

Understanding the Constitution

What You Will Learn...

Main Ideas

1. The framers of the Constitution devised the federal system.
2. The legislative branch makes the nation's laws.
3. The executive branch enforces the nation's laws.
4. The judicial branch determines whether or not laws are constitutional.

The Big Idea

The U.S. Constitution balances the powers of the federal government among the legislative, executive, and judicial branches.

Key Terms and People

federal system, p. 144
 impeach, p. 146
 veto, p. 146
 executive orders, p. 147
 pardons, p. 147
 Thurgood Marshall, p. 148
 Sandra Day O'Connor, p. 148



HSS 8.2.6 Enumerate the powers of government set forth in the Constitution and the fundamental liberties ensured by the Bill of Rights.

If YOU were there...

You have just been elected to the U.S. House of Representatives. You know that committees do much of the work in Congress. They deal with many different fields such as foreign policy, agriculture, national security, science, and education. You would like to ask for a spot on a committee whose work interests you.

Which committee would you ask to serve on?

BUILDING BACKGROUND When the framers of the Constitution met in Philadelphia in 1787, they created a national government with three branches that balance one another's powers.

The Federal System

The framers of the Constitution wanted to create a government powerful enough to protect the rights of citizens and defend the country against its enemies. To do so, they set up a **federal system of government**, a system that divided powers between the states and the federal government.

The Constitution assigns certain powers to the national government. These are called delegated powers. Among them are the rights to coin money and to regulate trade. Reserved powers are those kept by the states. These powers include creating local governments and holding elections. Concurrent powers are those shared by the federal and state governments. They include taxing, borrowing money, and enforcing laws.

Sometimes, Congress has had to stretch its delegated powers to deal with new or unexpected issues. A clause in the Constitution states that Congress may "make all Laws which shall be necessary and proper" for carrying out its duties. This clause, called the elastic clause—because it can be stretched (like elastic)—provides flexibility for the government.

READING CHECK Summarizing How is power divided between the federal and state governments?

Separation of Powers

QUICK
FACTS

U.S. Constitution

Legislative Branch (Congress)

- Writes the laws
- Confirms presidential appointments
- Approves treaties
- Grants money
- Declares war

Executive Branch (President)

- Proposes laws
- Administers the laws
- Commands armed forces
- Appoints ambassadors and other officials
- Conducts foreign policy
- Makes treaties

Judicial Branch (Supreme Court)

- Interprets the Constitution and other laws
- Reviews lower-court decisions

Legislative Branch

The federal government has three branches, each with **distinct** responsibilities and powers. This separation balances the branches and keeps any one of them from growing too powerful. The first branch of government is the legislative branch, or Congress. It makes the nation's laws. Article I of the Constitution divides Congress into the House of Representatives and the Senate.

With 435 members, the House of Representatives is the larger congressional house. The U.S. Census, a population count made every 10 years, determines how many members represent each state. A system called apportionment keeps total membership at 435. If one state gains a member, another state loses one. Members must be at least 25 years old, live in the state where they were elected, and have been U.S. citizens for seven years. They serve two-year terms.

The Senate has two members, or senators, per state. Senators represent the interests of the whole state, not just a district. They must be at least 30 years old, have been U.S. citizens for nine years, and live in the state they represent. They serve six-year terms. The senior senator of a state is the one who has served

the longer of the two. Members of Congress can serve an unlimited number of terms.

The political party with more members in each house is the majority party. The one with fewer members is the minority party. The leader of the House of Representatives, or Speaker of the House, is elected by House members from the majority party.

The U.S. vice president serves as president of the Senate. He takes no part in Senate debates but can vote to break ties. If he is absent, the president pro tempore (pro tem for short) leads the Senate. There is no law for how the Senate must choose this position, but it traditionally goes to the majority party's senator who has served the longest.

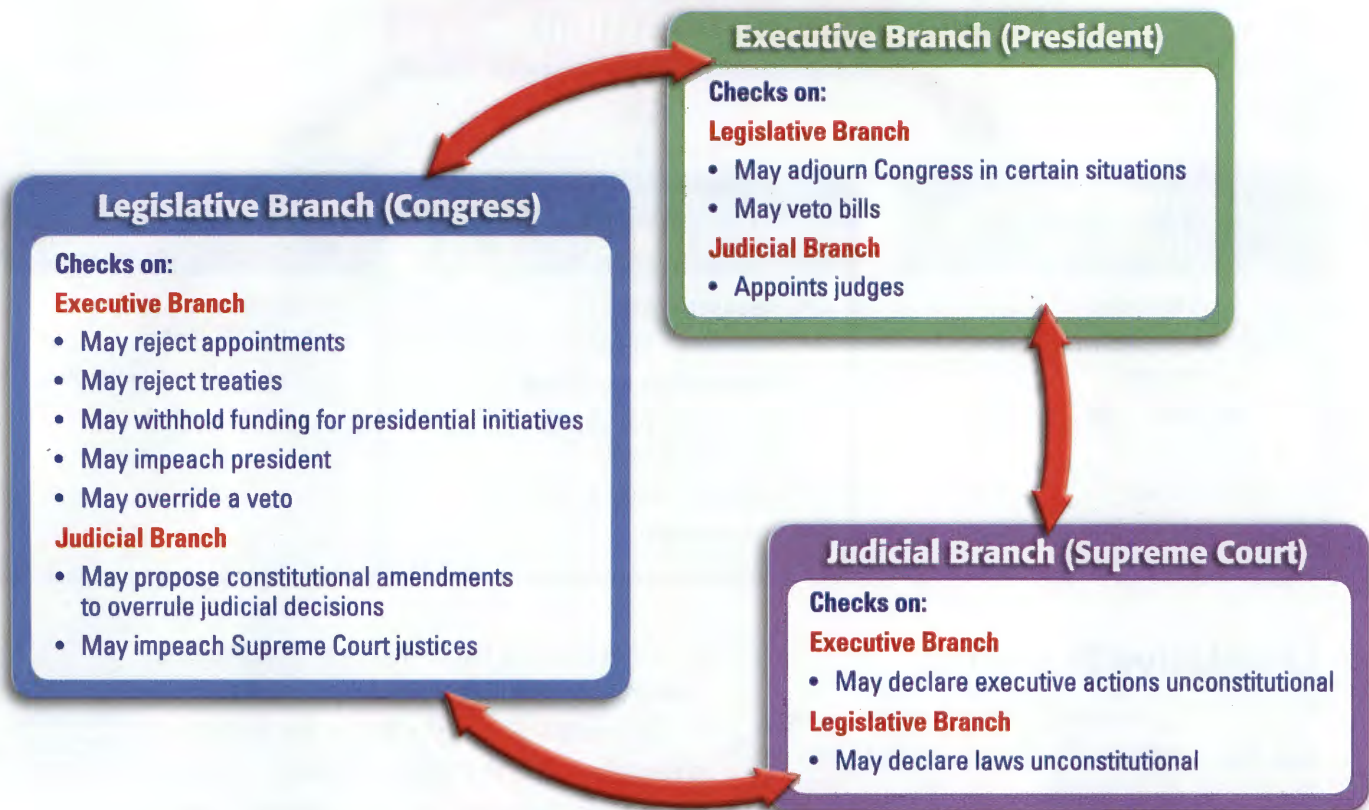
Congress begins sessions, or meetings, each year in the first week of January. Both houses do most of their work in committees. Each committee studies certain types of bills, or suggested laws. For example, all bills about taxes begin in the House Ways and Means Committee.

ACADEMIC VOCABULARY

distinct
separate

READING CHECK Comparing and Contrasting

What are the similarities in requirements for members of the House of Representatives and the Senate? What are the differences?



Executive Branch

Article II of the Constitution lists the powers of the executive branch. This branch enforces the laws passed by Congress.

President and Vice President

As head of the executive branch, the president is the most powerful elected leader in the United States. To qualify for the presidency or vice presidency, one must be a native-born U.S. citizen at least 35 years old. The president must also have been a U.S. resident for 14 years.

Americans elect a president and vice president every four years. Franklin D. Roosevelt, who won four times, was the only president to serve more than two terms. Now, the Twenty-second Amendment limits presidents to two terms. If a president dies, resigns, or is removed from office, the vice president becomes president for the rest of the term.

The House of Representatives can **impeach**, or vote to bring charges of serious crimes against, a president. Impeachment cases are tried in the Senate. If a president is found guilty, Congress can remove him from office. In 1868 Andrew Johnson was the first president to be impeached. President Bill Clinton was impeached in 1998. However, the Senate found each man not guilty.

Working with Congress

The president and Congress are often on different sides of an issue. However, they must still work together.

Congress passes laws. The president, however, can ask Congress to pass or reject bills. The president also can **veto**, or **cancel**, laws Congress has passed. Congress can try to override, or undo, the veto. However, this is difficult since it takes a two-thirds

majority vote. To carry out laws affecting the Constitution, treaties, and statutes, the president issues **executive orders**. These commands have the power of law. The president also may grant **pardons, or freedom from punishment**, to persons convicted of federal crimes or facing criminal charges.

The president also commands the armed forces. In emergencies, the president can call on U.S. troops. Only Congress, however, can declare war. Other executive duties include conducting foreign relations and creating treaties. Executive departments do most of the executive branch work. As of 2004 there were 15 such departments. The president chooses department heads, who are called secretaries, and the Senate approves them. The heads make up the cabinet, which advises the president.

READING CHECK Drawing Conclusions

What is the president's most important power?

Judicial Branch

The third branch of government, the judicial branch, is made up of a system of federal courts headed by the U.S. Supreme Court. The Constitution created the Supreme Court, but the Judiciary Act of 1789 created the system of lower district and circuit courts.

Article III generally outlines the courts' duties. Federal courts can strike down a state or federal law if the court finds a law unconstitutional. Congress can then try to revise the law to make it constitutional.

District Courts

The president makes appointments to federal courts. In an effort to keep federal judges free of party influence, the judges are given life appointments. The lower federal courts are divided according to cases over which they have jurisdiction, or authority. Each state has at least one of the 94 district courts.

THE IMPACT TODAY

In 2002 the new Department of Homeland Security was given cabinet-level status to protect against terrorism.



Background of the Court

The rest of the Supreme Court Decisions you see in this book will highlight important cases of the Court. But in this first one, we'll discuss the history of the Court.

The first Supreme Court met in 1790 at the Royal Exchange in New York City. The ground floor of this building was an open-air market. When the national government moved to Philadelphia, the Court met in basement rooms in Independence Hall. Once in Washington, the Court heard cases in the Capitol building until the present Supreme Court building was completed in 1932.

Circuit Riding

Today the Supreme Court holds court only in Washington, D.C. In the past, however, the justices had to travel through assigned circuits, hearing cases together with a district judge in a practice known as riding circuit.

The justices complained bitterly about the inconvenience of travel, which was often over unpaved roads and in bad weather. This system was not just inconvenient to the justices, however. Some people worried about the fairness of a system that required justices who had heard cases at trial to rule on them again on appeal. Other people, however, thought that the practice helped keep the justices in touch with the needs and feelings of the average citizen. Eventually,

circuit riding interfered so much with the increased amount of business of the Supreme Court that Congress passed a law ending the practice in the late 1800s.

Path to the Supreme Court

When a case is decided by a state or federal court, the losing side may have a chance to appeal the decision to a higher court. Under the federal system, this higher court is called the court of appeals. A person who loses in that court may then appeal to the Supreme Court to review the case. But the Supreme Court does not have to accept all appeals. It usually chooses to hear only cases in which there is an important legal principle to be decided or if two federal courts of appeals disagree on how an issue should be decided.

ANALYSIS SKILL

ANALYZING INFORMATION

1. What are two reasons why the practice of circuit riding ended?
2. Why do you think the Supreme Court does not hear every case that is appealed to it?

FOCUS ON READING

Jot down a short summary of the appeals process after reading this paragraph.

Courts of Appeals

If someone convicted of a crime believes the trial was unfair, he or she may take the case to the court of appeals. There are 13 courts of appeals. Each has a panel of judges to decide if cases heard in the lower courts were tried appropriately. If the judges uphold, or accept, the original decision, the original outcome stands. Otherwise, the case may be retried in the lower court.

Supreme Court

After a case is decided by the court of appeals, the losing side may appeal the decision to the Supreme Court. Thousands of cases go to the Supreme Court yearly in the hope of a hearing, but the Court has time to hear only about 100. Generally, the cases heard involve important constitutional or public-interest issues. If the Court declines to hear a case, the court of appeals decision is final.

THE IMPACT TODAY

Supreme Court rulings can have dramatic effects on the nation, as in *Bush v. Gore*, which decided the outcome of the 2000 presidential election.

Nine justices sit on the Supreme Court. The chief justice of the United States leads the Court. Unlike the president and members of Congress, there are no specific constitutional requirements to become a justice.

In recent decades, the Supreme Court has become more diverse. In 1967 **Thurgood Marshall** became the first African American justice. **Sandra Day O'Connor** became the first female Court justice after her 1981 appointment by President Ronald Reagan.

READING CHECK Summarizing Describe the structure and responsibilities of the judicial branch.

SUMMARY AND PREVIEW In this section you learned about the balance between the different branches of the federal government. In the next section you will learn about the Bill of Rights.

Section 1 Assessment

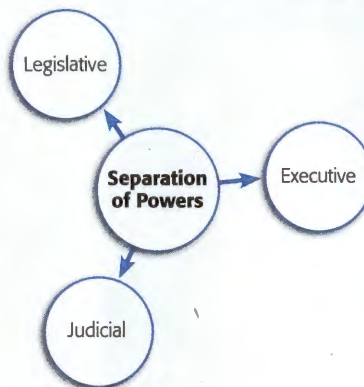
go.hrw.com
Online Quiz
KEYWORD: SS8 HP5

Reviewing Ideas, Terms, and People HSS 8.2.6

- a. Describe** What type of government did the Constitution establish for the United States?
b. Contrast What is the difference between delegated, reserved, and concurrent powers?
- a. Recall** What role does the vice president serve in the legislative branch?
b. Compare and Contrast In what ways are the Senate and the House of Representatives similar and different?
c. Elaborate Why do you think the requirements for serving in the Senate are stricter than those for serving in the House of Representatives?
- a. Describe** What powers are granted to the president?
b. Make Generalizations Why is it important that the president and Congress work together?
c. Evaluate What do you think is the most important power granted to the president? Why?
- a. Explain** What is the main power of the judicial branch?
b. Evaluate Which branch of government do you feel is most important? Explain your answer.

Critical Thinking

- 5. Categorizing** Copy the web diagram below. Use it to identify the separation of powers that exists between the branches of the federal government.



FOCUS ON WRITING

- 6. Gathering Information about the Constitution** Look back through what you've just read about the Constitution. Make a list of four or five of the most important features of the Constitution. You'll put that list on the second page of your pamphlet.