113	9	2
Texas	24,782,302	32	2
Virginia	7,882,590	11	2
Wyoming	544,270	1	2

*Census estimates, 2009

Skills
FOCUS

INTERPRETING CHARTS

Do you think having equal representation of every state in the Senate reflects the principle of federalism? Do you think it is fair?

Congress and Checks and Balances

As you have read, our constitutional system is built on a system of checks and balances. Governmental power is divided and separated into three different branches. As the legislative branch of government, Congress has potent checks on the powers of the executive and judicial branches.

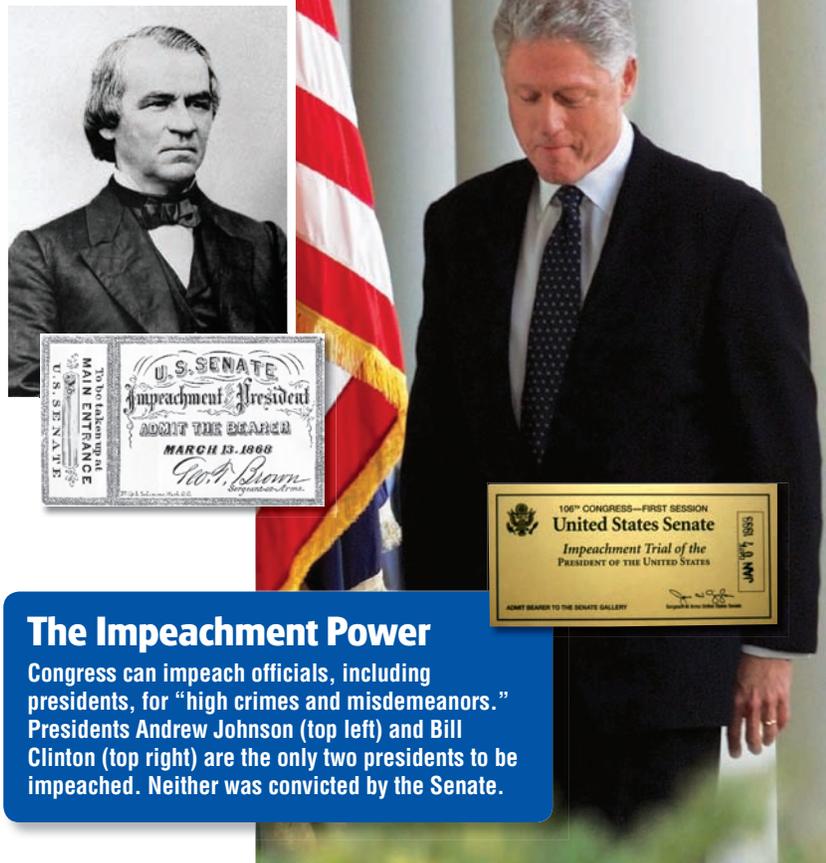
The Power of the Purse Congress alone has the power to approve spending by the federal government. It exercises this power through a special type of act called an **appropriation**, or a bill that sets aside funds for a specific purpose. This congressional power is sometimes referred to as the “power of the purse.” With it, Congress can prevent the executive branch from carrying out policies it disagrees with. The president can make budget requests, yet Congress can refuse to fund those requests.

Likewise, Congress can, in theory, withhold funding for military actions that the president has committed to. In reality, though, when troops are in the field, members of Congress find it politically difficult to withhold funding.

The Framers placed some limits on Congress’s power of the purse. Congress cannot, for example, lower the pay of the president and judges during their time in office. The Framers wanted to make sure that Congress did not use salary as a means to put pressure on or undercut the authority of the other branches.

The Power of Advice and Consent The Constitution gives the president the job of making treaties with foreign governments and appointing key government officials. These officials include ambassadors, federal judges and Supreme Court justices, and other top government leaders. These presidential powers, however, are subject to the “advice and consent” of the Senate.

Any treaty negotiated by a president is put to a vote in the Senate. It must receive a two-thirds vote to become law. In fact, several treaties signed by U.S. presidents have never been enacted because the Senate chose not to approve them.



The Impeachment Power

Congress can impeach officials, including presidents, for “high crimes and misdemeanors.” Presidents Andrew Johnson (top left) and Bill Clinton (top right) are the only two presidents to be impeached. Neither was convicted by the Senate.

The Senate can also reject top presidential appointees. In 1987, for example, the Senate rejected President Ronald Reagan’s Supreme Court nominee Robert Bork after a lengthy confirmation battle.

The Impeachment Power Congress has the power to charge officials in the executive and judicial branches with wrongdoing and bring them to trial. This is known as the power of **impeachment**. If found guilty, impeached officials can be removed from office before the completion of their terms.

The impeachment process begins in the House of Representatives, which has responsibility for drawing up the charges against the official. A majority vote to approve the charges results in the formal impeachment of the official.

The Senate then holds a trial, with the vice president serving as the judge. In the event of the impeachment of a president or vice president, the Chief Justice of the United States serves as the judge. A two-thirds vote of the Senate is required to find the official guilty and remove him or her from office.

The Constitution calls for impeachment in cases of treason, bribery, or “high crimes and misdemeanors.” The last phrase gives Congress wide freedom to decide when an official deserves impeachment. In fact, though, Congress has impeached only 17 officials. Most of these were federal judges. Two, however, were presidents—Andrew Johnson in 1868 and Bill Clinton in 1998.

In 1868 Congress and President Johnson were bitterly divided over Reconstruction. Congress had passed a law requiring Senate approval before the president could remove any top government official. Johnson felt the law was unconstitutional and disobeyed it. The House impeached him. Johnson avoided conviction in the Senate trial by one vote and served out the rest of his term.

In 1998 the House impeached President Bill Clinton. The charges included giving false testimony to a court in a civil case unrelated to the president’s official duties. As in the Johnson case, the Senate fell short of the votes necessary to convict Clinton. He served out the remainder of his term.

Another president, Richard Nixon, faced almost certain impeachment in 1974. Embroiled in the Watergate scandal in which he was accused of covering up illegal activities by members of his re-election campaign staff, Nixon resigned before Congress had a chance to impeach him.

Other Checks and Balances Congress balances the powers of the other branches of government in several more ways. For example, Congress can check the power of the judicial branch by starting the process of amending the Constitution. The states have the final authority to ratify any amendments Congress proposes. The ability to help change the Constitution can serve as a check on the power of courts to declare acts of Congress unconstitutional.

Congress can also check the power of the executive branch by voting to override a presidential veto of a bill previously passed by Congress. An override is not easy to obtain. It requires a two-thirds vote of each chamber of Congress. About 100 presidential vetoes, 4 percent, have been overridden since the first Congress convened in 1789.

Congress has broad powers to review how the executive branch is operating and to make sure it is following the laws Congress has passed. This is called congressional **oversight**. Congress can hold hearings and force witnesses to appear, including officials from the executive branch. Congress can use its oversight power to bring great political pressure on the executive.

READING CHECK Identifying Supporting

Details What are some examples of checks and balances Congress has over the executive branch?

SECTION 1 ASSESSMENT hmhsocialstudies.com
ONLINE QUIZ

Reviewing Ideas and Terms

- a. Recall** What is the term for the people represented by a member of Congress?

b. Explain What are some of the ways in which members of Congress try to represent the people they serve?

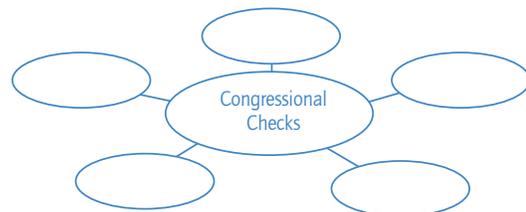
c. Elaborate How well do you think the members of Congress have reflected the people they represent in recent times?
- a. Describe** What are some of the key differences between the House of Representatives and the Senate?

b. Evaluate How well do you think the structure of Congress addresses the concerns about the power of large states and the influence of public passions on legislation?
- a. Describe** What is impeachment?

b. Make Inferences What can you infer from the fact that Congress has impeached just 17 officials in U.S. history?

Critical Thinking

- Rank** Using your notes and the graphic organizer below, rank the significance of checks on the other branches that Congress has.



FOCUS ON WRITING

- Persuasive** As a delegate at the Constitutional Convention, write a speech supporting the Great Compromise.

SECTION 2

The Powers of Congress

BEFORE YOU READ

Main Idea

The Constitution gives Congress many expressed powers, and it implies some others. The Constitution also places limits on the powers of Congress.

Reading Focus

1. What types of powers does Congress have?
2. What are the expressed powers of Congress?
3. What are the implied powers of Congress?
4. What are some of Congress's nonlegislative powers?
5. What are some of the limits on the powers of Congress?
6. How has the power of Congress changed during U.S. history?

Key Terms

necessary and proper clause
indirect tax
direct tax
deficit
commerce clause
subpoenas
writ of habeas corpus
bill of attainder
ex post facto laws

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TAKING NOTES

Use the graphic organizer online to take notes on the powers of Congress.

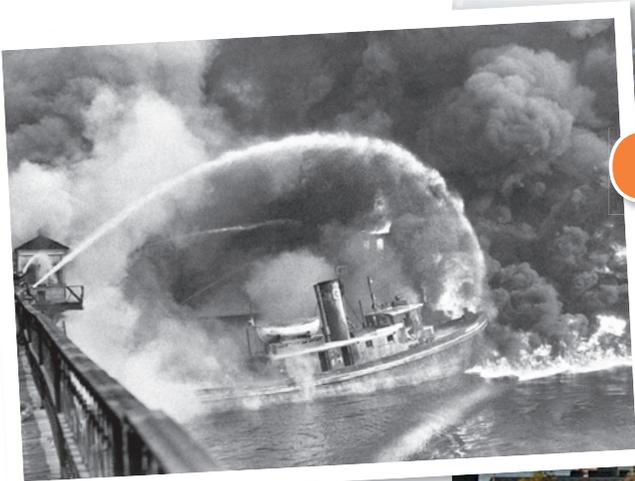
WHY IT MATTERS

A Fire Leads to Change In 1969 the Cuyahoga River, which runs through downtown Cleveland, Ohio, caught fire. Decades of unregulated dumping of industrial wastes had turned the river into a toxic—and flammable—brew of oil and chemicals. The fire that day was not the first time the Cuyahoga had burst into flames, nor was it the biggest to have broken out on the river. In 30 minutes the fire was out. The Cleveland newspapers did not even have time to send photographers to cover the story.

The fire on the Cuyahoga may have burned a short time, but for advocates of a cleaner environment, it came at the right time. A growing environmental movement, spurred by books like *Silent Spring*, was calling for change. A river catching fire

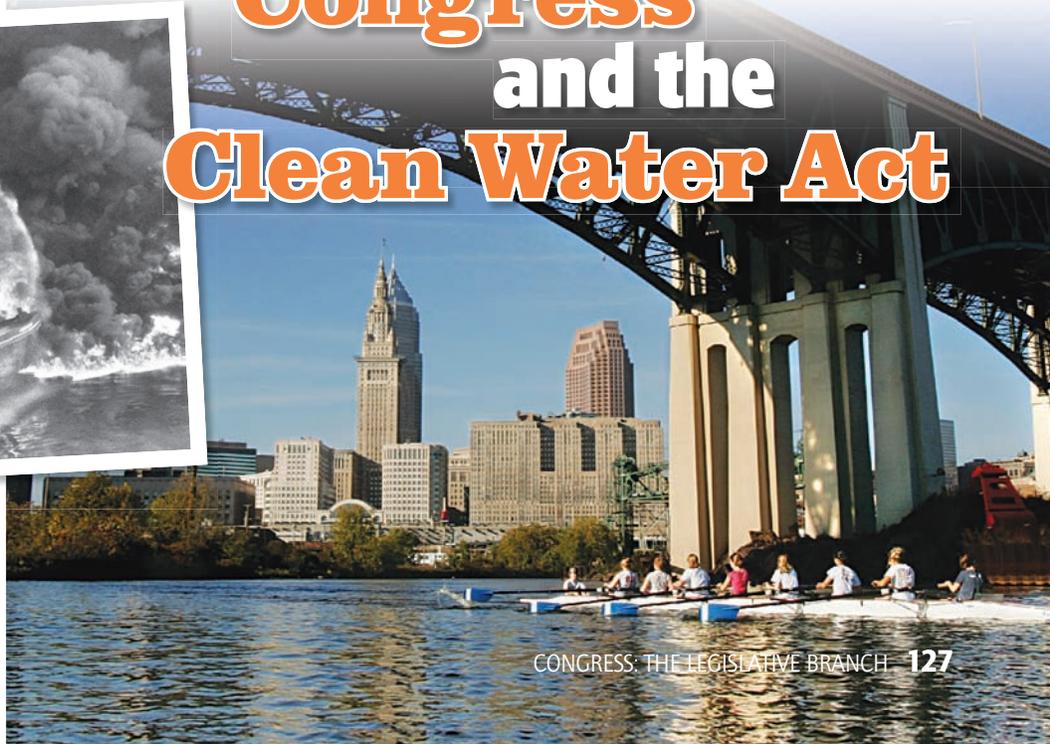
provided a vivid demonstration of why new laws safeguarding the environment were needed. The calls for reform reached the halls of Congress. In 1972 Congress passed the first of a series of environmental laws to protect the nation's waterways that today goes by the name of the Clean Water Act.

Where did Congress get the authority to pass laws protecting the environment? The word *environment* never appears in the Constitution. Nor does Social Security or interstate highways or many other programs we take for granted. Congress used its powers under generally worded clauses to create these programs. The Framers made the Constitution flexible enough to allow Congress to meet new challenges as they arise. ■



The Cuyahoga River, afire in 1952, (above) is the scene of rowing races today (right).

Congress and the Clean Water Act



Defining the Powers of Congress

As discussed in Chapter 4, the Constitution establishes the structure of Congress and lists its powers. It also includes language suggesting additional congressional powers.

- **Expressed Powers** Article I, Section 8, of the Constitution lists 18 specific powers that Congress is meant to wield, including coining money, collecting taxes, regulating commerce, raising and maintaining armed forces, and declaring war.
- **Implied Powers** Implied powers are those powers only suggested by the Constitution. Congress's implied powers derive from Article I, Section 8, Clause 18, which gives the national legislature the power to “make all Laws which shall be necessary and proper for carrying into execution the [expressed] Powers and all other Powers vested by this Constitution in the Government of the United States.” This clause is known variously as the elastic clause or the **necessary and proper clause**.
- **Inherent Powers** Those powers that all governments of independent nations possess are known as inherent powers because they do not have to be spelled out. Examples of inherent power include the power to control borders and to make agreements with other nations. Just which branch of government—the legislative or the executive—holds these inherent powers has never been definitively determined. Because most inherent powers involve foreign affairs, presidents have been more forceful and more frequent in asserting a claim to them. However, Congress has often shown itself willing to contest, or at least modify, these claims.
- **Powers Denied Congress** Since the Framers believed in limited government overall and federalism specifically, they were careful to place some limits on congressional power. Article I, Section 9, lists powers specifically denied to Congress.

READING CHECK Contrasting What is the difference between an expressed power and an implied power?

Expressed Powers of Congress

The expressed powers of Congress—those powers explicitly listed in Article I, Section 8, and elsewhere in the Constitution—fall into three broad categories. There are powers relating to government finance and revenue, to the regulation of commerce, and to national defense. In addition, there are other powers that address specific issues of national importance, such as the creation of a postal service and coining money.

Financing Powers The Constitution gives Congress the power to raise money to run the government through two means—levying taxes and borrowing money. In giving Congress these powers, the Framers sought to address a major weakness of the Articles of Confederation. Under that document, the national government could ask the states for money, but it could not *force* the states to supply it. In practice, Congress had difficulty obtaining the funding it needed.

Article I, Section 8, Clause 1, of the Constitution expressly grants Congress the “power to lay and collect Taxes . . . to pay the Debts and provide for the common Defense and general Welfare of the United States.” For much of the nation’s history, the majority of tax revenue was generated by tariffs. A tariff is a tax on goods imported into the country. Another important source of revenue was the indirect tax. An **indirect tax** is a tax levied on one person but passed on to another for payment to the government. Today the federal government collects indirect taxes for products such as gasoline, liquor, and airline tickets. The seller simply includes the tax in the price of the product.

The Framers of the Constitution limited the use of the **direct tax**, or a tax an individual pays directly to the government. Article I, Section 9, Clause 4, says that direct taxes have to be levied in proportion to a state’s population as determined by the census. This provision was meant to reassure slaveholding states, who feared having to pay taxes on their enslaved populations according to a one-to-one ratio instead of the three-fifths ratio used for counting slaves in the census.

ACADEMIC VOCABULARY

levy to impose or collect

In 1895 the Supreme Court used this clause to strike down a federal income tax law. In a sharply divided decision, the Court ruled that an income tax was a direct tax. Unless it was apportioned among the states according to population—something that would be unworkable—an income tax was unconstitutional.

The Sixteenth Amendment addressed this concern in 1913. It specifically empowered Congress to levy an income tax. The amendment also restricted the kinds of direct taxes that could be collected according to “apportionment among the several States.” Today revenue generated by the income tax far outpaces revenue generated by tariffs and other indirect taxes.

The Constitution also gives Congress the power to borrow money on behalf of the United States. This power allows the government to function when there is not enough expected revenue to cover expenses—a budget **deficit**. Deficits can occur during times of emergency, such as during wars. In recent decades, deficit spending has become standard practice in Congress even during good economic times.

Commerce Power The Constitution gives the federal government the right to regulate interstate commerce. That is, Congress alone can pass laws affecting economic activity that takes place across state lines. Under the Articles of Confederation, Congress lacked this power, and individual states promoted

their own businesses and penalized those of other states. States placed taxes on the goods of other states or even barred their entry. As a result, the nation’s economy suffered.

Congress’s commerce power is contained in Article I, Section 8, Clause 3, of the Constitution, known as the **commerce clause**. The commerce clause passed with little debate during the Constitutional Convention. The Framers were all too aware of the problems under the Articles of Confederation. Yet from 1789 to 1950, no clause in the Constitution was the subject of more litigation than the commerce clause. Through that litigation, and the Supreme Court decisions that resulted, the commerce clause became the single most important source of federal government power. The shape of our modern economy as well as many activities we take for granted today as the proper responsibility of government derive ultimately from the commerce clause.

An early Supreme Court case, *Gibbons v. Ogden* (1824), helped define the commerce clause. The case involved the right of a state legislature to award a monopoly to operate a steamship line for travel between two states, New York and New Jersey. The Supreme Court struck down the state law, ruling that only Congress has the right to regulate interstate commerce. You can read more about this case later in the section.

Using its commerce power, Congress has passed many laws that, on the surface, seem unrelated to regulating interstate commerce.

ACADEMIC VOCABULARY

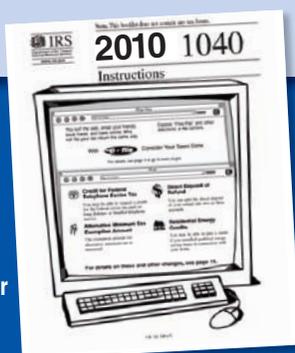
litigation legal dispute

Expressed Powers of Congress

Article I, Section 8, of the Constitution lists 18 powers that Congress has. These powers are extensive, and some, such as the power to regulate interstate commerce, have been used to accomplish policy goals the Framers never imagined.

- Clause 1** To levy taxes
- Clause 2** To borrow money
- Clause 3** To regulate foreign and interstate commerce
- Clause 4** To establish uniform rules of citizenship

Clause 1 gives Congress the power to levy taxes.



Congress’s power to regulate interstate commerce rests on Clause 3.



For example, as part of the Civil Rights Act of 1964, Congress used its commerce power to outlaw segregation in certain types of public establishments. The Heart of Atlanta Motel challenged the idea that the renting of rooms in its motel was an act of interstate commerce. The Supreme Court disagreed. In *Heart of Atlanta Motel, Inc., v. United States* (1964), the Court ruled that the availability of motel rooms affected interstate travel of truckers. Congress acted constitutionally when it used the commerce clause to attack racial segregation.

Defense-Related Powers The Constitution splits responsibility for national defense and foreign policy between Congress and the president. The Framers made the president commander in chief because they knew that having a single leader was important for effective military action. The president must also shape and carry out the nation's diplomatic efforts and relations with foreign countries. These duties give the president far-reaching powers to make decisions and take action in this arena.

The Framers reserved for Congress the power to declare war. A congressional declaration of war can send a strong message of resolve to the nation's enemies. In reality, however, a president can make war without a congressional declaration of war. The president simply commands troops into battle, and they go. This has happened frequently in U.S. history.

Following the Vietnam War, where U.S. troops were engaged in combat for nine years without a formal declaration of war, Congress moved to limit the president's ability to fight wars without such a declaration. It passed a joint resolution in 1973 known as the War Powers Resolution. The act requires a president to report to Congress anytime he or she sends troops into possible conflict without a declaration of war. Congress can then declare war or otherwise approve the continued use of U.S. forces. Without congressional agreement, the act requires the president to end the military action within 60 to 90 days, in most cases.

The ability of Congress to use the act to halt a president's use of military power is still unclear. Presidents have, however, made dozens of reports to Congress under the terms of the act. Some see this as proof that the act has increased Congress's involvement in the war-making power of the government.

The Constitution gives Congress the power to create an army and navy and to provide for their funding (Article I, Section 8, Clauses 12 and 13). At the time of the Constitution's writing, there was great fear of standing peacetime armies. The delegates discussed whether to forbid the maintenance of an army in times of peace. They finally chose to place a two-year limit on spending for the U.S. army. The two-year cap would prevent the army from becoming too powerful and independent of the control of Congress. This constitutional provision

Expressed Powers of Congress

- Clause 5** To coin money; to set uniform weights and measures
- Clause 6** To punish counterfeiters
- Clause 7** To establish post offices and post roads
- Clause 8** To make copyright and patent laws

- Clause 9** To establish national courts inferior to the Supreme Court
- Clause 10** To define and punish piracy and other violations of international law
- Clause 11** To declare war
- Clause 12** To raise and support armies



Clause 5 covers the power to coin money.



Congress created the U.S. Postal Service using its powers under Clause 7.

Federal courthouses, like this one in New York City, exist because of Clause 9.



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today gives the Congress the power of the purse over military activities. If Congress strongly opposed a president's use of the military, it could vote to deny funding.

Congress shares power with the states over the maintenance of the militia—today known as the National Guard. Congress has given the president the power to call out the National Guard in emergencies.

Other Expressed Powers Many of the other expressed powers aimed either to aid the development of a national economy or to safeguard national sovereignty. These were areas of policy the Framers believed belonged to the national government.

- **Coinage power** Under the Articles of Confederation, the individual states had the power to coin money, resulting in confusion and conflict. The Constitution gave this power to the national government.
- **National postal service** The creation of a fast, reliable postal system was seen as vital to the development of nation's economy.
- **Copyrights and patents** The Constitution gave Congress the power to write copyright and patent laws, which ensure writers and inventors "exclusive rights" to their respective writings and discoveries. The Framers believed that guaranteeing ownership rights and, with them, the chance to profit from one's work would encourage "the Progress of Science and useful Arts."

- **Weights and measures** Standardizing weights and measures—for example, gallons, pounds, and yards—gave people confidence that a pound of goods in one state would be a pound in another.
- **Bankruptcy** Bankruptcy was a major issue in the early days of the nation. Congress is constitutionally charged with the job of establishing laws on the subject of bankruptcy. The fair and clear settlement of bankruptcy cases is an aid to commerce.
- **Naturalization** The Constitution gives Congress the power to "establish an uniform Rule of Naturalization." Naturalization is the process by which an immigrant to this country becomes a citizen. This provision of the Constitution suggests that the Framers expected the country to grow and for immigrants to continue to move here.
- **Federal courts** The Constitution establishes the Supreme Court. Congress is charged, however, with establishing the federal courts beneath the Supreme Court. In Chapter 8, you will read how Congress has used this power.
- **Congressional elections** Congress has the power to make laws about the time, place, and manner of electing its members. In practice, it leaves the details to the states.

READING CHECK Summarizing How do Congress's expressed powers in finance, defense, and commerce give it a leading role in American life?

Clause 13 To raise and maintain a navy

Clause 14 To establish military laws

Clause 15 To call up a national militia in times of uprising or foreign invasion



Congress funds the construction and operation of naval vessels using its powers under Clause 13.

Clause 17 empowers Congress to create a local government and courts for Washington, D.C.

Clause 16 To organize, arm, and discipline a militia when it is called into service

Clause 17 To exercise jurisdiction over the District of Columbia

Clause 18 To make all laws necessary and proper to the execution of any of the other expressed powers



Over time, Clause 18, the necessary and proper clause, has become the source of authority for much of the congressional legislation that affects Americans' everyday lives.



"LANDMARK SUPREME COURT CASES"

Constitutional Issue: Federalism



Gibbons v. Ogden (1824)

WHY IT MATTERS

Gibbons v. Ogden was the first case in which the Supreme Court ruled on the Constitution's commerce clause, which concerns Congress's power to regulate interstate commerce.

Background

In the early 1800s steamboat inventors Robert Fulton and Robert Livingston had a monopoly granted by the state legislature on steamboat travel in New York State. Their company later licensed Aaron Ogden to operate steamboat ferries between New York City and New Jersey. When Thomas Gibbons, who held a "coasting license" from the federal government, began to operate a competing ferry line between New York and New Jersey, Ogden sued to keep Gibbons out of New York waters. A New York court ruled that the Fulton–Livingston monopoly was legal and that Gibbons could not operate in New York under his federal license. Gibbons then appealed this decision to the Supreme Court.

Arguments for Gibbons

Gibbons argued that New York's grant of a steamboat monopoly to Fulton and Livingston conflicted with the congressional power to regulate interstate commerce outlined in Article I, Section 8, of the Constitution. Navigation, he said, was a distinct form of commerce, one that clearly fell under congressional authority. His steamboat ferry operated between two states; therefore, even though the New York monopoly affected only New York waters, it unfairly restricted him from engaging in interstate commerce.

Gibbons argued that the Court should confirm federal authority over interstate commerce in all its forms. Quite simply, federal regulations—in this case, Gibbons's federal coasting license—should take precedence over state and local regulations—in this case, New York's steamboat monopoly.

Arguments for Ogden

Ogden argued that the commerce clause should be read narrowly and that commerce should be defined as simply the buying and selling of goods. Since Ogden's steamboat line did not buy or sell goods, he argued that it could not be considered commerce and that steamboat travel could not be regulated by the federal government under the commerce clause. Even if steamboat travel were to be considered commerce, Ogden believed, the New York restrictions on steamboat traffic applied only to New York waters and should not be subject to congressional authority over interstate commerce. Instead, navigation should be regulated only by state or local governments.

THE IMPACT TODAY

In an opinion written by Chief Justice John Marshall, the Court ruled strongly in favor of Gibbons, saying that the power to regulate commerce "is complete in itself [and] may be exercised to its utmost extent." Since the *Gibbons* ruling, the commerce clause has emerged as the most important source of federal power. Our modern economy and the federal regulation of any number of industries rest largely on the commerce clause. The commerce clause also frequently underlies congressional action on many issues of morality, criminal activities, the minimum wage, racial discrimination in hotels, restaurants, and other public places, and other areas seemingly unconnected to interstate commerce.

CRITICAL THINKING

What Do You Think? Congress and the Supreme Court have interpreted the commerce clause broadly, expanding the areas open to federal action. Do you think this is appropriate? Explain your answer.

Implied Powers of Congress

The Constitution's list of expressed powers is long. Nonetheless, the Framers knew that they could not list all possible powers that a future Congress would need. Therefore, they concluded the list of congressional powers with a final clause, known as the necessary and proper clause, that would allow Congress to take actions needed to carry out the expressed powers.

From the nation's founding, the necessary and proper clause has stirred controversy. How should these words, and by implication, the Constitution itself, be interpreted?

Loose and Strict Constructionists On one side of the issue, strict constructionists argue that Congress should exercise only those powers clearly granted to it in the Constitution. In the early days of the republic, strict constructionists were known as Antifederalists because they wanted to preserve power for the states as much as possible. Loose constructionists, known as Federalists, wanted Congress to have freedom to act vigorously. If something were “necessary and proper” to the exercise of one of Congress's expressed powers, they argued, then Congress could do it.

Thomas Jefferson and Alexander Hamilton led the opposing sides in the debate over what “necessary and proper” meant. As advisers to President George Washington in 1791, they fought bitterly over the issue. As a strict constructionist, Jefferson argued that “to take a single step beyond the boundaries . . . drawn around the powers of Congress is to take possession of a boundless field of power.” The Federalist reading of “necessary and proper,” Jefferson said, “would reduce the whole instrument to a single phrase.”

Hamilton countered for the Federalists. He argued that because the needs of the nation were “of such infinite variety, extent, and complexity,” the national government had to have freedom to meet those needs.

The setting for this conflict was a proposal for Congress to create a national bank. Hamilton thought a bank was a necessary

and proper tool for regulating commerce. Jefferson countered that the Constitution said nothing about Congress creating a bank, so one should not be created.

Hamilton won the debate, though to get Jefferson and other southerners who opposed the bank to compromise he had to agree to support their plan to move the capital to an area on the Potomac River, site of Washington, D.C., today. In 1791 a national bank was created.

The debate did not end there. The bank's charter ended in 1811, and a new bank was created in 1814. In 1816, however, Maryland imposed a tax on the activities of the national bank. Maryland's actions led to a Supreme Court case—*McCulloch v. Maryland* (1819). The Court's opinion addressed Maryland's actions. It also addressed the question of whether the necessary and proper clause gave Congress the power to create the bank in the first place. In his opinion, Chief Justice John Marshall wrote:

PRIMARY SOURCE

“We admit, as all must admit, that the powers of the government are limited, and that its limits are not to be transcended [surpassed]. But we think the sound construction of the constitution must allow to the national legislature that discretion, with respect to the means by which the powers it confers [gives] are to be carried into execution, which will enable that body to perform the high duties assigned to it, in the manner most beneficial to the people.”

—John Marshall, *McCulloch v. Maryland*, 1819

The Necessary and Proper Clause

Today In general, Marshall's interpretation of the necessary and proper clause has prevailed in American government. Since the Court's decision, the doctrine of implied powers has been an important source of federal authority. Congress has relied on this view to create programs and laws in a wide variety of areas. For example, Social Security and Medicare are not directly related to any expressed power. They are considered reasonably related to the constitutional duty to preserve the general welfare. Because the necessary and proper clause has led to the stretching of congressional power, it is sometimes referred to as the elastic clause.

SELECTED EXPRESSED AND IMPLIED POWERS

Expressed Power

To collect taxes to support the general welfare



- To create the Internal Revenue Service (IRS) to collect taxes
- To spend revenue on education, roads, housing, etc.

To raise and support armies



- To create a draft or selective service requirement
- To create the air force
- To create the interstate highway system, easing troop transportation

To make all laws necessary and proper . . .



- To create Social Security, unemployment insurance, and Medicare as means to protect the general welfare

To regulate commerce



- To pass minimum wage and overtime pay laws
- To set health standards for foods
- To establish laws regulating labor unions
- To prohibit job discrimination based on age, race, or gender
- To break up anticompetitive monopolies
- To restrict the use of child labor

Implied Power

Skills
FOCUS

INTERPRETING CHARTS

Implied powers have to be based in specific expressed powers. How can Social Security, Medicare, and unemployment insurance be considered appropriate use of congressional implied powers?

While it is generally agreed that the necessary and proper clause gives Congress and the federal government implied powers, the extent and nature of those powers remains a matter for debate and contention. What policies are truly reasonable extensions of expressed congressional powers? It is an ever-present question of American politics, one that the Supreme Court is often called on to address but one that perhaps can never be resolved definitively. New conditions call for new solutions, which must be tested against the Constitution.

READING CHECK Identifying Cause and Effect

How did the Supreme Court's decision in *McCulloch v. Maryland* lead to extension of Congressional power?

Nonlegislative Powers

Congress has a variety of powers that are not directly related to the making of laws. Some of these are held by both houses, some only by the House or the Senate.

Powers Common to Both Houses Both houses of Congress together share the power to propose amendments to the Constitution. This requires a two-thirds majority vote of both houses. Congress can, if requested by two-thirds of the states, also call a convention to propose a constitutional amendment. Final amendment power, though, rests with the states, three-fourths of which must approve an amendment for it to be ratified.

Both houses of Congress have the power to conduct investigations. It is their job to oversee the programs they create and the activities of other branches of the national government. To do this work, members of Congress have the power to call witnesses. It can issue **subpoenas**, which are legal documents that require a person to testify in a certain matter. One limit to this power is the president's claim of executive privilege.

You have read also about the roles of the House and Senate in impeachment proceedings. In the case of wrongdoing by a government official, the House can vote to impeach. A trial is then held in the Senate. If two-thirds of the Senate votes to convict, the person can be removed from office.

The Twenty-fifth Amendment states that if the vice presidency is vacant, the president will nominate a replacement. It is the job of both houses of Congress to confirm the choice by majority vote.

Powers of the House The House has the sole power of choosing a president if no candidate gets a majority of votes in the electoral college. The House vote is by state—each state gets one ballot. That is, each state delegation would decide how to cast that state's ballot. The House has had to choose a president on two occasions, in 1800 and in 1824.

The current method by which the House votes is defined in the Twelfth Amendment, which was passed to correct a flaw in the Constitution's original method. Electors were

originally supposed to cast two presidential ballots. The top vote-getter would become president, and the second-place finisher the vice president. The Framers did not, however, foresee party tickets, which list presidential and a vice presidential candidates running together. That flaw became apparent during the election of 1800.

That year, Thomas Jefferson was the presidential candidate and Aaron Burr was his running mate. Electors supporting their Democratic-Republican ticket cast ballots for each man, leading to the tie. The election then went to the House, which was controlled by the Federalists: The party that had just lost the presidential race now got to choose the president. The Federalists chose Jefferson, whom they preferred to Burr.

The Twelfth Amendment eliminated this problem. It created two separate electoral college votes, one for president and one for vice president. The House retained the power to choose the president in the event of no majority in the electoral college.

Powers of the Senate The Twelfth Amendment also gave the Senate the power to choose a vice president if no candidate gets a majority of the electoral college vote. Each senator takes part in this vote.

The Senate also has the job of providing advice and consent on executive and judicial branch appointments made by the president. The Senate must also approve treaties that the president may negotiate in order for them to go into effect.

READING CHECK Making Inferences Why do you think the subpoena power is important for Congress?

Limits on the Powers of Congress

The Constitution was meant to create a stronger federal government, correcting the weaknesses of the Articles of Confederation. Still, the Framers included a number of checks on congressional power.

The separation of powers, which distributes government powers among three branches, is the strongest check on congressional power. The Supreme Court's power of

judicial review, which is implied if not spelled out in the Constitution, checks the power of Congress to pass laws deemed unconstitutional. The president's veto power, although subject to override, also checks Congress's lawmaking powers. Moreover, because Congress relies on the executive branch to carry out the laws, a president who is not pleased with an act of Congress can limit the effect of congressional action through lax enforcement of the law. A president may also apply his or her own interpretation of a law. These interpretations are sometimes expressed in presidential signing statements when a president signs a bill into law. Presidential signing statements are discussed in more detail in Section 5.

In addition to the limitations inherent in the system of checks and balances, the Constitution specifically denies Congress certain powers. These are detailed in Article I, Section 9. For example, Congress was forbidden from prohibiting the slave trade until 1808. It was also forbidden from making laws that might favor one or another state's ports or from placing a tax on articles exported from any state.

The Constitution includes several clauses that protect people's basic civil rights. Article I, Section 9, Clause 2, bars Congress from suspending the **writ of habeas corpus**, a court order that forces the police to present a person in court to face charges, except in cases of rebellion or invasion. Habeas corpus is a Latin phrase meaning "you have the body." The purpose of the writ is to prevent a government from holding people in secret or without charge. When President Abraham Lincoln suspended habeas corpus during the Civil War, a federal court declared the action unconstitutional because Congress had not taken it.

Congress cannot pass a **bill of attainder**—a law that punishes a person without a trial. **Ex post facto laws**, which criminalize an action that took place in the past and that were legal at that time, are likewise forbidden by the Constitution. *Ex post facto* is another Latin phrase, meaning "from after the fact."

READING CHECK Identifying Supporting Details What are some of the limitations on the powers of Congress?

The Changing Power of Congress

The scope of Congress's activities and the range of powers it exercises have grown greatly since the days when Hamilton and Jefferson argued over what the phrase *necessary and proper* means. In response to changing domestic and international conditions, Congress has repeatedly expanded the role of the federal government.

During the Great Depression of the 1930s, for example, Congress responded to the severe economic crisis by passing dozens of far-reaching laws urged on it by President Franklin Roosevelt. These new programs expanded the reach of government into the everyday lives of people as never before—for example, providing Social Security retirement benefits for older people and cash payments to the unemployed.

After World War II, Congress responded to the new status of the United States as a dominant world power by creating new military and intelligence-gathering bodies, such as the U.S. Air Force and the Central

Intelligence Agency. Congress created NASA—the National Aeronautics and Space Administration—in the 1950s to catch and surpass the Soviet Union's program of space exploration.

Significantly, to accomplish these goals, Congress has delegated some of its powers to new federal agencies it created. These agencies are part of the executive branch, and while Congress retains oversight and budgetary authority over these agencies, the job of monitoring them has proved a huge task. Congressional staffs, both for individual members and for committees and subcommittees, have grown to aid members in this task. Congress has used these expanded resources to defend its position against what it perceives as potential encroachments by an empowered executive branch.

In some sense, this is just what the Framers intended. The system of checks and balances means the legislative and executive branches will always be sparring for power.

READING CHECK Identifying the Main Idea What has happened to the powers of Congress over time?

SECTION

2

ASSESSMENT



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ONLINE QUIZ

Reviewing Ideas and Terms

- a. Describe** What are the main powers given to Congress?

b. Design What constitutional solution might be devised to resolve the uncertainty about which branch possesses government's inherent powers?
- a. Describe** What is an **indirect tax**?

b. Analyze Is the division of responsibility for national security between the legislative and the executive branch a good idea?
- a. Identify** What is the key constitutional clause that lies behind most of the implied powers of Congress?

b. Rate Consider the arguments of both Hamilton and Jefferson and explain which one seems the most compelling to you.
- a. Describe** What is the significance of **subpoenas** to the work of Congress?

b. Evaluate Why do you think the Constitution gives the House of Representatives the job of picking a president in the event of a tie vote in the electoral college?
- a. Recall** Why did the founders of the nation want to limit the powers of Congress?

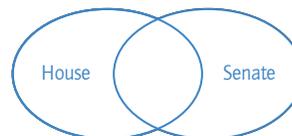
b. Evaluate Why do you think the Constitution includes particular mention of **bills of attainder**, **ex post facto laws**, and suspension of the **writ of habeas corpus**?

- a. Identify** What are some areas of American life that Congress is involved in today that it was not at the time of the writing of the Constitution?

b. Predict What might have happened if Congress had not become involved in modern-day concerns, such as space exploration?

Critical Thinking

- Analyze** Copy and fill in the graphic organizer below and use it to compare and contrast the powers of the House and Senate.



FOCUS ON WRITING

- Narrative** Prepare a five-minute lecture on the history of Congress, explaining its original purpose, the early debates about its function, and the changes in its role throughout history.



SECTION
3

The House of Representatives

BEFORE YOU READ

Main Idea

The House of Representatives, with its frequent elections and regular reapportionment, is the more representative chamber of Congress. Its members carry out much of their work in committees.

Reading Focus

1. What are the key features of the House of Representatives and its membership?
2. What are some of the challenges that reapportionment and redistricting raise?
3. How is the leadership of the House organized?
4. What is the role of committees in the operation of the House?

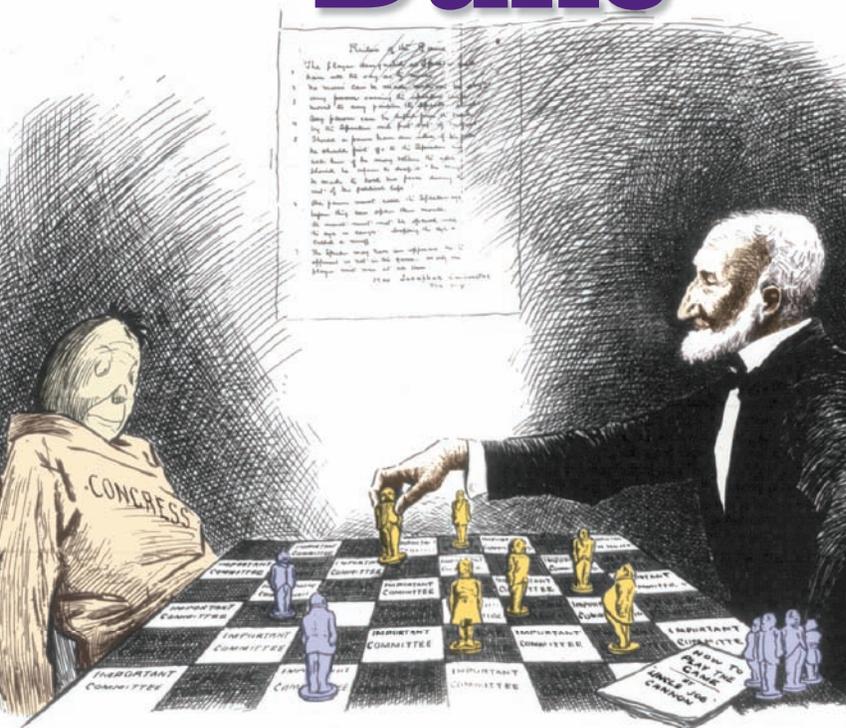
Key Terms

reapportionment
gerrymandering
Speaker of the House
bills
floor leader
whips
party caucus
standing committees
select committees
joint committees

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TAKING NOTES

Use the graphic organizer online to take notes on the features of the House of Representatives.

The Iron Duke



THE POLITICAL CHESS-BOARD

This 1910 political cartoon satirizes the control that Joseph Cannon had over Congress as Speaker of the House.

WHY IT MATTERS

The Power of the Speaker The House of Representatives has given rise to some of the most powerful—and colorful—figures in U.S. history. Perhaps no one illustrates this better than Joseph Gurney Cannon (R, Illinois), whose reign over the House in the early 1900s inspired both affection and fear. To some, he was Uncle Joe, a man beloved by his colleagues. To others, he was Czar Cannon or the Iron Duke.

Cannon won his reputation while serving as the Speaker of the House, the chamber's presiding officer and most powerful member. From that post, Cannon controlled much of what happened in Congress—and in the U.S. government. No bill came up for a vote if he did not want it to. “Not a cent for scenery,” he once scoffed at a proposal to protect forests. He decided who would serve on committees. He chaired the Rules Committee himself, which gave him power over the flow of legislation.

In 1910 the House finally revolted against Cannon’s iron rule. “The . . . minority,” he said, “is now in the majority.” The House stripped him of key powers, making changes in the role of the Speaker that would become a permanent part of the office. Indeed, today’s House of Representatives is in no small part a result of, and a reaction to, Cannon’s years in power. ■

Membership in the House

The Framers intended the House of Representatives to be the chamber most closely in touch with the people. That is why the Constitution calls for House members to be chosen by direct popular vote.

HOUSE OF REPRESENTATIVES: TERMS, SALARY, BENEFITS AND PRIVILEGES

QUICK
FACTS

	House Members	Speaker of the House	Majority and Minority leaders
Salary	\$174,000	\$223,500	\$193,400
Term	2 years		
Benefits and Privileges	<ul style="list-style-type: none"> • Tax deduction for two residences • Travel allowances • Staff • Health and retirement benefits • Franking privilege: free mail to constituents • Free printing • Use of gym, restaurants, and other amenities in the Capitol • Legal immunity for statements made while Congress is in session 		

Source: Congressional Research Service, 2010

The idea of popular election of House members concerned some of the delegates to the Constitutional Convention. John Rutledge, for example, questioned whether voters could be counted on to elect qualified people. Rutledge's position did not prevail, but the delegates decided to restrain the House with a Senate. James Madison assured worried delegates that senators, chosen by state legislatures, would act as a "necessary fence" against reckless representatives.

Formal Qualifications Since it is intended as the people's house, the House of Representatives has less stringent qualifications for membership than the Senate. Article I, Section 2, of the Constitution gives these basic job qualifications. Members must be

- at least 25 years old
- a U.S. citizen for at least seven years
- a resident of the state he or she represents

According to custom, representatives live in the districts they represent, but that is not required under the Constitution.

The Constitution states that the House is judge of the "Elections, Returns, and Qualifications of its own Members." The power to determine qualifications, however,

is limited. In *Powell v. McCormack* (1969) the Supreme Court ruled that the House could only exclude members if they failed to meet the specific standards of Article I, Section 2. The Court wished to grant a high degree of respect to the wishes of the voters.

While Congress can exclude a person only for specific reasons, it can expel a sitting member for any reason. Expulsion, however, requires a two-thirds majority vote. This has happened only five times in U.S. history, most recently in 2002, when James Traficant (D, Ohio) was expelled after being convicted of taking bribes and income tax evasion.

Informal Qualifications The most important informal qualification for anyone who wants to be a member of the House is the ability to appeal to the voters in his or district. The qualities needed for this vary by time and place. People with military backgrounds are sometimes popular. Famous people—actors and athletes—have enjoyed success. Today however, the ability to raise money—or have a lot of your own—is vital. In 2010, major-party candidates for seats in the House spent, on average, about \$1.5 million.

READING CHECK Identifying Supporting Details

What are the formal and informal qualifications for membership in the House?

Reapportionment and Redistricting

As you read Section 1, there are 435 members of the House. They represent more than 300 million Americans, for an average of about 690,000 people per representative.

Some House members represent considerably more or fewer people than the average. One reason is that each state must have at least one representative regardless of its population. For example, Wyoming, with about 500,000 residents, has one representative. At the same time, Montana, with more than 900,000 residents, falls short of the population needed for two representatives. As you can see, Montana's one representative serves nearly twice as many people as Wyoming's representative.



What qualifications, other than those listed in Article I, do you think should be used when choosing a member of Congress? Explain your suggestions.

Changes in Population The Constitution requires that every 10 years, the House must undergo **reapportionment**, in which seats are redistributed among the states based on the results of the census. Once census results are available, Congress reapportions the congressional seats among the states. States that gain population may gain seats, and states that lose population may lose them.

Before the number of seats was fixed in 1929, Congress simply added seats as the nation's population grew. Fixing the number of seats, however, transformed reapportionment. Now, if a state loses population or grows too slowly, it may lose seats to another state. After the 2000 census 10 states, mainly in the North and East, lost seats. Eight states in the South and West added them.

Gerrymandering The Constitution gives Congress the responsibility to reapportion seats among the states. It leaves redistricting, the job of creating district boundaries within the states, however, to state governments. Not surprisingly, the party in power in each state tends to draw the boundaries to its own

political advantage—boundaries that divide and weaken the opponents' strength or that cluster together areas of support. The goal is simple: Give your party the best chance to win as many elections as possible. Drawing district boundaries for political advantage is known as **gerrymandering**.

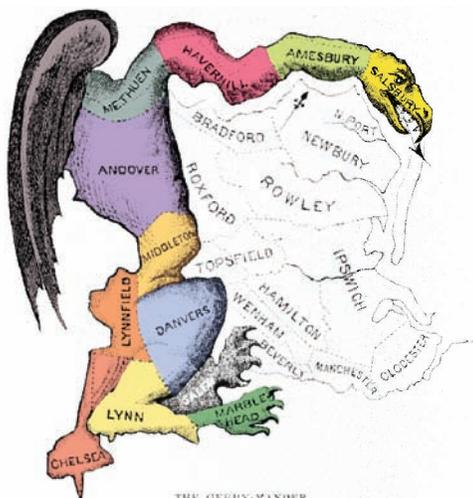
One Person, One Vote For much of U.S. history, the Supreme Court largely ignored gerrymandering. In a series of cases over the last 50 years, however, the Court has placed restrictions on the practice.

For example, the 1964 case of *Wesberry v. Sanders* focused on a congressional district in Georgia that had several times as many people as other districts in the state. The Court observed that this arrangement “contracts [shrinks] the value of some votes and expands that of others.” This violates the Constitution, which requires that one person's vote be worth as much as another's. To remedy the problem, the Supreme Court ruled that future congressional districts within a state must be of roughly equal population.



Gerrymandering Past and Present

Gerrymandering takes its name from nineteenth century Governor Elbridge Gerry of Massachusetts. In 1812 Gerry enacted a law that created new state senatorial districts. The shape of one district was said to resemble a salamander. A political cartoonist added wings, claws, and a head to create a “Gerry-mander.” Gerrymandering continues today. One example is the Seventeenth Illinois Congressional District shown on the map.



The 1812 “Gerry-mander” cartoon



Seventeenth Illinois Congressional District

ACADEMIC VOCABULARY

disenfranchise
deprive of the right to vote

The Court has struggled to define how much consideration should be given to race in determining district boundaries. It has struck down districts purposely drawn to **disenfranchise** racial minorities. Likewise, the Court has ruled against districts drawn *solely* to benefit racial minorities. Most recently, the Court has sought a middle position, ruling that race can be a factor in drawing boundaries, just not the main one.

In 1986 the Court addressed political gerrymandering. In *Davis v. Bandemer* it held that gerrymandering that causes actual harm to a political party may violate the constitutional guarantee of equal protection of the law. Proving that harm has resulted from gerrymandering, though, has been difficult.

Despite these court decisions, gerrymandering is alive and well. The stakes—control of the House—are too high for either party to surrender an advantage to the other.

READING CHECK Sequencing What are the steps by which House seats are assigned to different states?

Leadership in the House

The Constitution says that the “House of Representatives shall choose their speaker and other officers . . .” (Article I, Section 2, Clause 5). These are the men and women who lead the House in its many functions and activities.

The Speaker of the House The most powerful member and the presiding officer of the House is the **Speaker of the House**. The Speaker is elected by members of the House of Representatives and comes from the political party that holds the most seats—the majority party. After the 2010 congressional elections, the majority party changed from Democratic to Republican. As a result, Congresswoman Nancy Pelosi (D, California), the first woman Speaker in U.S. history, lost her job. In 2011, John Boehner (R, Ohio) was elected to the post.

The Constitution is silent on the Speaker’s powers. House rules, combined with tradition, however, have given the position a large measure of control over House business. The Speaker presides over debates and recognizes speakers—that is, gives them the

authority to speak on the House floor. As presiding officer, the Speaker also rules on points of order. The Speaker assigns **bills**, or proposed laws, to particular committees. The Speaker determines when, or if, a measure comes up for debate and how it is debated. Finally, the Speaker assigns individual House members to certain committees, which gives the Speaker great power over a member’s political career. With the power to shape events in one house of Congress, the Speaker can play a large role in the fate of a party’s political agenda.

The Speaker of the House is also second in the line of succession to the presidency. If both the president and vice president were to die or be unable to perform, the Speaker of the House would become president.

Other Leadership Posts Each party also elects a **floor leader** to help manage the actions and strategy of the party in the House. The floor leader of the majority party, known as the majority leader, serves as the assistant to the Speaker. The floor leader of the minority party is known as the minority leader. He or she acts as the chief spokesperson for the minority party in the House. Minority leaders try to keep their party members united behind common positions. This unity will help to increase the minority’s bargaining position with the majority.

The two parties also elect **whips**. The job of the whip is to encourage fellow party members to vote as the party leadership wants. Whips collect information about what members are thinking—and alert leaders about members whose vote cannot be counted on. The name *whip* suggests that sometimes the form of encouragement borders on force. In addition to the whips, each party has upwards of 100 assistant whips reporting to the whip.

The election of party officers—whips, floor leaders, and, for the majority party, the Speaker—takes place at a party caucus at the beginning of a congressional term. A **party caucus** is a meeting of all the House members from a particular political party.

House Rules The Constitution allows the House to make whatever rules it considers necessary to carry out its business. As you



PROFILES IN GOVERNMENT

Nancy Pelosi
1940–



The first woman to serve as Speaker of the House, Nancy Pelosi comes from a family with a tradition of public service. Her father was a five-term

member of Congress from Maryland and the mayor of Baltimore for 12 years. Her brother also served as mayor of Baltimore.

Pelosi first ran for office herself after the youngest of her five children was in high school. She was elected to the House in 1987. In 2002 Pelosi was chosen as House minority leader; after Democrats took control of the House in 2007, she became Speaker of the House. When Pelosi was sworn in as Speaker, she called the occasion “a historic moment—for the Congress, and for the women of this country.”

Draw Conclusions Why did Pelosi say that her election as Speaker was “a historic moment”?

First Woman Speaker

During her four-year tenure as Speaker of the House, Congresswoman Pelosi helped Congress pass health care and financial reform legislation.

have read, the House can judge its own members’ behavior and expel a member for almost any reason. In addition, the House can vote to issue a reprimand. A stronger statement of House disapproval of a member’s actions is called a censure.

In addition, the House has a separate Rules Committee. This powerful committee acts as the “traffic cop” for the House, setting the rules for when, how, and under what conditions debate on a bill will take place. For example, a rule may limit the time spent debating a particular bill or place limits on how it can be amended. By setting the rules under which a bill can be considered, the Rules Committee can speed up or delay passage of a bill. For this reason, the chair of the Rules Committee is often a key ally of the Speaker.

READING CHECK Making Inferences What role does the leadership play in running the House?

The Role of Committees

Think about the challenge of making laws for the entire country. No member could possibly have or acquire all the knowledge needed on the topics the House considers. To help provide this sort of expert analysis, the House has a system of committees and subcommittees, each concentrating on a specific area of public policy.

Standing Committees The House has 20 **standing committees**, or permanent committees. Standing committees address the major areas in which most proposed laws fall, such as agriculture, the budget, and the armed services. For a list, see the next page.

The House Committee on Ways and Means deals with taxes and other revenue-raising measures. Ways and Means also exercises oversight on big programs such as Social Security. Because the Constitution says that all bills dealing with taxes and revenue begin in the House, the Committee on Ways and Means is a congressional powerhouse.

Standing committees typically have at least four subcommittees. The Appropriations Committee has 13. Subcommittees take an even narrower focus than a committee. So, for example, the Armed Services Committee may have subcommittees dealing with air and land power, sea power, and more.

Other Committees The House sometimes creates **select committees** to carry out specific tasks not already covered by existing committees, such as investigations. Select committees are usually created to serve for a limited duration. The Speaker, with advice from the minority leader, appoints all members of select committees.

The House and Senate sometimes form **joint committees**. Such committees address broad issues that affect both chambers.

House Standing Committees

Agriculture	Homeland Security	Small Business
Appropriations	House Administration	Standards of Official Conduct
Armed Services	Judiciary	Transportation and Infrastructure
Budget	Natural Resources	Veterans' Affairs
Education and Labor	Oversight and Government Reform	Ways and Means
Energy and Commerce	Rules	
Financial Services	Science and Technology	
Foreign Affairs		

For example, the Joint Committee on Taxation advises Congress on tax policy.

Another type of committee formed by both chambers of Congress is the conference committee. You will read more about conference committees in Section 5.

Committee Chairs Each committee is headed by a chair. Because so much of the work of the House takes place in committee, committee chairs have great power.

Chairs are always chosen by the majority party. Historically, the job went to the committee member with the most seniority—that is, the person who had served on the committee the longest. In the 1970s, however, Congress began to change the seniority system. Hoping to encourage new leadership and new ideas, Congress began holding elections for the committee chairs. Seniority

remains a factor in who becomes chair, but it is no longer the *only* factor.

In 1995 Republicans won control of the House and voted to impose term limits of six years on committee chairs. When Democrats regained control of the House in 2007, they agreed to keep the six-year term limit.

Committee Membership Members request committee assignments. They may seek a certain post because it is important to their constituents or because it is politically powerful. Some pick a committee based on personal interests. Not all committee requests are fulfilled. In the case of some powerful committees, a member may have to campaign among his or her colleagues for a spot. Final assignments are made by a vote of the party caucus or conference.

In general, House members can serve on up to two standing committees and four subcommittees. There are exceptions to these rules.

While members do important work in their committees, paid staff members do much of the information gathering and background work. A typical committee has a team of managers, lawyers, policy experts, and office staff. The House Appropriations Committee, for example, has a staff of over 150 to assist its members.

READING CHECK Identifying the Main Idea What is the advantage of having committees in the House?

SECTION 3 ASSESSMENT

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ONLINE QUIZ

Reviewing Ideas and Terms

- a. Describe** What are the formal qualifications for the House?

b. Evaluate Do you think that there should be more formal requirements for a House member? fewer? Explain your answer.
- a. Identify** What is **gerrymandering**?

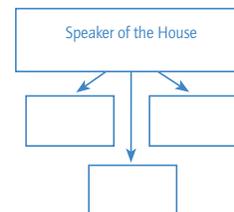
b. Explain What limits has the Supreme Court placed on gerrymandering?
- a. Describe** What are the roles of the **Speaker of the House**, **floor leader**, and **whips**?

b. Elaborate What role do political parties play in the organization of the House?
- a. Recall** What is the term for the regular committees that exist to evaluate **bills**?

b. Explain How do committees help the House function?

Critical Thinking

- Evaluate** Using your notes and the graphic organizer below, evaluate the role, powers, and duties of the Speaker of the House.



FOCUS ON WRITING

- Persuasive** Write a letter to the editor urging an end to gerrymandering in your state. Provide reasons for your position.

21ST
CENTURY

SECTION 4

The Senate

BEFORE YOU READ

Main Idea

Senators represent entire states, have longer terms, and follow different rules of debate. These features help give the Senate its reputation as a more weighty and careful body than the House.

Reading Focus

1. What are the major features of the Senate and its membership?
2. What are the Senate's leadership posts?
3. What is the role of committees in the Senate?
4. What are some of the distinctive rules and traditions of the Senate?

Key Terms

president of the Senate
president pro tempore
Senate majority leader
seniority rule
filibuster
cloture



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TAKING NOTES

Use the graphic organizer online to take notes on the features of the Senate.

WHY IT MATTERS

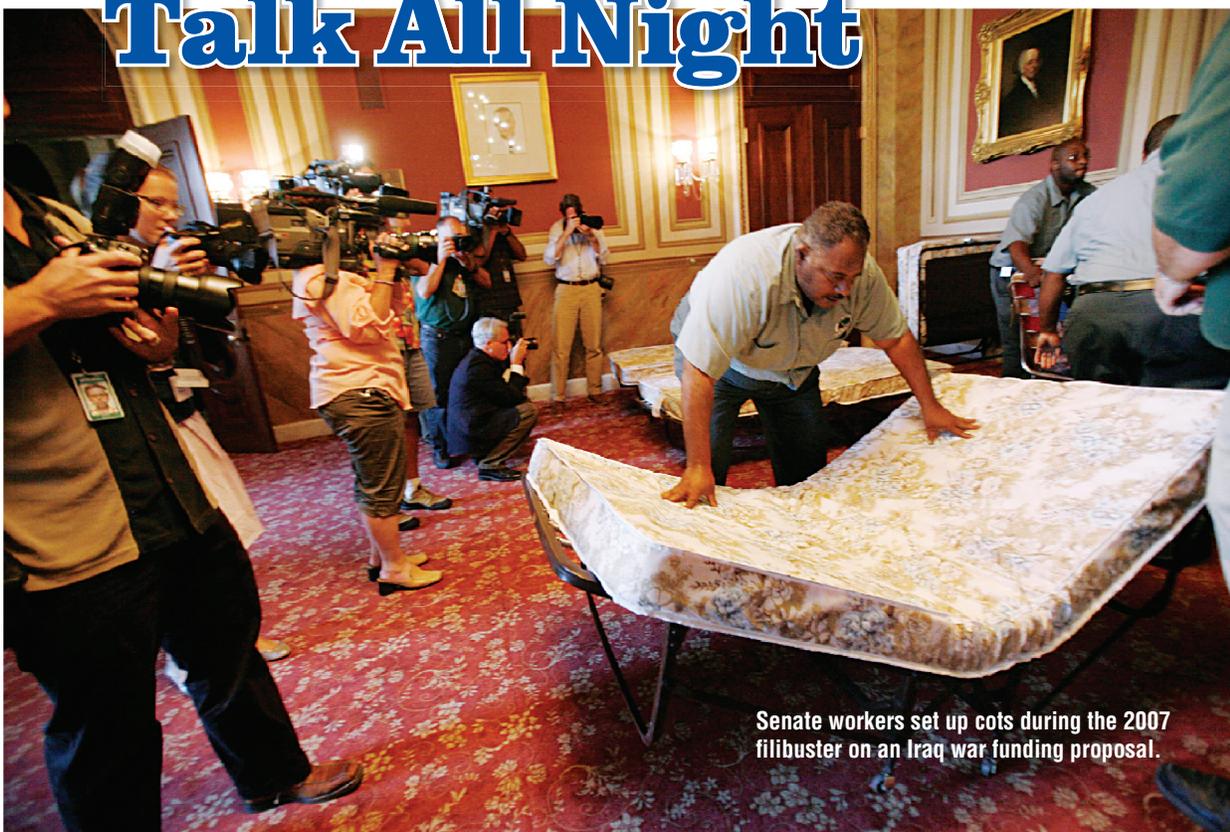
Debate in the Senate A crowd of photographers jostles for position to get the best shot. Through their lens they see tomorrow's front page photo—beds being set up in the Senate chambers. Are guests expected? In a way, yes. There is an all-night debate scheduled, and the senators won't be going home tonight.

The senators are participating in one of the distinctive traditions of the Senate: the filibuster. This tradition of nearly unlimited debate gives a minority of the Senate, even a single senator, the power to hold up the passage of bills favored by the majority. This creates leverage—to get the bill killed or modified or to receive favorable consideration on some other bill altogether.

Senators have used the tactic for momentous and minor occasions alike. In 1957 Strom Thurmond (D, South Carolina) set the record for the longest speech in Senate history when he opposed a civil rights bill. In 1986 Alfonse D'Amato (R, New York) made the second-longest speech when he protested the cutting of funding to a defense factory in his home state.

Since 1917, the Senate has been able to bring debate to a close, but it requires the votes of 60 senators to achieve that. In 2005, Senate Republicans threatened to change the rules that allowed this tactic. But a compromise was reached. As long the tactic gives each senator outsized leverage, the Senate is not likely to do away with its distinctive tradition of talk. ■

Getting Ready to Talk All Night



Senate workers set up cots during the 2007 filibuster on an Iraq war funding proposal.

SENATE: TERMS, SALARY, BENEFITS AND PRIVILEGES

QUICK FACTS

	Senators	President Pro Tempore	Majority and Minority Leaders
Salary	\$174,000	\$188,100	\$193,400
Term	6 years		
Benefits and Privileges	<ul style="list-style-type: none"> • Tax deduction for two residences • Travel allowances • Staff • Health and retirement benefits • Franking privilege: free mail to constituents • Free printing • Use of gym, restaurants, and other Capitol amenities • Legal immunity for statements made while Congress is in session 		

Source: Congressional Research Service, 2010



What are the advantages of having a representative body like Congress made up of seasoned and experienced lawmakers? What are the disadvantages of allowing members of Congress to serve as long as their constituents re-elect them?

The Senate and Its Membership

The Senate is often called the upper house. The term reflects the greater prestige and power that individual senators have compared to their House colleagues. It also reflects the special powers, such as the power to reject presidential appointments, that the Constitution gives to the Senate.

Senators tend to be better known than members of the House, if only because they must win statewide election. In addition, the smaller number of senators allows them to become nationally known figures more easily. Perhaps that is why it is common for House members to try to “move up” to a Senate seat. From there, many an ambitious politician has launched a run for the White House, although only a few have succeeded.

Formal Qualifications Delegates at the Constitutional Convention thought the Senate required a different type of leader than the House. If the Senate were to fulfill its role as a break on the House, the chamber for ordinary citizens, than it would need to be filled with experienced, knowledgeable politicians. James Madison explained the reasoning in a *Federalist Papers* essay.

PRIMARY SOURCE

“The propriety [appropriateness] of these distinctions [between the Senate and House] is explained by the nature of the senatorial trust, which, requiring greater extent of information and stability of character, requires at the same time that the senator should have reached a period of life more likely to supply these advantages.”

—James Madison, *Federalist Papers* No. 62

Article I, Section 3, of the Constitution sets out the basic job qualifications for the Senate. A person seeking to be a senator must be

- at least 30 years old—five years older than House members
- a U.S. citizen for at least nine years—as compared to seven for House members
- a resident of the state he or she represents

To further encourage a calmer, more thoughtful chamber, the Framers gave senators a longer term of office than representatives and staggered their election so that only one-third of the seats come up for election every two years. The longer term of office—six years compared to a House member’s two years—is thought to make it easier for senators to focus on serving the nation rather than on pleasing the public. Staggered elections ensure that the Senate membership does not undergo major, rapid shifts and lose experienced political leaders.

Election of Senators As you read in Section 1, the Constitution originally gave state legislatures the power to choose senators. This was another feature intended in part to shield senators from public pressure and to help ensure that only the best people would be chosen.

In fact, selection of senators by state legislators proved troublesome. Politically divided legislatures sometimes had trouble reaching a decision, and Senate seats occasionally went unfilled for months or longer. Accusations of corrupt elections undermined trust in the Senate. In the early 1900s, some states adopted popular election of senators, with the results ratified by state legislatures. In 1913 the Seventeenth Amendment made direct popular election of senators part of the Constitution.

Informal Qualifications Typically, voters tend to elect older people to the Senate than to the House. Senators tend to be wealthier both than their House colleagues and the general population. That is why the Senate is sometimes referred to as a “millionaires’ club.” The wealth of the senators is helpful, because running for Senate is very costly. In a recent election, Senate candidates spent over \$400 million in 33 races.

While Congress overall has become much more diverse, the Senate has lagged behind the House in reflecting the diversity of the general population. In 2011, only 16 women, one African American, two Asian Americans, and two Hispanic Americans were serving in the Senate—not an accurate reflection of U.S. population.

READING CHECK Contrasting How do requirements for a senator’s seat differ from those for a House member?

Senate Leadership

Like the House, the Senate has a leadership structure that helps the chamber do its work. The Senate’s leadership, however, is generally less powerful than the House leadership.

Constitutional Positions Article I, Section 3, Clause 4, of the Constitution assigns the job of **president of the Senate** to the vice president of the United States. The position is largely ceremonial. As president of the Senate, the vice president may preside over debate in the chamber, acknowledging speakers and making sure everyone follows the rules of debate. But the president of the Senate cannot take part directly in debate. Nor can the president of the Senate vote, except to break a tie. The position’s greatest influence is felt on those rare occasions when Senate membership is divided equally among both parties. When that occurs, the party affiliation of the vice president determines which party will be in the majority.

The Constitution also directs the Senate to choose a **president pro tempore**—the person who presides in the absence of the president of the Senate. By tradition, this position goes to the senator from the majority party who has the longest record of service

in the Senate. The president pro tempore is third in line, behind the Speaker of the House, to succeed the president.

Party Leaders Like the House, the Senate has party leaders who guide the work of the majority and minority parties. In the Senate, the most powerful position belongs to the **Senate majority leader**. As the name suggests, this figure is chosen by a vote of the majority party. This vote takes place at a party caucus at the start of each term.

The Senate majority leader serves as the spokesperson and main strategist for the majority party in the Senate. He or she works to carry out the party’s agenda in the Senate. A majority leader must be willing to work for his or her party members—for example, helping them get desired committee assignments. In return, the majority leader expects cooperation and support from the senators. The power of this position and the importance of the Senate make the majority leader a major national political figure.

The Senate also has a minority leader. Both the minority and majority party have whips who help the leaders assess how senators are planning to vote.

READING CHECK Identifying the Main Idea and Details What is the Senate leadership structure?

RESPONSIBILITIES OF LEADERSHIP

Party leaders in the Senate need to couple the power of persuasion with an acute ear for the needs of their caucus members. Since the 1970s, they have also been expected to be effective advocates of their party’s position on television and in the media.



Styles of Leadership

Senate majority leaders use different styles to unite their parties. Shown on the left in the photo above, current majority leader Harry Reid prefers to listen to his fellow senators. At right, Lyndon Johnson, leader from 1953–1961, was known for giving senators the “treatment.”

Committees in the Senate

As in the House, the Senate performs much of its work in committees, reviewing and refining the bills that will become the laws of the nation. Committee assignments allow senators to study an area of public policy in depth. As in the House, Senate committees hire professional staffers who bring additional skills and knowledge to the lawmaking process.



Throughout American history, deliberative bodies have used committees to facilitate their work. How does the use of committees in Congress promote or undermine the principles of representation, majority rule, and limited government?

Types of Senate Committees The Senate has a similar array of committees to the House. It has 16 standing committees and many dozens of subcommittees. The Senate also has select and special committees. These may be temporary in nature, though that is not always the case. They generally exist to examine a particular issue, to advise the Senate, and to provide oversight of government agencies. They are not generally involved in making laws.

Of course, senators participate in joint committees with members of the House. As you will read in Section 5, they also take part in conference committees.

Membership in Committees Senate rules limit the number of committees and subcommittees a senator may serve on. In general, senators serve on no more than three committees and five subcommittees.

Senators seek assignments that align with their interests and the needs of their state. As in the House, committee assignments in the Senate are determined by the party conference or caucus at the beginning of each session. In general, party caucuses try to accommodate the preferences of individual members, with

a priority given to members who have served in the Senate longer. The proportion of seats each party receives on a committee reflects its numbers in the overall Senate.

Committee Chairs Like their House counterparts, Senate committee chairs hold considerable power. They set the committee's schedule, decide what bills will be discussed and when, and call hearings. No senator chairs more than one committee. Chairs are always a member of the majority party.

Traditionally, the chair of a committee has gone to the most senior majority senator on a committee, following the so-called **seniority rule**. When Republicans took control of the Senate in 1995, however, they announced that they would hold secret ballots within each committee to choose the chair. In addition, they placed six-year term limits on committee chairs. When the Democrats gained control of the Senate in 2007, they continued the term-limit rules for committee chairs.

Senate Committee Power Senate committees have some functions that are unique to that chamber. Recall that the Senate alone has the job of providing advice and consent on certain top presidential nominees. Nominees are usually first examined by the relevant Senate committee—for example, the Senate Judiciary Committee examines nominees for federal judges. Typically, the full Senate follows the recommendation of the Senate committee.

The Senate also debates and votes on any treaties that the government negotiates. A two-thirds majority vote is required for a treaty to become law. This gives the Senate—and in particular, the Senate Foreign Relations Committee—great influence. If a treaty fails to win the support of a powerful chair of the Senate Foreign Relations Committee, its chances of passage are slim. In 1919, for example, opposition from Senator Henry Cabot Lodge helped defeat the Versailles Treaty, which President Woodrow Wilson had helped negotiate at the end of World War I.

READING CHECK Contrasting How do committee assignments differ in the House and Senate?

Senate Standing Committees

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

Rules and Traditions

As you read in the “Why It Matters,” the Senate is a keen guardian of its rules and traditions. It is these rules and traditions that give the Senate its special character, one very different from the House.

The Filibuster Perhaps the greatest difference between the Senate and the House is that the Senate places few limits on debate. This rule allowed for the development of a practice called the **filibuster**. A filibuster occurs when opponents of a measure take the floor of the Senate and refuse to stop talking in an effort to prevent the measure coming up for a vote. The tactic is used when a minority knows that a measure is likely to pass if it ever comes to a vote. Filibusterers hope that if they can stall action long enough, the rest of the Senate will eventually be forced to move on to other business.

In 1917 the Senate moved to place some limit on the filibuster. It adopted a rule by which a two-thirds vote would impose **cloture**—an end to debate. Though difficult to achieve, cloture has been accomplished on a number of occasions. In 1975 the cloture rule was revised. It now requires 60 votes to achieve cloture.

Discipline in the Senate Like the House, the Senate has the constitutional right to judge the conduct of its own members. On 15 occasions it has voted to expel a member. Expulsion requires a two-thirds majority vote. The first expulsion took place in 1797, when Tennessee senator William Blount was expelled for conspiring with Britain to seize Florida from the Spanish. All the other expulsions involved senators who supported the Confederacy in the Civil War.

The Senate has on nine occasions voted to censure, or officially denounce, a senator. The most recent such incident was the 1990 censure of David Durenberger (R, Minnesota) for unethical conduct, including using campaign funds for personal use.

Filling Vacancies When a Senate seat becomes vacant due to the retirement or death of a senator, the Seventeenth Amendment calls for the governor of that senator’s state to appoint a replacement, provided the state’s legislature has given the governor the power to do so. The replacement senator serves until a special election can be held to choose a permanent replacement. Governors usually choose replacement senators from their own party.

READING CHECK Summarizing What are some of the unique traditions of the Senate?

SECTION 4 ASSESSMENT

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ONLINE QUIZ

Reviewing Ideas and Terms

- a. Recall** What are the constitutional requirements to become a member of the Senate?

b. Evaluate How do the Senate’s unique formal and informal requirements support the notion that it is a more exclusive body than the House?
- a. Identify** What are the roles of the **president of the Senate**, the **president pro tempore**, and the **Senate majority leader**?

b. Elaborate How is the Senate majority leader similar to and different from the Speaker of the House?
- a. Recall** How many standing committees exist in the Senate?

b. Rate In your opinion, which Senate committee—the Judiciary Committee or the Foreign Relations Committee—has a greater influence on American life?
- a. Define** What is the meaning of the terms **filibuster** and **cloture**?

- b. Evaluate** What are the benefits and drawbacks of having nearly unlimited debate in the Senate?

Critical Thinking

- 5. Compare and Contrast** Copy the diagram below and compare and contrast the main features of the House and Senate.



FOCUS ON WRITING

- 6. Expository** You are working on a brief guide to Congress for use by foreign exchange students visiting your school. Write a brief section that compares and contrasts the House and the Senate—their functions, organization, and stature.

21ST
CENTURY

The Seniority System

Should seniority be a determining factor for committee chairs in the House of Representatives and the Senate?

THE ISSUE

For most of the twentieth century, committee chairs were chosen strictly according to the seniority system, which reserved these posts for the long-serving committee members of the majority party. A series of reforms in the 1970s and 1990s empowered party conferences to elect their committee chairs through secret ballots and set term limits on a chair's service. Still, committee chairs and ranking minority party members are almost always the longest-serving members of their respective parties on a committee.



Collectively, senators Orrin Hatch (R, Utah), Arlen Specter (D, Pennsylvania), and Patrick Leahy (D, Vermont) have more than 85 years of senatorial experience.

VIEWPOINTS

Committee chairs should be chosen solely on merit, not seniority. The seniority system is an outdated relic. It lost what little validity it had in the 1940–1950s, when long-serving committee chairs routinely killed civil rights legislation. Even today, there is still too much consideration given to seniority in choosing committee chairs. A senator's accomplishments and skills as a legislator, not longevity, should guide the decision of who serves as committee chairs. In fact, the skills needed to convince fellow party members that you should be chair or ranking minority party member—persuasion, deal-making, and charisma—are just the skills needed to be an effective chair.

Seniority should be a factor in choosing a committee chair. Seniority is still a valuable measure of a member's ability to be a committee chair. Long-serving members acquire extensive policy experience and procedural knowledge, both of which are important for conducting committee work and getting bills passed. This knowledge and experience should be rewarded with greater authority. The current system allows for the removal of chairs who do not take the needs of their fellow party members on the committee or the party's policy agenda sufficiently into account. This makes chairs more accountable, without losing the experience that seniority brings.

What Is Your Opinion?



1. Should the length of tenure be a factor in choosing a congressional committee chair? Why or why not?
2. Though in theory committee chairs are elected, more often than not the position goes to the most senior member of that committee. Explain how the process might be reformed.



SECTION
5

The Legislative Process

BEFORE YOU READ

Main Idea

The main job of Congress is to make laws. The process of making laws is well established and orderly.

Reading Focus

1. How are bills introduced in Congress?
2. What happens to a bill in committee?
3. What happens to a bill on the floor of the House and Senate?
4. What is a conference committee?
5. What actions can a president take on a bill?

Key Terms

rider
joint resolution
concurrent resolutions
discharge petition
Committee of the Whole
quorum
roll-call vote
conference committee
pocket veto

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TAKING NOTES
Use the graphic organizer online to take notes on the process of making law in Congress.

WHY IT MATTERS

Purpose of Laws Congress is the nation's lawmaking branch of government. But what, exactly, are laws? You can think of some examples. For example, you know that there are laws against driving under the influence of alcohol. You know that it is against the law for one person to kill another.

Federal laws, however, do more than define what is right or wrong. They also establish new government programs, set government policy, and allocate funding to pay for government activities and services.

The U.S. Congress makes all kinds of laws. For example, in its two sessions the 109th Congress considered bills for extending formal recognition to certain Native American groups, pro-

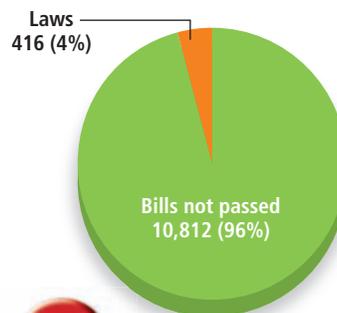
tecting portions of specific rivers, authorizing the U.S. Mint to produce dollar coins featuring likenesses of U.S. presidents, and appropriating money for all manner of government activities, and much, much more. All told, the House and the Senate of the 109th Congress considered almost 11,000 bills. Just under 400 became law. In this way, Congress helped determine exactly what actions the federal government will take in a wide variety of areas.

For each action taken by Congress, the members of the House and Senate follow an organized procedure. This procedure ensures a careful, thorough consideration of the nation's legislative business. ■

From Bills to Laws



CONGRESSIONAL LAWMAKING (2007–2008)



Skills FOCUS

INTERPRETING GRAPHS

Why do you think so few bills get passed?

The U.S. Senate Committee on Environment and Public Works holds a rally to introduce a draft bill, just one of thousands introduced in the 111th Congress.

Bills in Congress

Laws start out as bills introduced by members of Congress. Ideas for bills come from many different sources. Some are suggested by constituents or by interest groups. The president is another major source of proposed legislation. In addition, members of Congress also come up with ideas for bills. Regardless of a bill's origin, only a member of Congress can introduce a bill for consideration.

Introducing Bills Both senators and House members introduce bills. The one exception is that, according to the Constitution, any bill for raising revenue—that is, tax bills—must begin in the House (Article I, Section 7, Clause 1). In addition, by custom, appropriations bills also begin life in the House.

Introducing a bill is a simple matter. House members simply place the required documents in a wooden box called a hopper. A senator hands the paperwork to a clerk.

In the 111th Congress, nearly 6,400 bills were first submitted in the House. About 4,000 were submitted in the Senate. Bills submitted in the House are assigned the letters “H.R.” and a number. Senate bills are labeled with an “S.,” followed by a number.

Bills may be public or private. A private bill affects only a particular person, family, or small group. A common example is a bill granting permanent residency to an illegal immigrant. A public bill is one affecting all of society. Most bills are public bills.

A bill may deal with a single subject or many. As they make their way through the legislative process, some bills get riders attached to them. A **rider** is a provision that bears little relationship to the bill's main topic. The goal of a rider is to add an unpopular provision to a bill that is likely to be passed in order to allow the unpopular provision to “ride” in on the broader bill's popularity. In some cases, however, riders are added in hopes of killing a bill. Such a rider, called a “poison pill,” makes the bill too unpopular to pass.

Other Types of Action Bills make up the large share of the legislative work of Congress. But House members and senators

also deal with other types of measures. For example, they sometimes consider joint resolutions. A **joint resolution** is much like a bill—it follows the same procedures as a bill, and it has the force of law if it is passed by both houses of Congress and is signed by the president. Joint resolutions are used for certain out-of-the-ordinary circumstances. For example, Congress used a joint resolution to authorize President George W. Bush to use military force against Iraq in late 2002. Joint resolutions are also used to propose constitutional amendments. The amendment process is described in Chapter 3.

Congress also sometimes considers **concurrent resolutions**, by which both houses of Congress address matters that affect the operations of both chambers or express an opinion. These are not signed by the president and do not have the force of law.

Finally, each chamber passes resolutions that apply to matters of concern just within that chamber, such as the election to leadership offices or members' committee assignments. Such resolutions can also be used as a means for members of Congress to express their opinion on an important subject. They do not have the force of law.

READING CHECK Summarizing What are some of the legislative actions that Congress takes?

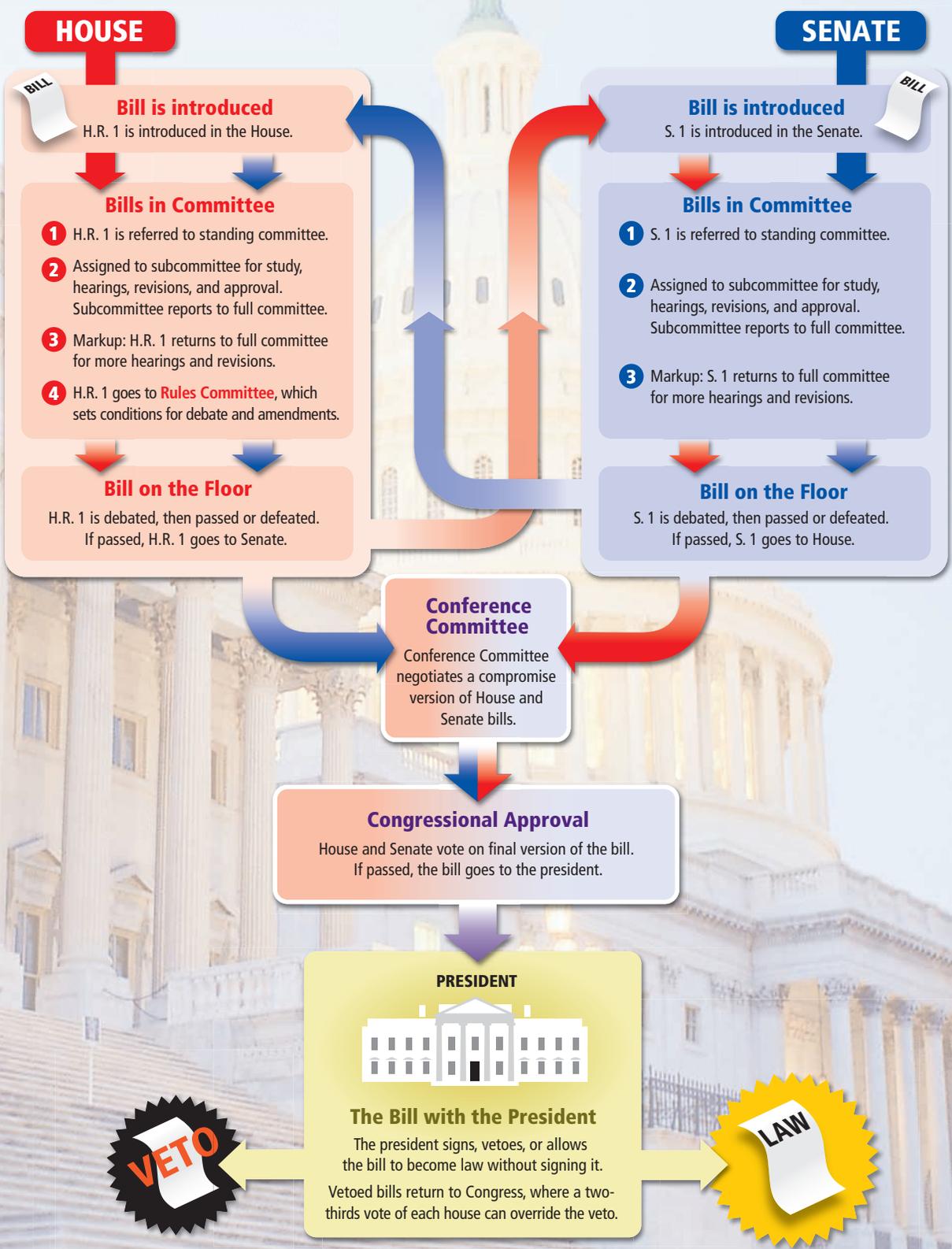
Bills in Committee

Committees act as the filter of Congress. Most of the bills submitted to Congress simply die in committee and never receive the attention of Congress as a whole. Most of the work on bills, including the decision to kill them, takes place in committee, where bills are studied and adjusted.

Referral Bills are assigned to a committee by a process known as referral. In the House, the Speaker is mainly responsible for determining which committee is most appropriate for a given bill. In the Senate, the majority leader performs this role. In both chambers, written rules help govern the referral process. A bill may go to one or more committees. This happens if the subject matter of the bill falls into the areas of expertise of more than one committee.

How a Bill Becomes a Law

Bills must be passed by both houses of Congress before going to the president. At what point do the different versions of the bill get unified into one bill?



Once in committee, the bill may be assigned to a subcommittee of the main committee. As you have read, committees and subcommittees are controlled by the majority party in each house. This control can help determine the fate of the bill.

Committee and Subcommittee Hearings Committees or subcommittees often hold hearings to seek input from interested parties on the bills they are considering. The hearings are open to the public. Witnesses may include other members of the House or Senate, officials from the executive branch, and representatives from special interest groups. Witnesses may appear voluntarily, but the committee can use a subpoena to force them to appear. At the hearing, witnesses usually make a statement and then answer members' questions.

In general, the chair of the committee or subcommittee has considerable control over who appears at the hearings. Minority-party members have only limited ability to call witnesses. The chair can use his or her power over hearings to help shape other people's views of the bill.

The Subcommittee's Report Following the hearings, a subcommittee must report on the bill to the full committee. A subcommittee may report a bill favorably, unfavorably, or without comment. The subcommittee may also recommend that the full committee take no further action on the bill, effectively killing it. The subcommittee's report is based on a vote of the members.

In general, House subcommittees may also make amendments to a bill. In the Senate, this task is left to the full committee.

The Markup Process The markup is a meeting of the full committee. Here, the committee hears any subcommittee reports, debates the bill further, and considers possible amendments to the bill. It is during the markup process that the bill is reviewed in close detail to ensure that every aspect of the proposed legislation is in order.

When the markup is complete, committee members vote on how to report the bill to the full chamber. As in the subcommittees, reports may be favorable, unfavorable, or without recommendation. If the bill has been heavily amended, the committee may submit an entirely new bill to the House or Senate that includes all the amendments. This new piece of legislation is called a clean bill.

The committee may also decide to take no further action on the bill. Such a step has the effect of killing the bill. In the House, however, a majority of members may sign a **discharge petition**, forcing the bill out of committee. Though rare, discharge petitions have been used successfully. In 1970, for example, Representative Martha Griffiths (D, Michigan) began a discharge petition to get a proposed constitutional amendment on equal rights for women out of the Judiciary Committee. The proposed amendment had been there for more than two decades.

House Rules As you read in Section 3, the House has a separate "traffic cop" committee called the Rules Committee. Its members are chosen by the Speaker and the minority leader. Most bills must pass through this committee before reaching the full House. The rules assigned by the Rules Committee govern how a bill can be debated or amended by the full House.



Ways and Means Committee

All revenue-raising bills must pass through the House Ways and Means Committee, making its chair, Dave Camp (R, Michigan, center) served as the committee chair for the 112th Congress. *Why do you think Congress concentrates such power in one committee?*

Rules can vary from bill to bill, but there are three main types: open, closed, and modified rules. Open rules allow amendments to the bill. Closed rules mean that there can be no amendments. Modified rules limit amendments to certain parts of the bill. Rules also limit the time available for debate.

The Rules Committee has significant power. By limiting debate or the ability to amend a bill, for example, it can prevent opponents of a bill from mounting a successful attack on it. The Rules Committee can in some cases even prevent a bill from being considered by the full House. Bills in the Rules Committee are, however, subject to a discharge petition.

Some privileged bills can bypass the Rules Committee. Examples include major budget or appropriations bills. In addition, the House can agree to suspend the rules for some minor bills that are not controversial. If two-thirds of the House agrees, “suspensions” come to the floor for quick debate and with no option for amendment. Suspension of the rules is a way for the chamber to dispose of many bills quickly.

READING CHECK Sequencing What are the steps a bill follows while it is in committees?

The Bill on the Floor

Once a bill leaves a committee and receives a rule, it goes to the full House or Senate for consideration. Depending on the nature of the bill, this may be an involved and dramatic piece of political theater—or a simple, routine procedure. The process differs somewhat in the two chambers.

The Bill in the House The first step in the process is the adoption of the rules put forward by the Rules Committee. This is accomplished by a vote of the House.

Sometimes, the whole House then debates the bill. In many cases, however, the House forms itself into a **Committee of the Whole**. In effect, all House members become members of a single committee. The Speaker of the House names a member of the majority party to serve as chair of the committee.

Why does the House take this step? According to the Constitution, the full House

can only conduct business when at least half its members are present. Today that means 218 representatives. But for the Committee of the Whole, the **quorum**, or the number needed to legally conduct business, is only 100. The Committee of the Whole, then, allows the House to function even when many members are at hearings or are otherwise absent.

The rule for the bill regulates the debate in the Committee of the Whole. The available time is divided equally between the two parties. Members discuss the substance of the bill and any amendments made in committee. Members can also recommend amendments, and debate on these is limited to ten minutes—five minutes for, five minutes against. When the time for debate is over, the chair asks the speaker to stop talking.

According to House rules, amendments must be related to the subject matter of the bill in question. Indeed, this rule applies to all amendments made in the House. As you will read, however, this rule does not always succeed in preventing unrelated amendments from becoming attached to bills.

The Committee of the Whole cannot pass a bill. Instead, when it has completed its work, it dissolves. Then the full House votes on the measure and any amendments to it. The House votes first on the amendments. Then it votes on the bill itself, along with the amendments it has passed.

The most important votes are usually called record votes, in which each member is required to publicly state his or her vote. Such a vote is sometimes also called a **roll-call vote**. According to the Constitution, a roll-call vote must take place when one-fifth of the lawmakers present demand it.

The Bill in the Senate What happens when a bill leaves a Senate committee and heads to the Senate floor? Unlike the House, the Senate does not have a Rules Committee. Nor does it use a Committee of the Whole. Further, Senate rules generally do not limit debate or the right to offer amendments.

A senator *can* request that limits be placed on a particular bill, including limits on debate and restrictions on amendments. To take effect, however, such requests require the unanimous consent of the Senate.

ACADEMIC VOCABULARY

suspend to set aside or make temporarily inoperative

The unanimous consent requirement to limit debate opens the door to a filibuster, the delaying tactic discussed in Section 4. The Senate can end debate, however, with a three-fifths majority vote, or 60 senators, on a cloture motion.

When the Senate completes debate, it votes on the amendments and the bill. As in the House, important bills are often subject to roll-call votes.

READING CHECK Comparing and Contrasting

How does floor debate on a bill differ in the House and Senate?

The Conference Committee

Bills can become law only after they are passed in identical form by both houses of Congress. If the House passes a measure that is then changed and passed by the Senate, the two houses must agree on a common version of the bill. For minor bills, the two sides might work informally before passage to reach agreement over differences in wording and amendments. But for major bills, resolving the differences between the House and Senate versions is the job of a **conference committee**.

Members of a conference committee are drawn from each chamber, usually from among the committees that handled the bill. The presiding officer of the Senate names the Senate representatives. The Speaker of the House names the House conferees.

House and Senate members in conference committee discuss the differences between the two versions of the bill. There are no formal rules for these meetings. The chair often rotates from one chamber to the other.

A conference committee sometimes fails to reach an agreement. In such a situation, the bill may die. Usually, though, there is strong desire on both sides to find a solution. After all, each chamber has passed a version of the bill, hoping it would become law.

When the conference committee reaches agreement, it issues a conference report. Both chambers receive this report. Debate on the report is allowed, but amendment of it is not. In some cases, one or the other house may request that the conference committee make further changes. One or the other house can also reject the report. But if and when both sides accept the report, the bill moves to the president's desk.

READING CHECK Identifying the Main Idea What is the purpose of a conference committee?

PRIMARY SOURCES

Pork-Barrel Spending

Getting a majority of members of Congress to agree on a bill can involve a lot of bargaining. Often, a member will agree to support something that will benefit the constituents of another member provided the other member supports something benefiting the first member's constituents. Multiply that sort of bargaining by 535 members, and there is a lot of room in the federal budget for what is known as pork-barrel spending, or spending on projects that target a small constituency but that all taxpayers fund. Large bills, such as highway or farm bills, are particular targets for pork-barrel spending because so many members have highways or farms in their districts. Recent years have seen a rise in the use of earmarks, in which individual members insert provisions into bills mandating specific sums of money to be spent on specific projects of interest to them.

21ST
CENTURY



Skills
FOCUS

INTERPRETING PRIMARY SOURCES

Understanding Points of View What do you think the cartoonist is trying to say by drawing the Capitol with a pig's nose?

See **Skills Handbook**, p. H4.

Presidential Action on a Bill

When the president receives a bill that both houses have passed, there are several possible outcomes:

- The president can sign the bill, which makes it law.
- The president may choose not to sign the bill. After 10 days (excluding Sundays), if Congress remains in session, the bill becomes law. But, if during those 10 days Congress adjourns—ends its session—the bill does not become law. This last tactic is known as a **pocket veto**.
- The president may veto the bill. The president does this by returning the bill to the chamber where it began its life. The president may also include a “veto message” that outlines specific objections.

Different presidents have taken different approaches to vetoes. Some presidents veto many bills, some hardly any—or none at all. George Washington, for example, vetoed just two bills. John Adams vetoed none. Franklin D. Roosevelt, on the other hand, tops all presidents. During his three full terms and part of a fourth in the 1930s and 1940s, he issued 635 vetoes. In the little over two years that he was president, Gerald Ford logged in 66 vetoes.

Congress can attempt to override a veto. This requires a two-thirds majority vote in each chamber. As a result, overrides are rare. There have been just 106 overrides in U.S. history out of a total of over 2,500 vetoes.

From 1996 to 1998, congressional legislation gave the president line-item veto power. This tool allowed a president to veto any part of a spending bill. Many state governors have this power. The Supreme Court ruled, however, that presidential line-item veto violated the Constitution, which prescribes specific veto procedures not including the line-item veto.

President George W. Bush has issued few vetoes, but he has made frequent use of signing statements. These are formal statements in which a president declares an intention to enforce a law in a certain way. Bush was not the first president to issue signing statements, but his use of them has been considered controversial. For some, it is a proper assertion of presidential power. For others, it amounts to an encroachment on the lawmaking powers of the legislative branch and on the interpretive powers of the judicial branch.

READING CHECK Summarizing What are the different ways a president has to reject a bill?

RESPONSIBILITIES OF LEADERSHIP

Presidents need to evaluate laws, but so do ordinary citizens. Developing criteria by which you determine whether or not you support a law is one part of being an informed and engaged citizen.

SECTION

5

ASSESSMENT

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ONLINE QUIZ

Reviewing Ideas and Terms

- 1. a. Recall** What are the types of measures considered by Congress?
b. Make Inferences What advantages might there be for Congress in passing a **joint resolution** instead of a typical bill?
- 2. a. Identify** What is the purpose of a **discharge petition**?
b. Evaluate Do you think committees and subcommittee chairs should have more or less power over the progress of bills? Explain your answer.
- 3. a. Describe** What is the significance of the **Committee of the Whole** in the legislative process in the House?
b. Evaluate What do you think about the House's use of the Committee of the Whole? Is it a prudent efficiency or an unrepresentative maneuver?
- 4. a. Recall** Who makes up a **conference committee**?
b. Evaluate Why do you think that neither house of Congress is allowed to amend conference reports?

- 5. a. Recall** What can a president do to make a bill into a law?
b. Elaborate Why do you think the Constitution grants the president the power only to pass or veto a whole bill—not just parts of it?

Critical Thinking

- 6. Compare and Contrast** Copy the chart below and fill in the details of how the lawmaking process is similar and different in the House and Senate.

Similarities	Differences
1.	1.

FOCUS ON WRITING

- 7. Narrative** Write a paragraph that describes in narrative form the story of a bill as it travels through Congress.

CONNECTING TO THE CONSTITUTION

We the People

THE CITIZEN & THE CONSTITUTION

The Sources of Laws

Where do members of Congress get ideas for legislation and information in deciding which bills to introduce or support? As the people's representatives, they must be open to ideas from a number of sources.

Members of Congress often initiate legislation based on campaign promises to constituents, responses to problems or crises, or their own analysis of what laws are needed. They also introduce legislation at the request of others and must decide whether to support bills that are submitted by others. The Library of Congress through its Congressional Research Service frequently assists Congress by providing information and analyzing issues. The Congressional Budget Office will provide an analysis of the budget for a bill and its projected costs. In addition, information and requests for legislation often come from the following sources:

The executive branch Article II, Section 2, instructs the president to give Congress information on the "State of the Union" and to "recommend to their Consideration such Measures as he shall judge necessary and expedient." The president delivers an annual state of the union address to Congress that outlines the president's legislative agenda, among other things. This agenda can include creating, consolidating, or eliminating departments or agencies. Members of the president's party in Congress usually sponsor the president's legislative proposals.

Executive departments and agencies are another regular source of legislative proposals. Most proposals from the executive branch are aimed at improving the functions of the departments or agencies that Congress already has created. These proposals usually are carefully crafted and ready for a member of Congress to introduce.

Constituents Many of those who live in a representative's district or a senator's state communicate with their elected officials, recommending the enactment of new laws or the repeal of existing laws. They make telephone calls, respond to public opinion polls, send faxes and e-mail, write personal letters, participate in letter-writing campaigns, and use blogs to inform their elected representatives and to persuade them about the need for particular legislation. Sometimes constituents ask their representative to introduce special legislation to address an individual problem or situation.

Interest groups Thousands of individuals and groups seek to influence members of Congress and legislation through lobbying, the practice of trying to affect legislation on behalf of organizations, industries, or interest groups through contact with legislators. Groups that participate in lobbying include businesses, civic organiza-





tions, professional associations, and nongovernmental organizations. The Lobbying Disclosure Act of 1996 requires some lobbyists to disclose the interests they represent, the issues in which they are interested, and how much they spend annually. The act does not limit the amount of lobbying in which any individual or group may engage. The activity of lobbying reflects the First Amendment rights to speak, assemble, and petition. Effective lobbyists, whether individuals or groups, must be

- **Well informed** Members of Congress must be able to rely on the information they receive from lobbyists. Information must be able to withstand scrutiny, and it must be timely.

- **Knowledgeable** Lobbyists need to know not only their own issues but also the intricacies of the legislative process, key players, and which groups support and oppose particular proposals.
- **Organized** Interest groups must convey a consistent message and must be persistent. They must be able to explain how an issue affects their members and clients. And they must use various forms of communication effectively, including personal contact with members of Congress.
- **Cooperative** Successful interests groups, like members of Congress, must be able to build coalitions with other interest groups in the search for workable majorities.

Left, Representative Lincoln Diaz-Balart (R, Florida) met with students in 2007. Right, Former U.S. senator Barack Obama (D, Illinois) listened to the concerns of senior citizens in 2005.



Reviewing Ideas

1. **Explain** What are some sources of legislative ideas for members of Congress?
2. **Analyze** Do you think an individual constituent is more likely to be able to influence a senator or a representative? Why or why not?

Critical Thinking

3. **Evaluate** Interest groups employ full-time paid lobbyists to convey their points of view to members of Congress. Do you think this gives them too much influence over legislation? Explain your answers.

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Comprehension and Critical Thinking

SECTION 1 (pp. 122–126)

1. **a. Review Key Terms** For each term, write a sentence that explains its significance or meaning: constituents, apportionment, appropriation, impeachment, oversight.
- b. Summarize** What is the role of Congress in the system of checks and balances?
- c. Elaborate** What are the main goals and purposes of the bicameral structure of Congress?

SECTION 2 (pp. 127–136)

2. **a. Review Key Terms** For each term, write a sentence that explains its significance or meaning: necessary and proper clause, indirect tax, direct tax, deficit, commerce clause, subpoenas, writ of habeas corpus, bill of attainder, ex post facto laws.
- b. Make Inferences** What did Thomas Jefferson infer from the necessary and proper clause?
- c. Predict** How do you think the powers of Congress will change in the future?

SECTION 3 (pp. 137–142)

3. **a. Review Key Terms** For each term, write a sentence that explains its significance or meaning: reapportionment, gerrymandering, Speaker of the House, bills, floor leader, whips, party caucus, standing committees, select committees, joint committees.
- b. Explain** Why did single-member districts evolve in the House?
- c. Elaborate** In what ways is the House closer to the people than the Senate?

SECTION 4 (pp. 143–147)

4. **a. Review Key Terms** For each term, write a sentence that explains its significance or meaning: president of the Senate, president pro tempore, Senate majority leader, seniority rule, filibuster, cloture.
- b. Analyze** How does the size of the Senate affect its operation?
- c. Elaborate** How does the practice of the filibuster reflect the special character and structure of the Senate?

SECTION 5 (pp. 149–155)

5. **a. Review Key Terms** For each term, write a sentence that explains its significance or meaning: rider, joint resolution, concurrent resolutions, Committee of the Whole, quorum, roll-call vote, conference committee, pocket veto.
- b. Draw Conclusions** What can you conclude from the numbers of bills submitted and the numbers of bills passed in Congress?
- c. Evaluate** Do you think the process of making law should be made more difficult or easier? Explain your answer.

Critical Reading

Read the passage in Section 2 that begins with the heading “Implied Powers of Congress.” Then answer the questions that follow:

- Which of the following was the central issue in the debate over implied powers?
 - the War Powers Resolution
 - the commerce power
 - the necessary and proper clause
 - the state of Maryland
- The Supreme Court’s decision in the case of *McCulloch v. Maryland* most closely lined up with the position of which of the following?
 - Alexander Hamilton
 - Thomas Jefferson
 - the Antifederalists
 - the strict constructionists

RESPONSIBILITIES OF LEADERSHIP



- Select an **issue of public concern** that interests you. The issue should be something for which federal action is an appropriate solution, rather than state or local action. Write a draft of a bill addressing an aspect of that issue. Make sure your bill is constitutional. Share your bill with the class.
- Identify your **congressional representative**. Visit the representative’s Web site or call his or her office. Learn the key issues the representative is interested in, the committees and subcommittees the representative serves on, and the constituent services the representative provides. Select one of the items you learned about and write a paragraph describing it. Share your paragraph with the class.

CONNECTING TO THE CONSTITUTION

- Review Article I, Section 8, of the Constitution in the Reference Section at the end of your textbook. Then read the Preamble to the Constitution. Relate each of the powers listed in Article I, Section 8, to the general purposes of government that are found in the Preamble.

ANALYZING PRIMARY SOURCES



Political Cartoon Because of the rising costs of campaigning for office, members of Congress spend a great deal of their time raising money. The law places limits on how much money an individual, business, or group can donate. Still, much of the money comes from interest groups, leading some people to question whether members of Congress are “for sale.”



- Evaluate** Where is the poll being taken?
- Draw Conclusions** What do you think the cartoonist means to suggest by having members of Congress willing to talk in return for money?

FOCUS ON WRITING



Expository Writing Expository writing gives information, explains why or how, or defines a process. To practice expository writing, complete the assignment below.

Writing Topic: The Differences Between the House and the Senate

- Assignment** Based on what you have read in this chapter, write a paragraph explaining the differences between the House and the Senate.