

The material discussed on this page concerns Article 1, Sections 8 and 9, of the U.S. Constitution and various amendments.

Powers of Congress

The Senate and House of Representatives have a number of duties besides making laws and besides the ones listed previously (impeachment, appointment approval, etc.). Eighteen powers are given to Congress by the Constitution (see *enumerated powers* below). These powers can be roughly classified into three groups:

1. **Money** – Congress' greatest power lies in the fact that it holds the nation's purse strings. Congress has the power to raise, borrow, and coin money, and also set the value of money. Raising money is achieved by collecting taxes and borrowing through the sale of government bonds. Coining money is the task of the Treasury Department.
2. **Defense** – Powers relating to defense include powers for raising and supporting the armed forces. Only Congress has the power to declare war.
3. **Miscellaneous** – Congress regulates immigration and issues copyrights to protect the creations of writers and composers. Congress also governs commerce between states and between the United States and foreign countries. If you remember some of the commerce difficulties under the Articles of Confederation, you know why Congress has these commerce powers.

Congress also governs the District of Columbia (Washington, D.C.). It does so to insure that the capital of the United States will be run in the best interest of all Americans.

Elastic Clause

The most all-inclusive power granted by the Constitution to Congress is found in Article 1, Section 8, Clause 18. After spelling out the duties of Congress, the authors realized situations may arise that are not covered under the provisions of the Constitution. Therefore, a clause, called the *elastic clause*, states that Congress shall "make all laws which shall be necessary for carrying into execution the foregoing powers." It makes the Constitution a living document, giving Congress powers that are "necessary and proper" to run the government.

Briefly, this means that Congress has the power to make all laws necessary to carry out the spirit of the Constitution as outlined in Article 1. This clause has been used to cover a number of areas and situations never dreamed of by the members of the Constitutional Convention. Powers actually expressed in the Constitution are called *expressed*

or *enumerated powers*. Powers that are not actually expressed but believed to be a power of the Congress, are called *implied powers*. The power to declare war and establish post offices are expressed powers (look ahead on Page 27 for others). The power to regulate TV stations, nuclear energy, and the airlines are implied powers.

Things Congress Cannot Do

Besides things Congress can do, the Constitution lists a few things Congress cannot do. The powers *denied* Congress are specified in a short list in Article I, Section 9. Combine these with various amendments, and especially the Bill of Rights, for the exact prohibitions in the Constitution.

For instance, Congress cannot pass a law that turns an act into a crime after the act was committed. This type of law is called an *ex post facto law*. An example would be a woman who receives a ticket for parking on Main Street on Monday, when there is no law against it. When she arrives in court later in the week, she finds a law was passed on Tuesday, and she is being punished for parking on Monday. Obviously, this would not be fair. This type of law was used by unjust kings to trap their enemies.

No person holding a federal office is permitted to accept a title of nobility, such as duke, earl, etc., from a foreign country. No member of Congress may accept a gift from a foreign country without Congress' consent.

Congress cannot suspend the writ of *habeas corpus* except under special circumstances. Habeas corpus is a Latin term meaning "you shall have the body." It is an order to a jailer to bring a prisoner to court or to set the prisoner free. Without habeas corpus, prisoners could be detained almost permanently without a trial. Congress is also not permitted to pass a *bill of attainder*. A bill of attainder is an act passed by a legislature to punish a person or group without a trial.

Congress cannot tax any goods exported from any state, whether the goods are going to another state or to a foreign country. This provision for no export taxes comes from weaknesses in the Articles of Confederation. Under the Articles, states had been taxing each other harmfully and commerce was at a standstill. States are also prohibited from taxing commerce.

Neither the Senate nor the House of Representatives may adjourn or move to another location without the consent of the other house. These denials of power came about either as a result of the misuses of power under the Articles of Confederation or under British rule.

The 27th Amendment, which was the last amendment passed (in 1992), prohibits Congress from voting itself a pay raise during its term in office.

U.S. Congress vs. State Legislature

It is easy for students to confuse the elected officials in the state legislature with those who work for them in the U.S. Congress (Washington, D.C.). The table below further explains the differences, many of which will be covered in the federal and state sections of this book. Both Congress and your state Legislature have a two-body system referred to as a *bicameral system*. The only exception is the Nebraska Legislature which is *unicameral* (one body).

Topic	U.S. Congress	State Legislature
Lawmaking Scope	Federal level - creating laws for all 50 states	State level - creating laws for only Illinois
Lawmaking Bodies	U.S. Senate & U.S. House of Representatives	Illinois Senate & Illinois House of Representatives
Number of Members	100 U.S. Senators (2 from each state) & 435 U.S. Representatives (18 from Illinois)	59 members of the state Senate and 118 members of the state House of Representatives
Meeting Place	Washington, D.C.	State Capital (Springfield) and in their legislative district
Examples of Scope	National defense, federal tax policies, immigration laws	Funding schools, state environmental issues, state taxing
Speed of Legislation	More formal process, taking on larger issues, longer legislative sessions	Generally quicker passage, shorter legislative sessions

The Two Chambers

The two-chamber design of the U.S. Congress is consistent with the basic principle of government used by the framers of our Constitution: that the government must be divided into units which share power. The two chambers are considered equal, although they differ from one another in many respects. The Senate has sometimes been called the *upper body* and the House the *lower body*. These are popular misnomers that started when Congress first met in New York City; the Senate chamber was on the floor above the House. As we know, both legislative bodies are equal.

QUESTIONS

TRUE OR FALSE? Write a **T** or **F** in the space provided.

- _____ 1. Coining and printing money are the responsibilities of the Treasury Department.
- _____ 2. An ex post facto law is a law that makes an act illegal after the act has been committed.
- _____ 3. Only federal officials may have titles of nobility.
- _____ 4. Congress cannot tax goods being exported from a state, even if the goods are going to a foreign country.
- _____ 5. Article 1 of the U.S. Constitution outlines the legislative branch and the powers of Congress.
- _____ 6. Any of the three branches of government may declare war.

- _____ 7. The Senate and the House are prohibited from adjourning without the consent of the other.
- _____ 8. Congress does not govern the independent region of the District of Columbia.
- _____ 9. Although the state Legislature meets in Springfield, it makes laws for all 50 states.

IMPLIED, EXPRESSED, OR DENIED? Identify each of the following as an *implied (IM)*, *expressed (EX)*, or *denied (DN)* power of Congress in the space provided.

- _____ 1. Lay taxes.
- _____ 2. Declare war.
- _____ 3. Regulate the Internet.
- _____ 4. Provide for punishment of counterfeiters.
- _____ 5. Grant patents and copyrights.
- _____ 6. Regulate satellite communications.
- _____ 7. Grant titles of nobility.
- _____ 8. Establish post offices.
- _____ 9. Pass ex post facto laws.

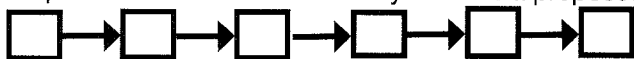
DEFINE

- 1. expressed powers _____
- _____
- 2. implied powers _____
- _____
- 3. prohibits _____
- _____
- 4. bill of attainder _____
- _____
- 5. export _____
- _____
- 6. bicameral _____
- _____

FILL IN THE BLANKS

- 1. The Senate is referred to as the _____ body, and the House is called the _____ body.
- 2. Revenue bills must begin in the _____.
- 3. The _____ has been used by Congress in writing laws about things not directly mentioned in the Constitution.
- 4. Congress' power can be roughly divided into three groups: _____
- _____

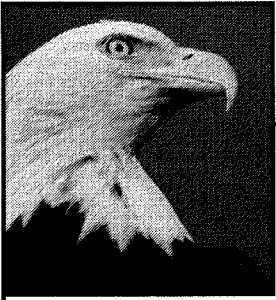
SEQUENCE OF A BILL - Put the lawmaking events in sequence from first to last as they relate to a proposed bill.



- a. president acts on the bill and approves
- b. bill is a law and is communicated to the public
- c. bill is submitted to first house for review
- d. sponsor introduces bill
- e. bill passes both houses of Congress
- f. referred to and discussed in committee

How the Federal Government and States Divide Powers

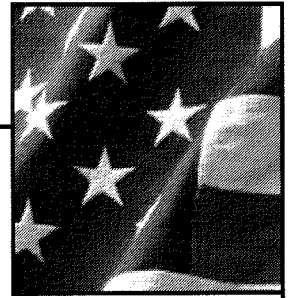
The Constitution Says...



Certain Powers Belong to the Federal Government:

- ★ Regulate Interstate Commerce
- ★ Conduct Foreign Affairs
- ★ Coin and Issue Money
- ★ Establish Post Offices
- ★ Make War and Peace
- ★ Maintain Armed Forces
- ★ Admit New States and Govern Territories
- ★ Punish Crimes Against the U.S.
- ★ Grant Patents and Copyrights
- ★ Make Uniform Laws on Naturalization and Bankruptcy

(Also considered expressed powers.)



Certain Powers Belong to State Governments:

(Mainly comes from an interpretation of the reserved powers.)

- ★ Authorize Establishment of Local Governments
- ★ Establish and Supervise Schools
- ★ Provide for State Militia
- ★ Regulate Commerce Within the State
- ★ Charter Corporations
- ★ Regulate Labor, Industry, and Business Within the State
- ★ All Other Powers Not Delegated to the United States Government or Specifically Prohibited to the States

Certain Powers Are Shared by Both Governments

Tax...Establish Courts...Promote Agriculture and Industry...Borrow Money...
Charter Banks...Protect the Public Health...Provide For Public Welfare



Certain Powers Are Prohibited to Both Governments

The personal rights of citizens of the United States, as listed in the Bill Of Rights (first 10 amendments to the Constitution) and in state constitutions, cannot be reduced or destroyed by the federal or the state governments. Also, certain specific prohibitions in the Constitution itself, such as no title of nobility, no ex post facto laws, no duty on exports, no bill of attainder, etc.

"This great principle is, that the Constitution and the laws...are supreme; that they control the Constitution and the laws of the respective states and cannot be controlled by them." — John Marshall, Supreme Court Justice in 1801

Relationship Among States

The Constitution has something to say about how the states should act toward each other and toward the federal government. For example, in Article 4, there is the *full faith and credit clause*. Under this clause, every state must accept the statutes, records, and decisions of all other states. The forefathers of our country intended that no person shall be able to dodge their obligations in the United States by just moving to another location within the United States.

In criminal cases, a criminal found in a different state must be returned to the state where the crime was committed by a process called *extradition*. Because each state must accept the statutes of another state, we sometimes find people crossing state lines for court decisions when it works to their advantage, as in some marriages and divorces.

Each state must treat the citizens of other states the same as it treats its own citizens. There cannot be special laws for those who are from other states. This directive is given in Article 4, Section 2.

The federal government, in Washington, D.C., must guarantee all states a republican form of government and must guarantee to protect them from invasion. Also, a state may call for federal assistance to prevent domestic violence. In this paragraph a "republican form of government" means a constitutional and democratic form of government.

The Constitution specifies duties that may only be performed by the federal government. For example, Article 1, Section 10, explains that states cannot coin money, make treaties, grant titles of nobility, pass *ex post facto laws* (as discussed on the previous page, a law that retroactively changes the legal consequences of acts committed), or impair obligation of contracts. Article 1, Section 8, lists the powers of Congress and shows that the states cannot use any of these powers.

Powers of the States

Since the Constitution does not list in detail the powers belonging to the states, there have been many conflicts over their respective powers. The Tenth Amendment of the Constitution does say that any powers not delegated by the Constitution to the federal government are reserved to the states or the people. These are called *reserved powers*.

However, anything not forbidden by the Constitution or given to the federal government may be done by the states through their state constitutions. States make laws about education, traffic, doctors, state lands, local government, criminals, state taxes, recreation, intrastate commerce, and in many other areas.

Each state has a government much like the federal government. Each state has three branches of government with duties similar to the duties of the three branches of the federal government. Some exceptions would be foreign affairs, postal affairs, and defense, which are only the duties of the federal government.

State constitutions are much more detailed than the United States Constitution. For example, one state constitution is so detailed that it provides for the teaching of home economics in the high schools. The United States Constitution leaves most of the details to Congress, but most states try to include all their details in writing. Because of this, state constitutions often get far behind the times and many are in serious need of revision.

Shared Powers

There are some areas over which state and federal government both have power. For example, both have power to tax, borrow money, charter banks, establish courts, and encourage agriculture. These are the most important duties both share. Please refer to the chart on Page 27 for more details on shared powers.

QUESTIONS

TRUE OR FALSE? Write a *T* or *F* in the space provided.

- _____ 1. Under the full faith and credit clause, states do not have to accept the statutes of other states.
- _____ 2. Each state must treat the citizens of other states the same as it treats its own citizens.
- _____ 3. State governments may do whatever the federal government may do.
- _____ 4. States may coin money, but they may not pass *ex post facto* laws.
- _____ 5. States may not make treaties.
- _____ 6. States make laws about local government.
- _____ 7. Both state and federal government may establish courts.
- _____ 8. The federal government must guarantee a republican form of government to the states.
- _____ 9. The 10th Amendment gives power to the people or states if not given to the federal government.
- _____ 10. State governments are similar to the federal government in that both have three branches.
- _____ 11. The format and wording of state constitutions are dictated by the federal government.
- _____ 12. The U.S. Constitution generally includes many more details than state constitutions.

"The executive power shall be vested in a President of the United States of America..."

— Article 2 of the United States Constitution

The executive branch of government is discussed in Article 2 of the Constitution.

The main duty of the executive branch is to enforce or administer laws. The most important official in this branch is the president. The president and the vice president are the only national officers of the government elected by voters of the entire United States. The president is thought of as being the representative of all the people. Unlike senators and representatives, all of the people in the United States vote for the president.



President
Barack Obama

A candidate for the office of president is nominated at a *party convention* the summer before the election. A party convention is a meeting of delegates and party officials for the purpose of nominating candidates and carrying out other party business.

After a candidate has been nominated for president by the party, a campaign begins. This campaign is an organized attempt to win the November election. The major candidates are those nominated by the Democratic and Republican parties. Campaigns get underway in late summer and last until the November election.

Qualifications and Salary

The president or the vice president must be a natural-born citizen, 35 years of age, and a resident of the United States for at least 14 years.

The president and vice president must always be on the same party ticket. You vote for the president and the vice president at the same time, always assuring that the president and vice president are from the same political party.

The yearly salary of the president is \$400,000 plus an expense allowance. The vice president receives a salary of \$230,700, plus an expense allowance.

Before 1999, the president's salary had not been increased for more than 20 years. As a result, the salary was very low for the leader of the most powerful country in the world. All the chief executive officers of large American corporations make more than 10 times the salary of the president. Finally, in 1999, Congress raised the president's salary from \$200,000 to \$400,000. If you adjust for inflation, the president today makes less than George Washington!

Oath of Office

The oath of office was established in the U.S. Constitution, Article 2, and is mandatory for a new or reelected president. With the words of this simple oath, the president takes the most important political position in the world:

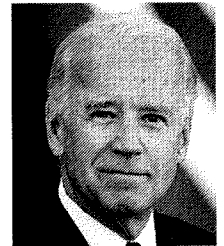
"I do solemnly swear (or affirm) that I will faithfully execute the Office of the President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

The entire section of the Constitution that tells about the powers of the president contains only 320 words, but the wording is designed so that the office gets a maximum of necessary powers with necessary safeguards for the people.

The oath is typically administered by the Chief Justice of the Supreme Court. The ceremony generally takes place at the U.S. Capitol. After the oath, the president gives his or her *inaugural* speech. This tells the people the goals and direction of the nation. Over the years, this *Inauguration Day* has expanded from a simple ceremony to a day-long event, including parades, speeches, and balls.

Role of the Vice President

The president faces critical issues daily. The day is long, and the pressures are great. The vice president may be assigned duties by the president and, in recent years, presidents have given considerable authority and responsibility to their vice presidents. This is one way the president can ease the presidential burdens of the office. The vice president is also the president of the Senate and provides the president with a valuable link with Congress.



Vice President
Joe Biden

Vacancy

If the Office of the President becomes vacant, the vice president becomes president. Next in order of succession is the speaker of the House, then president pro tempore of the Senate, then members of the cabinet, starting with the secretary of state.

In 1973, the Office of the Vice President became vacant when Vice President Agnew resigned in a scandal. President Nixon made the first use of the 25th Amendment when he nominated Gerald Ford, House minority leader, as the new vice president. Congress approved the nomination. For more about the 25th Amendment, see Page 14.

Before 1974, the only way the Office of the President had become vacant was through death. However, in 1974, when President Nixon was found to be involved in the Watergate cover up, he became the first president ever to resign. Vice President Ford then became the 38th President of the United States.

Duties

In general, the duties of the president can be divided into five classes:

1. Foreign Affairs - The president makes treaties with Senate approval, nominates ambassadors and other foreign service officials, and receives foreign representatives. The president is in charge of all of our foreign affairs. Much of the work in this area is done through one of the cabinet officials, the secretary of state.

2. Domestic and Military Administration - The president is commander-in-chief of the armed forces including state militia. Since the president appoints many domestic officials and prepares the budget of the nation for congressional approval, the office has many domestic powers.

3. Legislation - The president may call both houses of Congress into special session. The president may recommend measures to Congress, and the president may veto bills from Congress. The president informs Congress of views on the progress of the nation and its needs through the "State of the Union" message at each session of Congress. And, as political leader of the party in power, the president has much informal power over legislation.

4. Appointment - The president appoints a great number of officials in the executive branch, as well as the judicial branch. Some of these appointments include judges, cabinet members, advisors, department heads, etc. Many of these appointments must be approved by the Senate.

5. Judicial Functions - The president may grant pardons and reprieves for federal offenses. An example of this was President Gerald Ford granting Richard Nixon a pardon for all federal crimes that he may have committed while serving as president.

Who Can Declare War?

As you have seen on Page 25, the Constitution gives the power to declare war to the United States Congress. (Article 1, Sec. 8) Since it seems to be rather plainly stated that "The Congress shall have the power to declare war," you would think the power is very clear. Well, it isn't. The President of the United States is commander-in-chief of the armed forces. (Article 2, Sec. 2) The president has often used his military powers to run a "war" that was never declared by Congress (i.e. Korean War, Vietnam War, War in Iraq 2003). Congress may have approved some of these "wars" but they were not declared wars. So, it remains unclear exactly who can declare a war and who can run a war, and you can only be informed that this is not always clear. There have also been wars where Congress clearly declares war, and the president carries them out (i.e. World War I, World War II). Sometimes the president carries out a "war" that the Congress doesn't seem to really want. (This became the case in the latter part of the Vietnam War.)

QUESTIONS

FILL IN THE BLANKS

1. What are the qualifications for president? _____

2. What is the president's salary? _____
3. What are the five major areas of presidential duties?

4. Who is the commander-in-chief of the armed forces?

5. How long is the president's term? _____
6. What is the order of succession to the presidency?

7. What is the main duty of the executive branch? _____
8. Who is president? _____
9. Who is vice president? _____
10. Who is the head of the executive branch? _____
11. What two presidents have been impeached? _____
12. Who is the only president ever to resign? _____

TRUE OR FALSE? Write a **T** or **F** in the space provided.

- ___ 1. The president can call both houses of Congress into special session.
- ___ 2. The president picks his successor.
- ___ 3. A presidential candidate is selected by Congress.
- ___ 4. The executive branch enforces our nation's laws.
- ___ 5. In 1973 when Vice President Agnew resigned, President Nixon designated his successor.
- ___ 6. In Number 5 above, the Congress has the power of approval.
- ___ 7. The president and the vice president must be from the same political party.
- ___ 8. The president can make treaties without the approval of the Senate.
- ___ 9. The president cannot veto bills from Congress.
- ___ 10. The president may be reelected three times.

MULTIPLE CHOICE - Circle the letter of the correct answer.

1. The national budget is presented by the:
a. vice president b. secretary of state c. president
2. A salary of \$230,700 is paid to:
a. the president b. the vice president c. federal judges
3. The president assumes the duties of office (after election) on:
a. September 5 b. January 20 c. January 4
4. The executive branch is discussed in what article of the Constitution? a. 1 b. 2 c. 3 d. 4
5. The president's chief official in foreign affairs is the:
a. Secretary of State c. Vice President
b. Secretary of Defense d. Attorney General
6. The 25th Amendment deals with what topic?
a. abolishing slavery c. voting rights
b. vacancy of president d. income tax

"...he (the President) may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices. . ." — the Constitution

The short quote above from Article 2, Section 2, is the closest mention the Constitution makes concerning the Cabinet. Those appointed by the president to these "executive departments" became known as members of the *President's Cabinet*. This group of presidential advisors now has 15 members, but President George Washington's first Cabinet had only four departments — State, War, Treasury, and Attorney General. Through the actions of succeeding presidents, cabinet officials were added to meet changing needs. Currently, cabinet members receive a salary of \$199,700.

Here is a brief description of each department's work, the cabinet member's title, and the year the department was established.

The Department of State

The Secretary of State. This department is charged with foreign affairs, including participating in the United Nations, issuing passports, and running our foreign embassies. (1789)

The Department of the Treasury

The Secretary of the Treasury. This department manages our nation's finances, is responsible for coining and printing of money and enforces monetary laws. (1789)

The Department of the Interior

The Secretary of the Interior. This department is charged with all natural resources of the nation, scenic and historical regions, the National Parks System, Indian affairs, dams, and water power. (1849)

The Department of Agriculture

The Secretary of Agriculture. This department conducts educational and research plans aimed at aiding agriculture. It also promotes legislation to help farmers and aids them with their problems. (1862)

The Department of Justice

The Attorney General. This department enforces laws of the United States in federal courts, conducts suits in which the U.S. is concerned, and is chief legal officer of the federal government. This department conducts investigations and suits concerning monopolies, anti-trust laws, and organized crime. (1870)

The Department of Labor

The Secretary of Labor. This department aids wage earners, enforces labor standards and laws, runs employment bureaus, mediates strikes, and suggests new legislation promoting worker safety. (1913)

The Department of Commerce

The Secretary of Commerce. This department promotes all phases of commerce, industry, and business. (1913)

The Department of Defense

The Secretary of Defense. All provisions for the defense of the United States are carried out in this department, including the operation of the armed forces. (1949, originated in 1789 as the War Department.)

The Department of Housing and Urban Development

The Secretary of Housing and Urban Development. This department seeks solutions to the many problems of urban life. Its addition is an acknowledgment of the growing needs of urban living. (1965)

The Department of Transportation

The Secretary of Transportation. Transportation has become a vital problem for a complex society like ours. All methods and use of transportation come under this department's jurisdiction. The agencies at *D.O.T.* promote safe and efficient travel, contributing to the nation's economic growth. (1966)

The Department of Energy

The Secretary of Energy. This agency is charged with establishing an energy policy for the United States. It encourages conservation of fuel and electricity and researches new energy sources. (1977)

The Department of Education

The Secretary of Education. This department manages all the federal education programs in the nation and oversees educational grants to the states. (1979)

The Department of Health and Human Services

The Secretary of Health and Human Services. This department oversees health matters and many programs affecting the quality of American citizens' lives. Agencies include Public Health Service, Social Security, Food and Drug Administration, the Office of Vocational Rehabilitation, and many other programs affecting Americans of all ages. (1979)

The Department of Veterans Affairs

The Secretary of Veterans Affairs. This secretary is responsible for a broad range of problems faced by American veterans from the country's wars and conflicts. Since more than \$83 billion dollars are spent on veterans each year, it is a most important federal department. (1989)

The Department of Homeland Security

The Secretary of Homeland Security. This is the latest cabinet addition deemed necessary because of the 9/11 attacks and increased terrorism. The increasing threat of terrorist attacks made Americans realize that such a department like this is necessary. This cabinet

position oversees the activities of 230,000 workers from 22 agencies, including the Secret Service, border patrol, cybersecurity, and customs services. (2002)

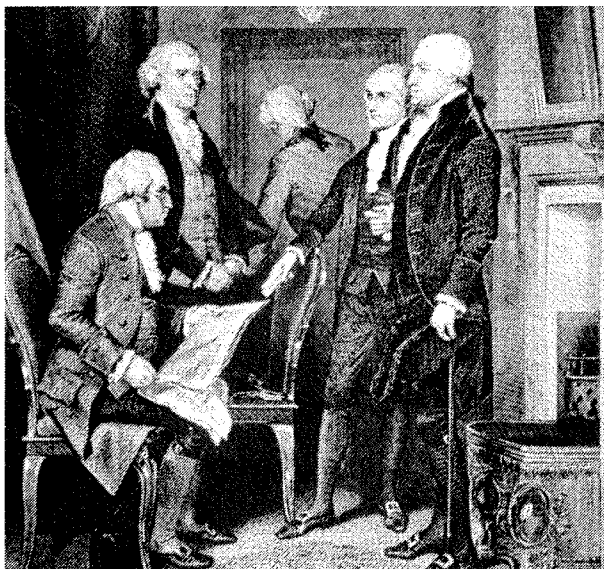
In general, the secretaries play a major role in advising the president in each of their areas. The secretaries are specialists in their field. The various cabinet members play a vital role in shaping national policy.

Executive Office of the President

Every day, the President of the United States is faced with scores of decisions, each with important consequences for America's future. In addition to the cabinet, the president needs additional support to govern effectively. Thus the *Executive Office of the President* (EOP) was created in 1939 by President Franklin D. Roosevelt. The EOP has responsibility for tasks ranging from communicating the president's message to the American people to promoting our trade interests abroad.

Executive Orders

Executive Orders are controversial because they allow the president to make major decisions, even law, without the consent of Congress. The U.S. Constitution does not specifically mention executive orders, but presidents argue that the power to issue them is implied in the following statements in Article II of the Constitution: (1) "The executive power shall be vested in a President of the United States" and (2) "He shall take care that the laws be faithfully executed." Those who argue against or urge limits on the use of the unilateral power associated with executive orders remind us that the American system is based on the principle of checks and balances. Recently, Democrats and Republicans have fought over whether President Obama violated the Constitution by using his executive power to change U.S. immigration law.



George Washington's first cabinet. It included a secretary of state (Thomas Jefferson), secretary of treasury (Alexander Hamilton), secretary of war (Henry Knox), and an attorney general (Edmund Randolph).

QUESTIONS

CABINET RESPONSIBILITIES. List which cabinet officer would be responsible for each of the following:

- Social Security _____
- Carrying out a war _____
- Coining money _____
- Enforcing U.S. laws in federal courts _____
- Federal Railroad Administration _____
- Foreign affairs _____
- National parks _____
- Farm program _____
- Settling a strike _____
- Commuter problems _____
- Terrorism alerts _____
- War memorials _____
- Electric power _____
- Food and Drug Administration _____
- Commerce legislation _____
- Nuclear power production _____
- Secret Service _____
- Labor standards _____
- Participation in the United Nations _____
- Overseeing education programs _____

TRUE OR FALSE? Write a **T** or **F** in the space provided.

- ___ 1. There were only three cabinet members in Washington's Cabinet.
- ___ 2. Cabinet members are part of the judicial branch.
- ___ 3. There are 12 cabinet positions today.
- ___ 4. The newest cabinet position is the Treasury Department.
- ___ 5. Cabinet members receive a salary of \$109,000.
- ___ 6. After the president appoints a cabinet member, he or she must be approved by the Senate.

FILL IN THE BLANKS

- 1. Which cabinet position is headed by the attorney general? _____
- 2. The duties of the president and vice president are discussed in which article of the Constitution? _____
- 3. This cabinet position oversees the activities of the border patrol. _____
- 4. In addition to the Cabinet, what other office supports the many presidential activities? _____

REPORT: Research one of the current cabinet members and write a report for the class. Perhaps there is a cabinet member from your state that you could report on.

Perhaps the longest debate at the Constitutional Convention concerned the method of selecting the president. An early suggestion was to give this power to Congress. But that would have destroyed the idea of the separation of powers. How could we have three branches of government, each checking the other, if the legislative branch (the Congress) picked the head of the executive branch (the president)?

The writers of the Constitution also weren't ready to give the selection of the president to the people or the "common man." So they wrote a compromise into Article 2 of the Constitution. The compromise set up a system of electors to select the president. These electors came to be known as the *Electoral College*, but the Constitution itself does not mention the term "Electoral College."

Each state would get as many "electors" as there were senators and representatives from that state. And, in the 23rd Amendment to the Constitution in 1961, three additional electoral votes were added for the voters of Washington, D.C. That now made a total of 538 electors (electoral votes for each state equals the number of representatives plus two for the senators), and a vote of 270 or more would be necessary to select the president. The map below shows the distribution of electoral votes based on the 2010 reapportionment.

Before 1961, the voters in Washington, D.C., didn't get to vote for the president at all. This was not considered fair in the very capital of our country.

To summarize, if a candidate gets the most popular (people) votes in the state, the "electors" will then cast their votes the same way. Thus all the electoral votes for the state will (except for Maine and Nebraska) go to the winner of the state.

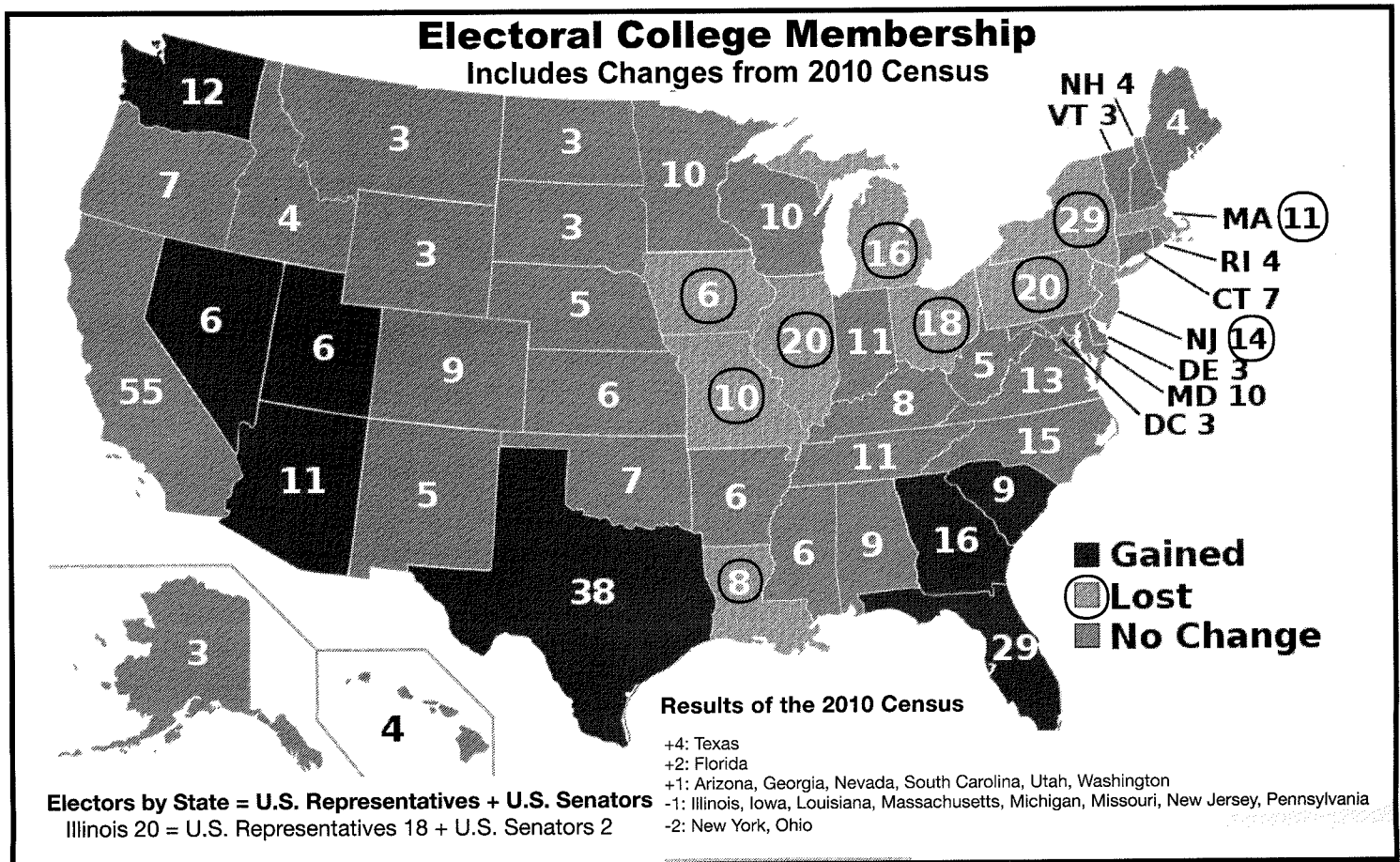
The writers of the Constitution also thought that the Electoral College gave states with a small population more of an equal weight in the presidential election.

One of the problems political scientists see in the Electoral College is that it allows a person to be selected president who has not won the popular vote in the country. In our growing beliefs in the power and rights of democracy in our country, that could be a problem. Because all the electoral votes of a state go to the candidate who wins the vote in that state, whether the candidate wins by a single vote or a million votes, it is possible to be elected president without having the most votes.

Supporters of the current system say that it has served the nation well and forces candidates to gain broad geographic support rather than concentrating only on large metropolitan areas.

That has not happened very often, but it did happen in the 2000 election when President Bush became president even though Al Gore won a majority of the American votes. And, because this has happened so recently, many Americans debate what we should do about the Electoral College. Since a change in the electoral vote would require a constitutional amendment, change will not come easily.

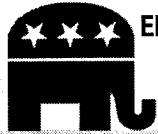
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The current president was not only selected by the Electoral College but also the popular vote in the 2008 and 2012 presidential elections. This has helped to alleviate much of the criticisms of the Electoral College.

Political Party Symbols

In 1874, a political cartoonist, Thomas Nast, drew the Democrats as represented by a donkey, and the Republicans as represented by an elephant. The symbols stuck, and the parties themselves often use the symbols in advertising.



Elephant = Republican



Donkey = Democrat

QUESTIONS

TRUE OR FALSE? Write a *T* or *F* in the space provided.

- ___ 1. The term Electoral College comes from the Constitution itself.
- ___ 2. Although it was originally expected that a group of electors would actually elect the president and vice president, it became the practice for the electors to vote for the candidate who had the most popular votes.

- ___ 3. Popular vote means the vote of the people.
- ___ 4. There have been no elections in which the candidate with the most popular votes has not become president.
- ___ 5. The writers of the Constitution felt that the voters should directly elect the president and vice president.

FILL IN THE BLANKS


- 1. How many electoral votes are there? _____
- 2. How many electoral votes for your state? _____
- 3. What is the minimum number of electoral votes for a state? _____
- 4. Which state has the most electoral votes? _____
- 5. Name a president who was elected without winning the popular vote. _____
- 6. What political party does a donkey represent? _____

SHORT ANSWER

Should the Electoral College be abolished? Give an argument for or against this system. _____

LEARNING AID

EXECUTIVE BRANCH FACT SHEET

Main Officers	The <i>President</i> and <i>Vice President</i> of the United States		
Salaries	The <i>President</i> : \$400,000 plus an expense allowance The <i>Vice President</i> : \$230,700 plus an expense allowance The <i>Cabinet</i> : \$199,700		
Qualifications	The <i>President</i> and <i>Vice President</i> : 35 years old, a natural-born citizen, resident of the United States for 14 years		
Terms of Office	Four years, may be reelected once		
Duties	Main duty of the executive branch is to enforce or administer laws. The <i>President</i> : controls foreign affairs and domestic powers, appoints many officials, grants pardons and reprieves, is commander-in-chief of the armed forces, prepares budget of the nation, is legislative leader of the political party in power. The <i>Vice President</i> : presides over the Senate of the United States, takes on duties assigned by the president, succeeds the Office of the President.		
Advisors	<i>The Cabinet</i> : 15 department officials appointed by the president to aid in running our country. Department of: (along with key responsibility)		
	<i>State</i> : foreign affairs	<i>Health & Human Services</i> : health issues in U.S.	
	<i>Justice</i> : chief legal department	<i>Housing & Urban Development</i> : urban problems	
	<i>Defense</i> : defense of our country	<i>Transportation</i> : all domestic transportation	
	<i>Interior</i> : nation's natural resources	<i>Energy</i> : policies on energy, including conservation	
	<i>Agriculture</i> : farmers assistance, food inspection	<i>Education</i> : federal education matters	
	<i>Labor</i> : wage earners' assistance	<i>Veterans' Affairs</i> : matters that deal with veterans	
	<i>Commerce</i> : deals with business problems	<i>Homeland Security</i> : national security and war on terrorism	
<i>Treasury</i> : nation's finances & coining of money			
Article Number	Article 2 of the U.S. Constitution		

In November 2012, President Barack Obama was re-elected to a second term. Democratic President Barack Obama defeated former Republican Governor Mitt Romney. The president won 332 electoral votes, along with 50.6 percent of the popular vote (versus Romney's 206 electoral votes and 47.9 percent of popular vote).

Obama's win came in part from heavy support from black, Hispanic and younger voters. Women also made an impact, with 55 percent casting their votes for President Obama. A majority of men (52 percent) voted for Mitt Romney.

Because of the 22nd Amendment, President Obama is restricted from running for a third term. It is not too early to start looking ahead to the next presidential election.

Americans pick their presidents and vice presidents from the candidates presented by the Democratic and Republican parties. There are smaller parties that sometimes offer candidates, but they usually do not have enough support. Small parties that offer candidates are called *third parties*. The Constitution does not mention political parties, although they have been in existence since the earliest days of our country.

In any presidential election, you can expect that there will be only two major candidates, a Democratic and a Republican. This will be true in November 2016 when

the next presidential election will be held. In presidential election years, the two parties will plan a separate political *convention* (meeting) with delegates from every state gathering. This will take place the summer before the next presidential election. There will be much ballyhoo, speeches, and votes, and then they will select their candidate for president and vice president.

The responsibility and importance of voters has increased with the growth of our country and our government. The only way to safeguard our rights and interests is to understand the Constitution and become an interested voter. Though our government costs a great deal in money and effort, Americans have always been willing to work for effective, democratic government.

QUESTIONS

1. Who was the Republican candidate for president in 2012? _____
2. Who was the Democratic candidate for president in 2012? _____
3. What is the name of the meetings at which the political parties choose their candidate? _____
4. Which president was elected four times? _____
5. What year is the next presidential election? _____

Presidents of the United States

President Barack Obama is the 44th President of the United States. He is only the 43rd person ever to serve as president; President Grover Cleveland served two nonconsecutive terms, and thus is recognized as both the 22nd and the 24th president. Today, the president is limited to two four-year terms, but until the 22nd Amendment to the Constitution, ratified in 1951, a president could serve an unlimited number of terms. Franklin D. Roosevelt was elected president four times, serving from 1932 until his death in 1945; he is the only president ever to have served more than two terms.

President	Term	Party	President	Term	Party
1. George Washington	1789-1797	None	23. Benjamin Harrison	1889-1893	Republican
2. John Adams	1797-1801	Federalist	24. Grover Cleveland	1893-1897	Democrat
3. Thomas Jefferson	1801-1809	Dem.-Rep.	25. William McKinley	1897-1901	Republican
4. James Madison	1809-1817	Dem.-Rep.	26. Theodore Roosevelt	1901-1909	Republican
5. James Monroe	1817-1825	Dem.-Rep.	27. William H. Taft	1909-1913	Republican
6. John Quincy Adams	1825-1829	Dem.-Rep.	28. Woodrow Wilson	1913-1921	Democrat
7. Andrew Jackson	1829-1837	Democrat	29. Warren G. Harding	1921-1923	Republican
8. Martin Van Buren	1837-1841	Democrat	30. Calvin Coolidge	1923-1929	Republican
9. William H. Harrison	1841	Whig	31. Herbert Hoover	1929-1933	Republican
10. John Tyler	1841-1845	Whig	32. Franklin D. Roosevelt	1933-1945	Democrat
11. James K. Polk	1845-1849	Democrat	33. Harry S. Truman	1945-1953	Democrat
12. Zachary Taylor	1849-1850	Whig	34. Dwight D. Eisenhower	1953-1961	Republican
13. Millard Fillmore	1850-1853	Whig	35. John F. Kennedy	1961-1963	Democrat
14. Franklin Pierce	1853-1857	Democrat	36. Lyndon B. Johnson	1963-1969	Democrat
15. James Buchanan	1857-1861	Democrat	37. Richard M. Nixon	1969-1974	Republican
16. Abraham Lincoln	1861-1865	Republican	38. Gerald R. Ford	1974-1977	Republican
17. Andrew Johnson	1865-1869	Democrat	39. Jimmy Carter	1977-1981	Democrat
18. Ulysses S. Grant	1869-1877	Republican	40. Ronald Reagan	1981-1989	Republican
19. Rutherford B. Hayes	1877-1881	Republican	41. George Bush	1989-1993	Republican
20. James A. Garfield	1881	Republican	42. William Clinton	1993-2001	Democrat
21. Chester A. Arthur	1881-1885	Republican	43. George W. Bush	2001-2009	Republican
22. Grover Cleveland	1885-1889	Democrat	44. Barack Obama	2009-2017	Democrat

Want To Do What Few Can?

Your author estimates that not more than one person in 10,000 can recite the Presidents of the United States. Do you want to be in the upper 1/100th of 1 percent of Americans? Memorize this list and hope you are on the quiz program that asks: "For a million dollars, name the Presidents of the United States!"

"The judicial power of the United States, shall be vested in one supreme court, and in such inferior courts..."

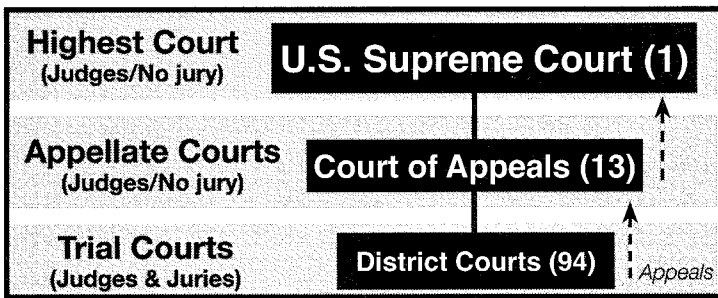
— Article 3, Section 1 of the United States Constitution

The main purpose of the judicial branch is to interpret the laws and administer justice. Many of the details of this branch may be found in Article 3 of the Constitution. The judicial branch consists of a system of federal courts.

While the executive and legislative branches are elected by the people, members of the judicial branch are appointed by the president and confirmed by the Senate. Each federal judge holds office for life and may be removed only by impeachment. There are no expressed qualifications for federal judges in the Constitution.

The power of the judicial branch through the courts is extended to all cases arising under the Constitution, laws, and treaties of the United States, and in some other special cases (see Article 3, Section 2). Every person accused of wrongdoing has the right to a fair trial before a competent judge and a jury of one's peers.

There are three major types of federal courts:



The Supreme Court

A major duty of the *justices* (judges) of the Supreme Court is to decide whether state and federal laws are constitutional, and whether actions by lower courts or other governmental agencies are constitutional. This power is not given to the Supreme Court directly by the Constitution, but precedence and tradition have given the court this power. It also hears cases of appeal from lower courts, providing a federal matter, such as copyright, kidnapping, or counterfeiting, is involved. In some special cases, it hears the matter directly.

There are nine Supreme Court justices with one justice serving as chief justice. The Constitution does not stipulate the number of Supreme Court justices; the number is set instead by Congress. Court justices receive a salary of \$213,900. The chief justice receives a salary of \$223,500. Six justices make a quorum, and a majority is necessary for a decision. The court meets in its own building in Washington, D.C. The current nine members are listed below.

Chief Justice (1): John G. Roberts Jr.		
Associate Justices (8)	Antonin Scalia	Stephen G. Breyer
	Anthony M. Kennedy	Samuel A. Alito Jr.
	Clarence Thomas	Sonia M. Sotomayor
	Ruth Bader Ginsburg	Elena Kagan

Court of Appeals

The United States has 13 courts of appeal, each with three or more judges. Their main job is to hear cases of appeal from lower courts. This court was created in 1891 to relieve the Supreme Court of the large burden of cases appealed from the district courts.

District Courts

There are about 94 district courts in the United States. Each court has one to 24 judges. The district courts are the ordinary trial courts in the federal system. Almost all cases heard in the federal system begin here. Most people would come in contact with this court if they were involved in a federal legal issue.

There are a number of other courts for special cases. Some of these are: U.S. Claims Court, U.S. Tax Court, and U.S. Court of Appeals for Veterans Appeals. As their names show, their duties are limited to specific areas. Also, states have court systems for state matters.

QUESTIONS

WHICH COURT? Which federal court fits the statement given? Answer *Supreme Court (SC)*, *Court of Appeals (CA)*, *District Court (DC)*, *none (N)*, or *all (A)*.

- _____ 1. This court could declare the final word on the constitutionality of a state law.
- _____ 2. This court could declare the final word on the constitutionality of a federal law.
- _____ 3. Judges are appointed.
- _____ 4. Judges serve for life.
- _____ 5. Has nine judges.
- _____ 6. Removed only by impeachment.
- _____ 7. Ordinary trial courts of the federal system.
- _____ 8. Has 13 courts.
- _____ 9. Meets in its own building in Washington, D.C.
- _____ 10. The judges must be 32 years or older.
- _____ 11. Has a chief justice as head officer.
- _____ 12. Most court cases begin here.
- _____ 13. Courts that are described in Article 3 of the Constitution.
- _____ 14. Appointment approved by the Senate.
- _____ 15. Salary of \$173,600.
- _____ 16. Elected by the people.
- _____ 17. Must be natural-born citizens.
- _____ 18. Appointed by the president.
- _____ 19. Must have law degrees.
- _____ 20. Serve without salary.

FILL IN THE BLANKS

- 1. Who appoints Supreme Court judges? _____
- 2. Who must approve Supreme Court appointments? _____
- 3. Who is the current chief justice of the Supreme Court? _____

"Laws are a dead letter without courts to expound their true meaning and operation." – Alexander Hamilton

Judicial review is the name given to the process by which the courts interpret the meaning of the Constitution and the laws passed under it. It is clear that the Constitution is the supreme law of our land and takes precedence over any law passed or any action taken by any state or federal official.

But the Constitution is not a detailed legal code, and it is not always easy to see how the Constitution can be applied to particular cases. As conditions change, new interpretations may be placed on the Constitution; actions may be taken in areas that are not directly covered by the Constitution.

Someone, then, must have the authority to say exactly what the Constitution means and to decide if the government is acting within constitutional limits. Most historians agree that the members at the Constitutional Convention meant the courts to have the power of judicial review, even though they did not write it out in detail. Apparently, they thought that the idea had been conveyed adequately through the wording of Article 3, the judicial article, and Article 6, the "supreme law of the land" clause.

There was some discussion of this question after the Constitutional Convention, but nothing was settled until 1803, when the Supreme Court handed down its decision in the case of *Marbury v. Madison*. The court ruled that one section of a 1789 law was contrary to the Constitution and, therefore, was not a valid law.

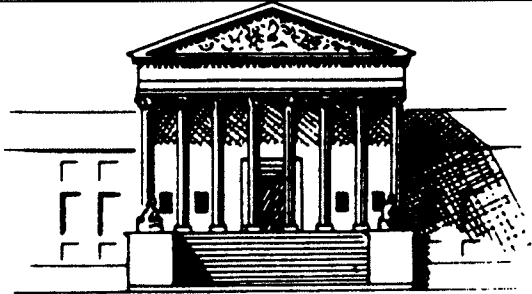
This case established the precedent for judicial review, an important addition to the system of checks and balances to prevent any one branch of the federal government from becoming too powerful. Judicial review in the United States has been a model for other countries.

The Supreme Court's right to interpret the Constitution has been challenged at times, but has always been upheld. In a sense, all of our courts contribute to the interpretation of the Constitution through the rulings they hand down on various cases involving the Constitution. The Supreme Court has used its power of judicial review to overturn more than a hundred acts of Congress and more than a thousand state laws. In addition the Supreme Court can, and often does, overturn the rulings of lower courts. It is the final authority on the meaning of the Constitution.

QUESTIONS

FILL IN THE BLANKS

1. This name is given to the process by which courts interpret the meaning of the Constitution and the laws passed under it. _____
2. What Article in the Constitution discusses the judicial branch? _____
3. What important case came before the Supreme Court in 1803? _____
4. What court is the final authority on the meaning of the Constitution? _____

LEARNING AID		JUDICIAL BRANCH FACT SHEET		
Main Courts	The <i>Supreme Court</i> , <i>Court of Appeals</i> , and <i>District Courts</i> .			
Number of Courts	<i>Supreme Court</i> : 1 <i>Court of Appeals</i> : 13 <i>District Courts</i> : 94			
Number of Judges	<i>Supreme Court</i> : 9 <i>Court of Appeals</i> : 3 to 9 <i>District Courts</i> : 1 to 24			
Supreme Court Salaries	\$223,500 for Supreme Court chief justice \$213,900 for Supreme Court associate justices			
Terms of Office	For life; may be removed only by impeachment.			
Duties	Main duty of the judicial branch is to interpret laws and administer justice. <i>Supreme Court</i> : Decide if laws are constitutional <i>Court of Appeals</i> : Hear appeals from lower courts <i>District Courts</i> : Ordinary trial courts, federal cases begin here Other courts handle special cases, examples include U.S. Claims Court and U.S. Tax Court.			
Meeting Place	<i>Supreme Court</i> : Washington, D.C. <i>Court of Appeals</i> : various circuits <i>District Courts</i> : various districts			
Article Number in Constitution	Article 3 of the U.S. Constitution			

The federal courts are often called the “guardians of the Constitution” because their rulings protect rights and liberties guaranteed by the Constitution. Through fair and impartial judgments, the federal courts interpret and apply the law to resolve disputes. An important distinction should be noted: Courts do not make the laws, that is the responsibility of Congress.

Landmark Supreme Court Cases

Besides the case of *Marbury v. Madison* (discussed on the previous page) there have been several other important Supreme Court cases. Here is a sampling of these cases:

- ***McCulloch v. Maryland*** (1819): Established the constitutional supremacy of the federal government over state government.
- ***Dred Scott v. Sanford*** (1857): Declared the Missouri Compromise unconstitutional; it also established that slaves were not citizens of the United States.
- ***Ableman v. Booth*** (1859): The U.S. Supreme Court denied state courts the right to issue rulings that conflicted with the decisions of federal courts; helped interpret federalism.
- ***Plessy v. Ferguson*** (1896): Ruled that separate but equal facilities for blacks and whites on trains did not violate civil rights of blacks. This “separate but equal” doctrine remained effective until the *Brown v. Board of Education* decision in 1954.
- ***Schenck v. U.S.*** (1919): Declared that the United States government can restrict free speech “if the words used... create a clear and present danger.”
- ***Gitlow v. New York*** (1925): Decision confirmed that the Bill of Rights applies to the states.
- ***Schechter v. U.S.*** (1935): Ruled that Congress cannot delegate its power and authority to the president.
- ***Brown v. Board of Education*** (1954): Laws enforcing segregation in schools are unconstitutional, violating the equal protection guarantee of the 14th Amendment.
- ***Miranda v. Arizona*** (1966): Ruled that suspects of a crime must be informed of their rights.
- ***Roe v. Wade*** (1973): Protected a women’s choice in matters of abortion and provide guidelines for state abortion regulations.
- ***U.S. Term Limits Inc. v. Thornton*** (1995): Ruled that neither the states nor Congress could limit terms of the members of Congress.

Student Rights and the Constitution

The Supreme Court has ruled on many cases involving young people under the age of 18. Although many of you are not old enough to see certain movies, this does not prevent you from enjoying the same basic constitutional rights as adults.

The Constitution applies to all, including students’ rights, but does acknowledge that there must be considerations for age and maturity levels. The rights of free speech, free press and freedom from unwarranted search and seizure have been debated by parents, students, and school administrators for many decades.

As you have learned, the nine Supreme Court justices exert a powerful influence over the course of the nation and over the lives of Americans. A sampling of rulings that directly affect students are discussed below.

Tinker v. Des Moines School District (1969)

Issue: Freedom of Speech at School (1st Amendment)

Background: Students were told to remove black armbands which were worn to protest the war in Vietnam, and were suspended after not complying

Ruling: In a 7-2 decision, the courts ruled “It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” Although ruling for the students, the court also noted that self-expression must be balanced against a school’s need to maintain order.

New Jersey v. T.L.O. (1985)

Issue: Privacy Rights at School (4th Amendment)

Background: Student caught smoking in a school bathroom, which led to a search of her purse, finding cigarettes and marijuana paraphernalia.

Ruling: In a 6-3 decision, the Supreme Court ruled that her rights were not violated, since students have reduced expectations of privacy in school. School officials may search a student’s property if they have “reasonable suspicion.”

Hazelwood School District v. Kuhlmeier (1988)

Issue: Student journalism and censorship (1st Amendment)

Background: Three high school juniors helped write and edit an article in the school paper about the impact of divorce on students and teen pregnancy. The school’s principal refused to publish the stories, saying they were too sensitive for younger students. The girls went to court claiming their 1st Amendment right to freedom of expression had been violated.

Ruling: The Supreme Court ruled against the girls stating that a school newspaper is not a forum in which anyone can voice an opinion, but rather a supervised learning experience for students interested in journalism.

Sante Fe School District v. Jane Doe (2000)

Issue: School Prayer (1st Amendment)

Background: A school district allowed a student chaplain to lead prayer before football games, broadcasting over loudspeaker system. The school district was sued by three students stating that it violated the Establishment Clause of the First Amendment.

Ruling: In a 6-3 decision, the Supreme Court ruled that school district’s policy regarding prayer was unconstitutional. However, students may pray together as long as a coach or other school official is not involved.

There will always be issues that challenge the interpretation of the Constitution. Each side of the issue has supporters that believe their view is correct. It is important to research each topic to fully understand the arguments.

QUESTIONS

TRUE OR FALSE? Write a **T** or **F** in the space provided.

- _____ 1. The Constitution has no impact on teenagers.
- _____ 2. Schools may require prayer and curriculum on religion.
- _____ 3. The Constitution is always easily interpreted.
- _____ 4. The ruling in the case of *Plessy v. Ferguson* was overturned in 1954.
- _____ 5. Administrators cannot censor a school newspaper.
- _____ 6. Several Supreme Court decisions have been overturned by the President of the United States.
- _____ 7. The First Amendment allows for the freedom of religion, speech, press, assembly, and petition.

The authors of the Constitution wanted to be sure that no person or group would seize power and control the American government. To insure that this would not happen, our United States government, under the Constitution, was divided into three parts: the executive, the legislative, and the judicial. Each of these three branches has a check on the powers of the others. These checks provide a system of balance in our government, and that is why we call the system *checks and balances*.

You may also hear this system referred to as a *separation of powers*. Although not directly mentioned in the Constitution, the first three articles mark the responsibilities of the executive, legislative, and judicial branches. It gives some power to each branch of government instead of giving all the power to one branch.

These are the most important checks and balances:

1. **Executive branch** has the power to check the legislative branch by vetoing laws that Congress wants to pass.
2. **Legislative branch** may check the executive branch by passing laws over the veto by two-thirds vote in each house.
3. **Judicial branch** may check both the legislative and executive by declaring laws unconstitutional.

Obviously, this is not the whole system, but it is the main idea. Other checks and balances include:

Executive over the judicial branch: The president appoints all federal judges and may grant pardons or reprieves for those convicted in court.

Legislative over the executive branch: The legislative branch must approve appointments that the president makes; the Senate must approve treaties that the president makes; and the legislative branch may investigate the executive branch.

Legislative over the judicial branch: The legislative branch must approve the president's choice of judges to the judicial branch and may propose constitutional amendments to overturn judicial decisions.

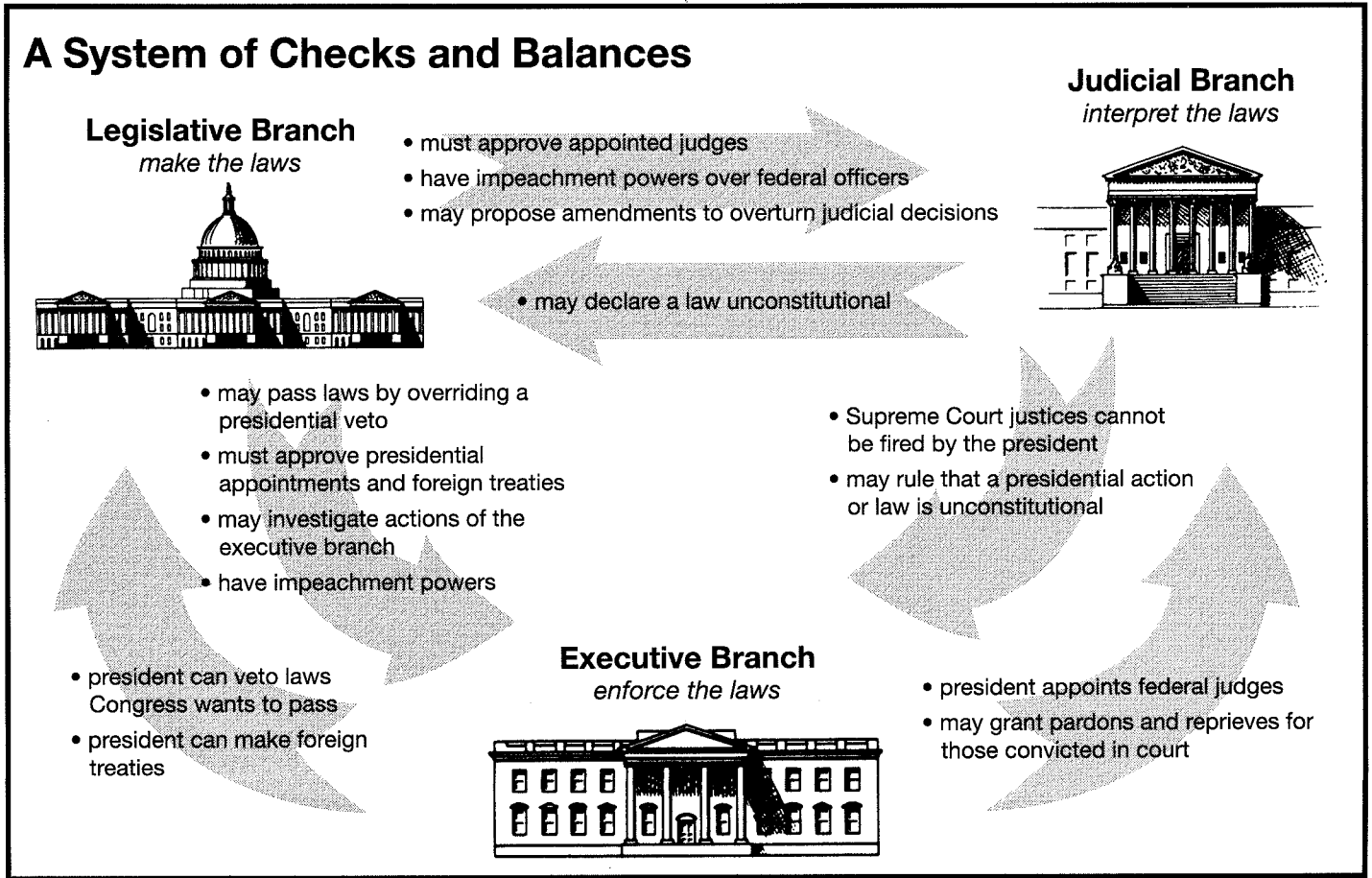
Legislative over the executive and judicial branch: The legislative branch has impeachment powers over all federal officers.

Judicial over the executive branch: Supreme Court justices cannot be fired by the president.

There are other checks and balances in the American government besides those between branches of government. They include:

Checks in Congress

The Senate and House are able to check each other by rejecting bills passed by the other. The House has the added check of sole power to start revenue bills. *continued*



Checks on the People

A president is not elected directly by the people; only one-third of the Senate is elected at one time; and judges are not elected by the people.

Power to the People

The Declaration of Independence is a clear statement of the American belief that government must serve the people, and not the other way around. These ideas guided the writing of the Constitution and the first three words, "**We the People**..." This protects the people from a too-powerful government and grants you select powers. You have the right to elect members of government and limit how long government leaders can be in office.

The power to govern belonging to the people (either directly or through representation) is called *popular sovereignty*. The government can only function with the consent of the people.

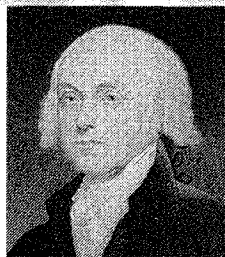
In addition to the federal government, most state and local governments have the mechanics of a system of checks and balances.

Federalism

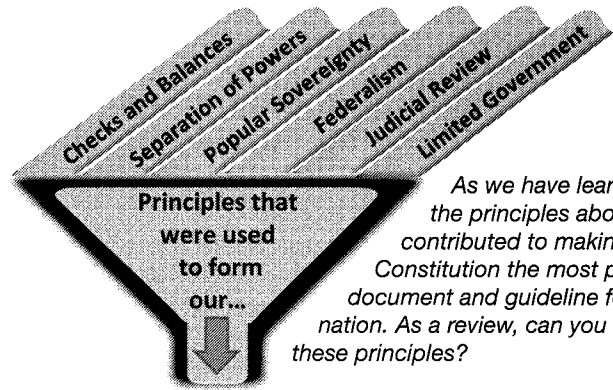
Another check and balance is the theory of *federalism*, or the sharing of power between the federal, state, and local governments. In many ways this is a natural division of functions. Local affairs are handled by local governments; national affairs by the federal government.

While each of the 50 states has its own constitution, all provisions for state constitutions must comply with the U.S. Constitution. For example, a state constitution cannot deny accused criminals the right to a trial by jury, as assured by the U.S. Constitution's Sixth Amendment.

**James Madison
(1751-1836)**



Known as the "Father of the Constitution," James Madison campaigned vigorously for a system of checks and balances in the governmental framework. In the "Federalists Papers," Madison wrote extensively on this balance of power and how this would control the interests of various groups. Madison argued that the larger the society, and the more diverse interests of its citizens, the more likely each faction would be to thwart the interests of other factions seeking control. These concepts helped lead to the success of the Constitution and its ultimate ratification.



As we have learned, the principles above have contributed to making the Constitution the most powerful document and guideline for our nation. As a review, can you define these principles?

U.S. Constitution

QUESTIONS

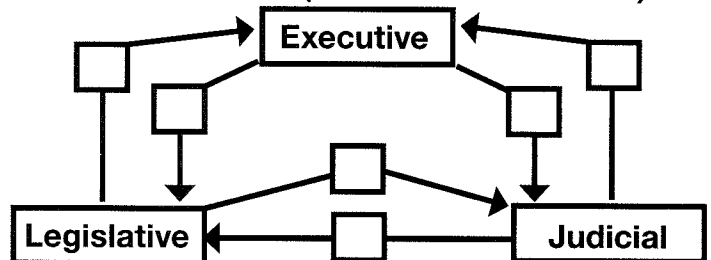
1. Why is there a system of checks and balances?

2. Name the three branches of the federal government.

TRUE OR FALSE? Write a **T** or **F** in the space provided.

- ___ 1. The judicial branch has no check on the other branches.
- ___ 2. State constitutions do not need to comply with the U.S. Constitution.
- ___ 3. The theory of federalism is a division of power between the states and federal government.
- ___ 4. There are checks on the people, too.
- ___ 5. The Supreme Court judges are appointed by Congress.
- ___ 6. Once a Supreme Court judge is appointed, he/she may never be removed.
- ___ 7. The president's veto is part of the system of checks and balances.
- ___ 8. The power to govern belonging to the people is called popular sovereignty.
- ___ 9. George Washington was known as the Father of the Constitution.
- ___ 10. The legislative branch has impeachment powers.

FILL IN THE BOXES (CHECKS & BALANCES)



- a. president appoints federal judges
- b. must approve appointed judges
- c. may pass laws by overriding a veto
- d. may declare laws from Congress unconstitutional
- e. may veto laws passed by Congress
- f. Supreme Court justices may not be fired