

# BRANCHES OF GOVERNMENT

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(800) 421-4246

Second Edition

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Printed in the United States of America.

ISBN: 978-1-56004-213-3

**Product Code: ZP770**

# TABLE OF CONTENTS

Quiz: <i>Executive Branch</i> .....	1
-------------------------------------	---

Answer Key: <i>Executive Branch</i> .....	4
---	---

Quiz: <i>Legislative Branch</i> .....	7
---------------------------------------	---

Answer Key: <i>Legislative Branch</i> .....	11
---	----

Quiz: <i>Judicial Branch</i> .....	14
------------------------------------	----

Answer Key: <i>Judicial Branch</i> .....	17
--	----

## Lecture Notes

The Executive Branch.....	23
---------------------------	----

The Legislative Branch.....	45
-----------------------------	----

The Judicial Branch .....	69
---------------------------	----

## Student Handouts

The Executive Branch.....	97
---------------------------	----

The Legislative Branch.....	104
-----------------------------	-----

The Judicial Branch .....	112
---------------------------	-----





# QUIZ: EXECUTIVE BRANCH

**Directions:** Read each question carefully, then write the letter of the **best** answer in the blank or on your answer sheet.

1. How often are Presidential Elections held? \_\_\_\_\_
  - A. Every 2 years
  - B. Every 4 years
  - C. Every 6 years
  - D. None of the above
2. What is the inauguration date? \_\_\_\_\_
  - A. November 4th
  - B. December 12th
  - C. January 20th
  - D. February 14th
3. Since the framers of the Constitution felt the people were too illiterate to elect a good president, what did they form? \_\_\_\_\_
  - A. Electoral College
  - B. Edwards College
  - C. College of Electors
  - D. None of the Above
4. In what year did our first president take office? \_\_\_\_\_
  - A. 1776
  - B. 1789
  - C. 1795
  - D. 1800
5. How do national conventions decide whom to choose as their presidential candidate? \_\_\_\_\_
  - A. Conventions/concerts
  - B. Parties/caucuses
  - C. Primaries/caucuses
  - D. Caucuses/concerts
6. What is the minimum age requirement for the president? \_\_\_\_\_
  - A. 25
  - B. 30
  - C. 35
  - D. 40

7. What is the citizenship requirement for the president? \_\_\_\_\_
- A. Citizen for 7 years
  - B. Citizen for 9 years
  - C. Citizen for 14 years
  - D. Natural-born citizen
8. Which of the following involves the president using his powers in foreign policy? \_\_\_\_\_
- A. Commander in Chief
  - B. Chief of State
  - C. Chief Executive
  - D. Chief Diplomat
9. 9. Which of the following involves the president using his powers of control over the U.S. military? \_\_\_\_\_
- A. Commander in Chief
  - B. Chief of State
  - C. Chief Executive
  - D. Chief Diplomat
10. Which amendment limits the terms of the president? \_\_\_\_\_
- A. 21st
  - B. 22nd
  - C. 23rd
  - D. 25th
11. Which amendment covers the rules of succession if the president becomes disabled or dies?  
\_\_\_\_\_
- A. 21st
  - B. 22nd
  - C. 23rd
  - D. 25th
12. Who is first in line of succession if the president is disabled or dies? \_\_\_\_\_
- A. Vice President
  - B. Speaker of the House
  - C. President Pro Tempore of the Senate
  - D. Secretary of State
13. Who is the first cabinet member in the line of presidential succession? \_\_\_\_\_
- A. Vice President
  - B. Speaker of the House
  - C. President Pro Tempore of the Senate
  - D. Secretary of State

14. Which of the following powers relates to the president seeing that all laws are properly carried out? \_\_\_\_\_
- A. Executive Power
  - B. Diplomatic Power
  - C. Military Power
  - D. Legislative Power
15. Which of the following powers relates to the president making executive agreements? \_\_\_\_\_
- A. Executive Power
  - B. Diplomatic Power
  - C. Military Power
  - D. Legislative Power
16. Which of the following powers relates to the president recommending bills to become laws? \_\_\_\_\_
- A. Executive Power
  - B. Diplomatic Power
  - C. Military Power
  - D. Legislative Power
17. What is the role of the cabinet? \_\_\_\_\_
- A. Elect the president
  - B. Appoint the president
  - C. Advise the president
  - D. None of the above
18. Which president appointed the first cabinet members? \_\_\_\_\_
- A. George Washington
  - B. John Adams
  - C. Thomas Jefferson
  - D. Abraham Lincoln
19. How many cabinet members are there today? \_\_\_\_\_
- A. 4
  - B. 10
  - C. 15
  - D. 20
20. Which cabinet post was most recently created? \_\_\_\_\_
- A. Secretary of State
  - B. Secretary of Defense
  - C. Secretary of Veterans Affairs
  - D. Secretary of Homeland Security

# ANSWER KEY: *EXECUTIVE BRANCH*

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20. Which cabinet post was most recently created?
- A. Secretary of State
  - B. Secretary of Defense
  - C. Secretary of Veterans Affairs
  - D. Secretary of Homeland Security**

# QUIZ: LEGISLATIVE BRANCH

**Directions:** Read each question carefully, then write the letter of the **best** answer in the blank or on your answer sheet.

1. Which of the following defined the way in which our U.S. Congress would be designed?

\_\_\_\_\_

- A. Virginia Plan
- B. New Jersey Plan
- C. Connecticut Compromise
- D. Philadelphia Compromise

2. On what, is representation in the House of Representatives based? \_\_\_\_\_

- A. Population
- B. Square mileage of the state
- C. Age of the state
- D. Elections

3. What is the minimum age requirement for a member of the House of Representatives?

\_\_\_\_\_

- A. 25
- B. 30
- C. 35
- D. 40

4. What is the length of the term for which a member of the House of Representatives serves?

\_\_\_\_\_

- A. 8 years
- B. 6 years
- C. 4 years
- D. 2 years

5. Who is the chief official in the House of Representatives? \_\_\_\_\_

- A. President of the U.S.
- B. Vice President of the U.S.
- C. Speaker of the House
- D. President Pro Tempore of the Senate

6. Members of the House of Representatives study bills more closely by referring them to a \_\_\_\_\_
- A. Joint Committee
  - B. Standing Committee
  - C. Conference Committee
  - D. Temporary Committee
7. How many Senators does each state have? \_\_\_\_\_
- A. two
  - B. four
  - C. six
  - D. eight
8. What portion of the Senate body is up for re-election every two years? \_\_\_\_\_
- A. One half
  - B. One third
  - C. One quarter
  - D. One fifth
9. What is the minimum age requirement for Senators? \_\_\_\_\_
- A. 25
  - B. 30
  - C. 35
  - D. 40
10. Who is the chief official in the Senate? \_\_\_\_\_
- A. President of the U.S.
  - B. Vice President of the U.S.
  - C. Speaker of the House
  - D. President Pro Tempore of the Senate
11. Who is in control of the Senate when their chief official is absent? \_\_\_\_\_
- A. President of the U.S.
  - B. Vice President of the U.S.
  - C. Speaker of the House
  - D. President Pro Tempore of the Senate
12. Senators learn more about bills by referring them to a(n) \_\_\_\_\_
- A. Committee
  - B. Judge
  - C. Panel
  - D. Interest Group



13. Most committees in either house of Congress are divided into groups that specialize in certain areas. These are called \_\_\_\_\_
- A. sections
  - B. partitions
  - C. subcommittees
  - D. subsections
14. Which of the following techniques can be used in the Senate to “talk a bill to death”?
- \_\_\_\_\_
- A. Cloture
  - B. Filibuster
  - C. Billbuster
  - D. Debate
15. If the Senators wish to keep a bill from being “talked to death”, what can they invoke?
- \_\_\_\_\_
- A. Cloture
  - B. Filibuster
  - C. Billbuster
  - D. Debate
16. If a bill passes both the House of Representatives and the Senate, but it is in two different versions, to what type of committee is it referred? \_\_\_\_\_
- A. Standing
  - B. Select
  - C. Conference
  - D. Subject Matter
17. Once the same version of a bill passes both houses, to whom is it sent? \_\_\_\_\_
- A. President of the U.S.
  - B. Vice President of the U.S.
  - C. Speaker of the House
  - D. President Pro Tempore of the Senate
18. What happens to a bill if the person mentioned in the previous question signs it? \_\_\_\_\_
- A. It dies
  - B. It becomes a law
  - C. It goes back to the House of Representatives
  - D. It goes back to the Senate
19. If the person mentioned in question number 17 vetoes the bill, what does that mean? \_\_\_\_\_
- A. It dies
  - B. It becomes a law
  - C. It goes back to the House of Representatives
  - D. It goes back to the Senate

20. What fraction of both the House of Representatives and the Senate is needed to override a veto? \_\_\_\_\_
- A. One third
  - B. One half
  - C. Two thirds
  - D. Two fifths

# ANSWER KEY: *LEGISLATIVE BRANCH*

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3. What is the minimum age requirement for a member of the House of Representatives?
  - A. 25**
  - B. 30
  - C. 35
  - D. 40
4. What is the length of the term for which a member of the House of Representatives serves?
  - A. 8 years
  - B. 6 years
  - C. 4 years
  - D. 2 years**
5. Who is the chief official in the House of Representatives?
  - A. President of the U.S.
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- A. One third
  - B. One half
  - C. Two thirds**
  - D. Two fifths

# QUIZ: JUDICIAL BRANCH

**Directions:** Read each question carefully, then write the letter of the **best** answer in the blank or on your answer sheet.

1. Which Congressional act created the federal courts and the U.S. Supreme Court? \_\_\_\_\_
  - A. Court Act of 1789
  - B. Judiciary Act of 1789
  - C. Federal Courts Act of 1789
  - D. Judicial Courts Act of 1789
2. What are the two types of Federal Courts? \_\_\_\_\_
  - A. Special & Congressional
  - B. Special & Constitutional
  - C. Constitutional & Congressional
  - D. None of the above
3. What is the proper term for the right a court has to hear a case? \_\_\_\_\_
  - A. Jurisdiction
  - B. Adjudication
  - C. Appellate
  - D. Exclusion
4. How many levels are there of the federal courts? \_\_\_\_\_
  - A. one
  - B. two
  - C. three
  - D. four
5. How many Federal District courts exist? \_\_\_\_\_
  - A. 25
  - B. 50
  - C. 68
  - D. 91
6. During which year were the Courts of Appeals created? \_\_\_\_\_
  - A. 1789
  - B. 1889
  - C. 1891
  - D. 1991

7. How many Courts of Appeals exist? \_\_\_\_\_
- A. 6
  - B. 12
  - C. 15
  - D. 18
8. Which concept allows the Supreme Court to rule on the constitutionality of a law or act?  
\_\_\_\_\_
- A. Judicial Review
  - B. Constitutional Review
  - C. Judiciary Acts of Placement
  - D. None of the above
9. Which landmark case established the concept discussed in the previous question? \_\_\_\_\_
- A. *McCulloch v. Maryland, 1819*
  - B. *Marbury v. Madison, 1803*
  - C. *Schenck v. U.S., 1919*
  - D. *Plessy v. Ferguson, 1896*
10. When does the Supreme Court convene? \_\_\_\_\_
- A. First Monday in October
  - B. First Tuesday in November
  - C. Last Monday in October
  - D. First Tuesday in October
11. On which day of the week does the Supreme Court typically announce any decisions they have reached to the public? \_\_\_\_\_
- A. Friday
  - B. Wednesday
  - C. Monday
  - D. Sunday
12. Which of the following opinions of the Supreme Court means that it is the decision of the court? \_\_\_\_\_
- A. Appellate
  - B. Majority
  - C. Concurring
  - D. Dissenting
13. Which of the following opinions of the Supreme Court is written by a justice(s) who do not agree with the decision of the court? \_\_\_\_\_
- A. Appellate
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15. How many justices are on the Supreme Court? \_\_\_\_\_
- A. 6
  - B. 9
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  - D. 15
16. How does a person become a justice on the Supreme Court? \_\_\_\_\_
- A. appointed by the president/approved by the senate
  - B. appointed by the senate/approved by the president
  - C. appointed by the president/approved by the house
  - D. appointed by the house/approved by the president
17. Which of the following clauses prohibits the establishment of a state religion? \_\_\_\_\_
- A. Free Exercise Clause
  - B. Freedom of Religion Clause
  - C. Establishment Clause
  - D. Free Establishment Clause
18. Which two amendments protect free speech and free press? \_\_\_\_\_
- A. 1st and 5th
  - B. 5th and 14th
  - C. 7th and 14th
  - D. 14th and 1st
19. What is the only crime specifically mentioned in the Constitution? \_\_\_\_\_
- A. murder
  - B. espionage
  - C. treason
  - D. theft
20. Which of the following is legal in the U.S.? \_\_\_\_\_
- A. Bills of Attainder
  - B. Double Jeopardy
  - C. Bench Trial
  - D. Ex Post Facto Laws



# ANSWER KEY: JUDICIAL BRANCH

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## **The Executive Branch**

## Executive Branch: Inception

- The Articles of Confederation: combined executive and legislative branches
- The Virginia Plan: proposed separate executive and legislative branches
- Some feared a strong executive branch could lead to tyranny or monarchy
- Checks on executive power



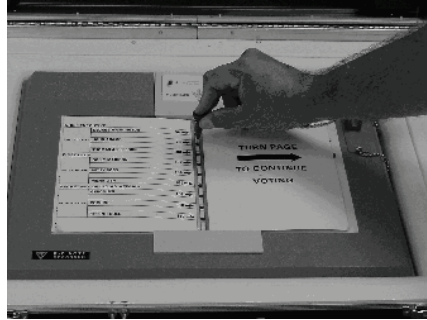
Pennsylvania delegate James Wilson

The Articles of Confederation, which in 1777 formally established America's first national government, instituted a unicameral (one house) legislature that exercised both legislative and executive powers. However, the weakness and ineffectiveness of the national government in dealing with the new nation's political and economic problems led many to call for revisions to the Articles. Although the state delegates who met in Philadelphia in 1787 were only supposed to fix the Articles' defects, they soon adopted a motion by Edmund Randolph of Virginia to create an entirely new government. Randolph then introduced a proposal that became known as the "Virginia Plan." Written largely by James Madison, the Virginia Plan called for a government with three branches: executive, legislative, and judicial.

A debate ensued as to how powerful the new executive branch should be. Some (most notably James Wilson of Pennsylvania) advocated a strong executive who would be independent of both the national legislature and the states. Others feared that a strong executive could lead to tyranny or even an American monarchy. After much argument, the framers of the Constitution settled on having a strong executive branch, but instituted checks on executive power designed to prevent possible abuses.



## Presidential Elections



- Held every four years
- First Tuesday in November
- Inauguration dates

A presidential election is held every four years, and the years of Presidential elections are always divisible by four. The election takes place in November on the first Tuesday after the first Monday. Inauguration of a new president takes place early the following year. The winner used to take office on March 4th; the passage of the 20th Amendment in 1937 changed the date to January 20th—largely to avoid the wetter weather that plagues Washington, D.C., in the early part of spring.

## The Electoral College

- Reasons for the creation of the Electoral College
- Choosing electors
- Ballots cast in December, made official in January



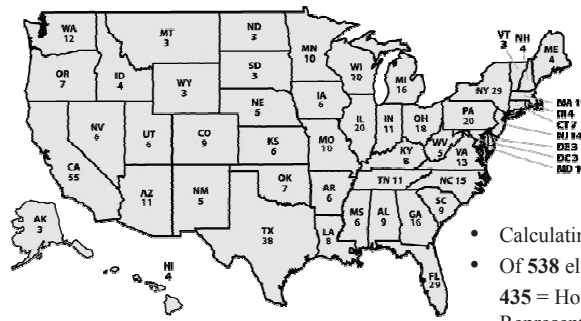
The Electoral College meets in 1876

The framers of the Constitution felt the people of the United States were too illiterate and poorly informed to properly choose a presidential candidate. Consequently, the Constitution created a body known as the Electoral College. Rather than having the people vote directly to determine who becomes president, the people instead vote to determine presidential “electors”—members of the Electoral College. The votes of the electors then determine who becomes president. The Framers had intended that electors would be well-educated and hoped that electors would use their best judgment to determine if the people of their state had chosen “correctly.” However, electors today do not exercise independent judgment and are expected to merely formalize the decision of their state’s voters.

During primaries and caucuses, each political party in a state nominates a slate of people to be electors; the party of the presidential candidate who wins the state determines which slate becomes electors.

Electors meet in their own states to cast their votes on the Monday after the second Wednesday in December. The votes then go to the U.S. Senate to be counted; they get made official before a joint session on Congress early in January.

## Electoral Votes



California has the most electoral votes; states like Wyoming and Vermont have the least

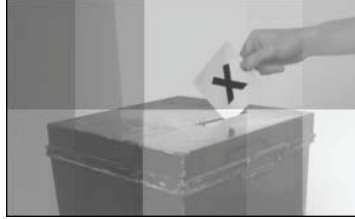
- Calculating electoral votes
- Of 538 electoral votes:  
435 = House of Representatives  
100 = The Senate
- The 23rd amendment

A state has the same number of electors as it does members of Congress. You can calculate the number of electoral votes an individual state has by adding its total number of representatives plus their two senators. Thus, a state's electoral strength corresponds to its total population relative to that of other states—similarly to the way it does in the House of Representatives.

Of the 538 total electoral votes, members of Congress account for 535; the other three come from Washington, D.C. The 23<sup>rd</sup> amendment was passed in order to provide a legal basis for residents of the District of Columbia to vote for President. Washington, D.C., has three electoral votes, which is equal to the minimum number of votes a state can have.

## Electoral College Reform

- “Winner-take-all” system
- Problems
- Proposed reforms
  - o Direct Popular Election
  - o Percentage/Proportional
  - o District

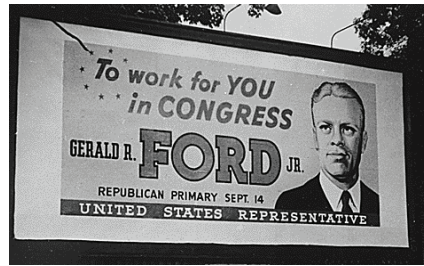


The main problem with the Electoral College stems from the fact that it functions as a “winner-take-all” system. No matter how close an election, the candidate who wins a state gets all of that state’s electoral votes. Thus, it is possible for a presidential candidate to win the popular vote but lose the electoral vote. Other problems: electors are not required to vote for the candidate who receives the greatest number of popular votes, and the possibility exists that an extremely closely contested election could be decided in the House or by the courts rather than by the voters.

Here are three proposed reforms:

1. Direct Popular Election: This would abolish the Electoral College, allowing the popular vote to determine winners.
2. Percentage/Proportional Plan: Candidates would receive the same percentage of electoral votes as they received in a state’s popular vote.
3. District Plan: This plan would apportion electoral votes by Congressional district; in addition, the winning candidate overall in a state would get the state’s two senate votes as a bonus.

## Presidential Primaries and Caucuses



Future president Gerald Ford runs for Congress  
in the 1948 Michigan primary

- Primary: an election held to pick a party's candidates for a general election
- Caucus: a group of people (usually those from a single political party) who meet to choose a candidate to support in a general election

Primaries and caucuses are elections held in each state so the voters can choose their favorite candidate from those wishing to run for president on their party's ticket. Usually held from January through June in Presidential election years, voters (in most states) must choose a particular party's ticket and only vote for candidates and delegates from that party. Delegates go to the national convention for their party in order to cast their votes for the candidate that won their state.

## National Conventions

- Delegates formally select candidates for president and vice-president
- Platform: a party's formal statement about its positions, goals, and principles
- Unity



Ronald Reagan gives his acceptance speech at the 1984 Republican national convention

The first national conventions for the two major political parties were held in 1831. Conventions are held in the summer of Presidential election years. At conventions, members of the party adopt a formal platform, nominate candidates for president and vice-president, and work hard to unite the whole party behind both the candidate and the platform.

## Presidential Requirements and Roles



John F. Kennedy became the youngest president to take office

To be eligible to become president, you must:

- Be at least 35 years old
- Have been born in the U.S
- Have resided in the U.S. for at least 14 years

The president has several major roles:

1. Commander in Chief: the leader/commander of our nation's military forces
2. Chief of State: symbol of America and the U.S. government
3. Chief Executive: ensures that all laws are properly enforced
4. Chief Legislator: can introduce legislation to Congress and request, urge, or insist that Congress to pass specific laws
5. Chief Diplomat: primary shaper of U.S. foreign policy
6. Chief Administrator: head of the federal government and all its employees
7. Chief Citizen: main representative of the American people, primary advocate for the public interest
8. Chief of Party: the leader of their political party

All of these roles are played simultaneously and can only exist by working together

## Presidential Term of Office

- The two-term precedent
- The 22<sup>nd</sup> Amendment



George Washington set the two-term precedent



President Franklin D. Roosevelt was elected to four terms

The Constitution originally had no limits on how many terms a president could serve. However, George Washington, America's first president, chose to serve only two terms because he felt that serving longer would set a bad precedent and make the office become too powerful or king-like. Until the 1940s, all presidents followed Washington's unofficial example and no two-term president tried to run for a third term. In 1940, President Franklin Roosevelt broke the two-term precedent and ran for a third term; he not only won that year but went on to win a fourth term in 1944. In 1951, the 22<sup>nd</sup> Amendment was ratified: it stipulated that no one can be elected president more than twice. FDR remains the only person to be elected president more than twice.



## The 25<sup>th</sup> Amendment

- Deals with instances in which the president dies or becomes disabled
- Established an order of succession
- Set rules for choosing a new vice-president



Lyndon Johnson takes the presidential oath of office after the assassination of JFK

When President Kennedy was killed in November of 1963, it highlighted the fact that the Constitution had no set procedure in place to determine who would assume the office if a sitting president died. The 25th Amendment was designed to remedy this oversight.

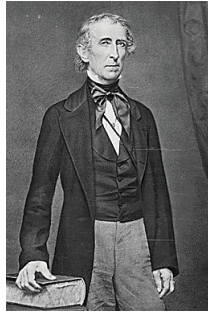
The amendment established an order of succession if the President dies:

(1) Vice President; (2) Speaker of the House; (3) President *pro tempore* of the Senate; (4) Secretary of State; (5) the rest of the Cabinet members in the order that their office was created by Congress

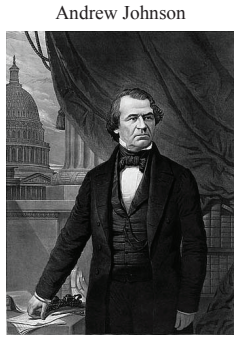
It also set a procedure for occasions where a new vice-president needs to be selected: the president nominates someone, then the person has to be confirmed by both houses of Congress. The 25<sup>th</sup> Amendment also outlines what needs to happen in cases where a president becomes disabled. When a president knows he will be “unable to discharge the duties of his office” (usually due to a medical condition or operation), he can temporarily transfer power, allowing the vice-president to serve in his place until he recovers.

In cases where a president unexpectedly becomes incapacitated, the amendment allows for the vice-president to become acting president only after he and the “principal officers of the executive departments” (i.e., members of the cabinet) attest to the president’s incapacitation in a written declaration they send to the president *pro tempore* of the Senate and to the Speaker of the House.

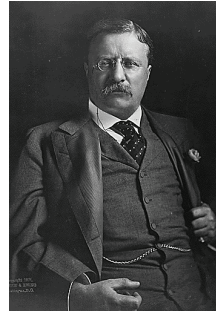
## The Vice-President



John Tyler



Andrew Johnson



Theodore Roosevelt

It's often said that the vice-president is "only a heartbeat away" from the presidency. However, even though the vice-president is first in the line of succession to become the "leader of the free world," the job itself has relatively little power. John Adams, the first vice-president, groused to his wife Abigail about the position, saying, "My country has in its wisdom contrived for me the most insignificant office that ever the invention of man contrived or his imagination conceived."

According to the Constitution, the vice-president has two main duties: to serve as president of the Senate (usually this means casting a tie-breaking vote when the chamber is deadlocked at 50-50) and to succeed to the presidency in case the president dies or is disabled. The first vice-president to ascend to the presidency in this fashion was John Tyler, who became president after William Henry Harrison died of illness after only a month in office. Other notable VP successions include Andrew Johnson (became president after Lincoln's assassination), Theodore Roosevelt (became president after William McKinley's assassination) and Lyndon Johnson (became president after JFK's assassination).

## Presidential Powers



- Executive
- Legislative
- Judicial
- Diplomatic
- Military

The next slides will discuss the primary powers of the president.

## Executive Powers

- Chief Executive
- Executive orders
- Appointments
- Removals



President Richard Nixon signs an Executive Order

The Constitution requires the president to “take care that the laws be faithfully executed.” Although Congress makes the laws, the executive branch often decides how to administer and enforce them. One way for the president to accomplish this is through executive orders, which are rules or directives that have the force of law.

The president also has the power to appoint people to nearly all the most important positions in the government, including attorney-general, foreign ambassadors, Cabinet departments, heads of independent governmental agencies like the CIA and NASA, and Supreme Court justices and federal judges. These appointments remain subject to the approval of the Senate.

The president also has the power to remove any people he appoints to office except for federal judges.

## Legislative Powers



President George H.W. Bush signs into law the 1990 Americans with Disabilities Act

- Recommend legislation to Congress
- Approve measures passed by Congress
- Veto power
- Call special sessions of Congress

The president can recommend legislation to Congress and can also sign measures passed by Congress, which then makes the measures law. The president can also reject measures passed by Congress; this is known as the “veto power.” A veto prevents the measure from becoming law and sends it back to Congress; senators and representatives can then revise the measure and send it back to the president or override the veto by a two-thirds majority vote in each house. The president can also exercise what’s known as a “pocket veto,” which only occurs at the end of a congressional session. A pocket veto situation happens like this: Congress sends a bill to the White House for the president to sign but then adjourns within ten days of doing so. If the president doesn’t either sign or veto the bill, it dies. Finally, the president can call special sessions of Congress.

## Judicial Powers

- Appointment of federal judges
- Reprieves
- Pardons
- Commutations
- Amnesty



Supreme Court Justice Warren Burger and President Nixon at press conference announcing Burger as new Chief Justice

In addition to appointing judges to the federal bench or Supreme Court, the president can also grant or offer the following:

- Reprieve: a postponement of a sentence
- Pardon: legal forgiveness of a crime committed
- Commutation: reduction of a sentence or fine imposed as punishment for a crime committed
- Amnesty: a general pardon for a group of people who all committed a specific crime

## Military Powers



President Lyndon Johnson pins a medal on soldier in Vietnam

- Commander in chief of the U.S. military
- Power to deploy troops
- The War Powers Resolution

As commander of the U.S. military, the president has the power to deploy troops anywhere in the world in order to respond quickly to threats to the security of the U.S. and its allies. Although the president cannot formally declare war (that power is reserved to Congress), he can essentially wage war without a formal declaration, as occurred with the Korean War in the 1950s and the Vietnam War in the 1960s and 1970s. The American public largely stood in support of U.S. intervention in Korea, but the U.S. presence in Vietnam met with increasing opposition on the home front. The Vietnam War also produced calls for Congress to curtail the president's power to wage war for an indefinite amount of time. The War Powers Resolution of 1973, which Congress passed over President Nixon's veto, placed a 60-day limit on the length of time a president can commit U.S. troops to combat situations without congressional approval.



## Diplomatic Powers

- Treaties
- Recognition
- Setting foreign policy



President Kennedy signs the  
1963 Nuclear Test Ban Treaty

The president has the power to negotiate treaties, which are formal agreements between nations. The treaty then has to be approved by a two-thirds vote of the Senate. The president also has the power of recognition, which means accepting the government of another country as legitimate. Recognition usually involves the exchange of ambassadors and/or other diplomatic representatives.

Although not a duty specifically outlined in the Constitution, the president also essentially sets U.S. foreign policy. He accomplishes this not only through treaty-making and recognition, but by deploying U.S. troops to specific regions, by deciding which international agreements the U.S. should become party to, and through speeches and pronouncements he makes regarding situations throughout the world.



## The Cabinet



- Advises the president
- Not mentioned in the Constitution
- George Washington's Cabinet

Although not mentioned in the Constitution, the Cabinet plays an extremely important role in the operations of the executive branch. The Cabinet consists of several executive “departments” that manage different functions of the federal government. The heads of these departments, who usually go by the title of “secretary,” also are responsible for advising the president on their particular areas of expertise.

In 1789, Congress created the first Cabinet-level positions. George Washington's Cabinet was comprised of the following men:

Secretary of State—Thomas Jefferson

Secretary of Treasury—Alexander Hamilton

Secretary of War—Henry Knox

Attorney General—Edmund Randolph

## The Modern Cabinet

<i>Name of Department</i>	<i>Year Established</i>	<i>Name of Department</i>	<i>Year Established</i>
State	1789	Health and Human Services	1953
Treasury	1789	Housing and Urban Development	1965
Defense	1789	Transportation	1967
Justice	1870	Energy	1977
Interior	1849	Education	1979
Agriculture	1889	Veterans Affairs	1988
Commerce	1903	Homeland Security	2002
Labor	1913		

**State**—handles foreign policy matters; **Treasury**—manages tax collection, currency production, governmental borrowing, the national debt; **Defense**—oversees the U.S. military; **Justice**—responsible for law enforcement and prosecution.

**Interior**—handles issues relating to the use and conservation of public lands; **Agriculture**—handles issues relating to farms and ranches, and production and sales of food; **Commerce**—focuses on trade issues surrounding U.S.; issues patents and trademarks; conducts U.S. census; **Labor**—handles worker-related issues, especially those dealing with labor unions, wages, and working conditions.

**Health and Human Services**—public health care, disease prevention and control, and prescription drugs; **Housing and Urban Development**—enforces fair housing laws, oversees public housing and home-financing programs; **Transportation**—oversees programs relating to the various forms of transportation used in the U.S.; **Energy**—manages a variety of programs relating to different forms of energy production.

**Education**—administers federal aid to schools; researches education-related issues facing the U.S. as a whole; **Veterans Affairs**—manages programs and other forms of aid for U.S. military veterans; **Homeland Security**—U.S. terrorist attack prevention; U.S. border/public domain security; emergency preparedness and response.

## The Growth of Presidential Power

- Only government official elected by the country as a whole
- Executive branch: decisions made by one person
- Congressional legislation
- Executive Orders



Over the course of American history, a number of factors have increased the power of the presidency. As the only government official elected by the country as a whole, the president is the only one who has any sort of mandate to govern in the name of all the American people. Decision-making in the executive branch is also easier than in other branches because one person holds the power. Legislative power is divided among hundreds of senators and representatives in Congress; judicial power is divided between the nine justices of the Supreme Court. In addition, Congress at times has passed legislation that has given the president more power—usually in times of war or other national emergencies. Finally, the President has can issue Executive Orders, which usually only deal with the operations of the executive branch but still have the force of law. Perhaps the most famous Executive Order was 9066: issued by President Franklin Roosevelt, the order provided for the relocation and internment of Japanese Americans during World War II.

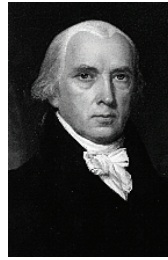




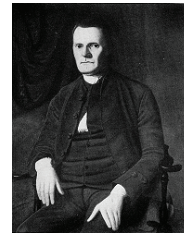
## **The Legislative Branch**

## Legislative Branch: Inception

- The Virginia Plan and the New Jersey Plan
- The “Great Compromise”
  - Bicameral legislature: the House of Representatives and the Senate
  - House representation based on population
  - Senate—each state allowed two votes
  - Length of terms for representatives, senators



James Madison



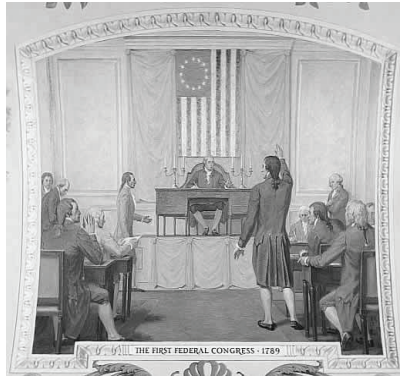
Roger Sherman

When delegates to the Constitutional Convention convened in Philadelphia in May of 1787, their original goal was to amend the Articles of Confederation, a loose plan of government devised by Richard Henry Lee in 1777 to form a “firm league of friendship” among independent states. Although they were only supposed to fix the Articles’ defects, the delegates soon adopted a motion by Edmund Randolph of Virginia to create an entirely new government.

One of the first issues facing the delegates was that of representation. James Madison proposed what became known as the “Virginia Plan,” which gave more power to the large states by providing them with more delegates to the Congress. Voters would be given some political power in as much as they would elect the lower house. The upper house, however, would be selected by the lower house. The alternative was the “New Jersey Plan,” proposed by delegate William Paterson. In this plan, small states’ interests would be protected by a unicameral, or one-house legislature, with each state having an equal number of votes. An impasse developed over the issue of representation, and it seemed for a while that the delegates wouldn’t be able to come to an agreement. Connecticut delegate Roger Sherman offered a plan to break the deadlock. The so-called “Great Compromise” included a bicameral (two-house) legislature composed of a “House of Representatives” and a “Senate.” Sherman’s plan would protect the rights of both large and small states: representation in the House would be based on population (which favored the larger states), and each state would have two representatives in the Senate (which favored the smaller states). In addition, by allowing only a two-year term for House members in comparison to a six-year term for Senators, the framers afforded some measure of “aristocracy” for members of the “upper house.”

## The First Congress

The first Congress  
met in New York City  
in 1789



On March 4, 1789, Congress met for the first time in New York City in the Federal Hall on Wall Street. In December of 1790 they moved to Philadelphia, and on November 17, 1800 they made their final move to a permanent spot in Washington, D.C.

## The House of Representatives

- Seats are distributed based on population
- Reapportionment takes place every ten years
- Gerrymandering



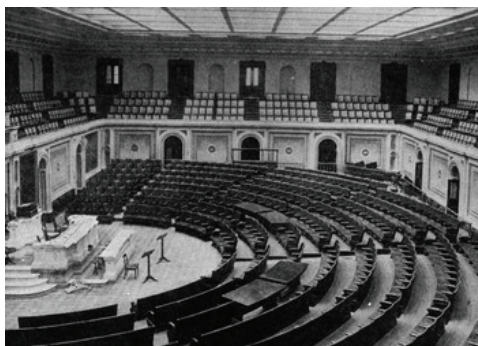
The district created by members of Governor Elbridge Gerry's party closely resembled a salamander—hence the term “gerrymander”

How many seats an individual state has in the lower house of the legislature, the House of Representatives, is based directly on that state's population relative to the other states in the Union. Every ten years, after a new census has been taken, a process known as reapportionment occurs: to reflect changing populations, the number of representatives an individual state has may change as well. No matter how small its population, every state is guaranteed at least one representative. There are 435 members of the House of Representatives.

Each House member represents a single district in his or her home state. Though in theory districts should follow lines of geography and appear as simple geometric shapes on a political map, some districts have odd, twisted, or contorted shapes that seem to defy logic. This occurs because district lines are often redrawn to favor the political party in power, a practice known as gerrymandering. The term was coined in 1812, when painter Gilbert Stuart noticed that Massachusetts Governor Elbridge Gerry's district, drawn by members of his party, resembled a salamander. He then attached claws, wings, and a head to the creature and gave birth to the new phrase. Gerrymandering sometimes puts at risk the votes of party minorities within each district.



## Qualifications for House Membership



The hall of the House of Representatives

- Must be at least 25 years old
- Must live in the state he or she represents
- Must have been a U.S. citizen for at least seven years

Members of the House of Representatives must be at least 25 years old, must live in the state he or she represents (some states have additional requirements that representatives also live within the district they represent), and must have been a U.S. citizen for at least seven years.

## House Officers

- Speaker of the House
- Majority Floor Leader
- Majority Whip
- Minority Floor Leader
- Minority Whip



President Carter meets with House Speaker Tip O'Neill, 1978

Representatives choose officers from among their ranks to direct and oversee House functions and legislative agenda. Since the U.S. has a two-party system, the House is organized along party lines. The most powerful officer is the Speaker of the House. Chosen by floor vote, the speaker comes from the majority party and presides over the House's proceedings. Each party also has a floor leader, who works to push his or her party's legislative agenda and keep party members voting in line with that agenda, and a whip, who serves as an assistant to the floor leader. The term "whip" comes from fox hunting, where a "whipper-in" was a hunter's assistant in charge of keeping the hounds together in a pack.

## House Committees

- Standing committees: permanent committees that debate proposed bills
- Select committees: temporary panels created to address a specific issue or situation
- Committee chairmen

Agriculture	International Relations
Appropriation	The Judiciary
Armed Services	Resources
The Budget	Rules
Education and the Work Force	Science
Energy and Commerce	Small Business
Financial Services	Standards of Official Conduct
Government Reform	Transportation and Infrastructure
Homeland Security	Veterans' Affairs
House Administration	Ways and Means

Standing committees in the House of Representatives are permanent committees that debate proposed bills then make recommendations to the House as a whole. The first standing committee was the Committee on Ways and Means, created in 1789. In addition, the House also sometimes calls select committees, which are temporary panels created to address a specific issue or situation. House committees cover a range of topics, as seen in the chart on this slide.

Committee chairmen are members of the majority party who have the most seniority (i.e., who have served the longest in the House). Chairmen exercise a significant amount of power, deciding when the committee will meet, which bills the committee will consider, how a bill gets presented to the entire House, and more.

## The Senate



In the Senate, representation is equal: each state has two senators. Senators were originally elected by state legislatures until the passage of the 17th Amendment in 1913. The amendment gave voters the right to directly elect senators, and also allowed a governor to appoint a replacement senator should a sudden vacancy occur.

## The Senate: Facts



The Senate in 1939

- A “continuous body”
- One-third of the Senate comes up for reelection every two years
- Senators can run for reelection as often as they desire

The Senate is a “continuous body,” which means that unlike the House it does not reorganize from time to time due to changes in population. In addition, to minimize upheaval elections for senators are structured so that only one-third of the Senate comes up for reelection every two years. The framers of the Constitution set up the Senate as a continuous body because they envisioned it as the upper house of the legislature, with more responsibilities in the checks and balances system. Senators can run for reelection as often as they desire.

## Qualifications for Senate Membership

- Must be at least 30 years old
- Must live in the state he or she represents
- Must have been a U.S. citizen for at least nine years



The chamber of the U.S. Senate

Members of the House of Representatives must be at least 30 years old, must live in the state he or she represents, and must have been a U.S. citizen for at least nine years.

## Senate Officers

- President of the Senate
- President Pro Tempore
- Majority Floor Leader
- Majority Whip
- Minority Floor Leader
- Minority Whip



James Hamilton Lewis became the first Senate Party Whip in 1913

Unlike in the House, Senate members do not choose their presiding officer. Instead, the Constitution assigns the role of president of the Senate to the Vice-President of the United States. However, unlike the House's presiding officer (the speaker of the House), the Senate's presiding officer is not a member of the Senate and consequently has little formal power over Senate proceedings. In fact, the only time the Vice President can even participate in a Senate vote is to break a tie.

The Senate also has a second presiding officer, known as the president *pro tempore*. This position usually goes to the senator in the majority party who has the most seniority. The post of Senate president *pro tempore* is important mainly because it falls third in the line of presidential succession, after the Vice-President and the speaker of the House.

As in the House, each party in the Senate also has a floor leader and whip. In the Senate, the majority leader—rather than the Vice-President or the president *pro tempore*—exercises the most power and sets the body's legislative agenda.

President of the Senate—Is the Vice President of the United States

President Pro Tempore—Is elected by the majority party and is usually the Senator with the most years seniority.

## Senate Committees

Agriculture, Nutrition and Forestry	Finance
Appropriations	Foreign Relations
Armed Services	Health, Education, Labor and Pensions
Banking, Housing and Urban Affairs	Homeland Security and Government Affairs
Budget	Judiciary
Committee, Science and Transportation	Rules and Administration
Energy and Natural Resources	Small Businesses and Entrepreneurship
Environment and Public Works	Veteran Affairs

Like the House, the Senate also has a number of standing committees. Senate committee chairmen also come from the majority party and are selected based on seniority.



## Joint Committees and Conference Committees

- **Joint committees:** Deal with issues of concern to both houses of Congress
- **Conference committees:** Created to reach a compromise on the wording of a bill that has passed both the House and the Senate



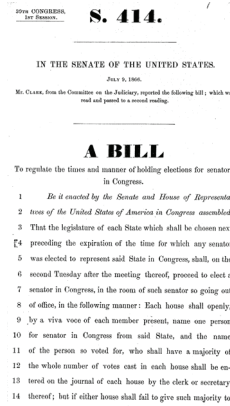
Joint committees, such as the Joint Committee on Economics, research issues that affect both houses, such as unemployment

Joint committees contain both Representatives and Senators and deal with matters of interest or concern for both houses of Congress. Many joint committees are temporary and deal with pressing issues that need to be settled in the near future. Permanent joint committees deal with ongoing issues; examples include the Joint Economic Committee, the Joint committee on the Library of Congress, the Joint Committee on Printing committee and the Joint Committee on Taxation.

Sometimes the House and the Senate pass the same bill, but with different wording. Conference committees are then created to come up with a compromise version of the bill. Members of conference committees are usually are the most trusted members of both houses and also tend to have seniority.

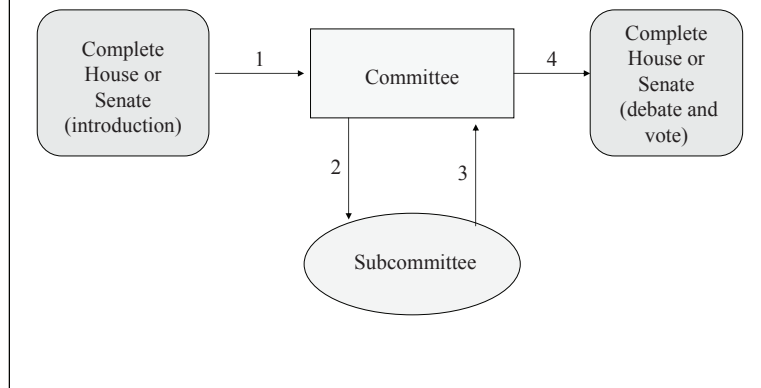
# Congressional Bills

Bills are named according to whether they originated in the House (HR), the Senate (SR), or the White House (WHR). They then receive a number.



Bills introduced in the House are given a number beginning with HR, which stands for “House Resolution.” All revenue-raising or tax bills must originate in the House of Representatives. Bills introduced in the Senate are given a number beginning with SR, which stands for “Senate Resolution.” Bills sent to Congress from the White House are given a number beginning with WHR, which stands for “White House Resolution.”

## How a Bill Becomes a Law: Introduction to Committee

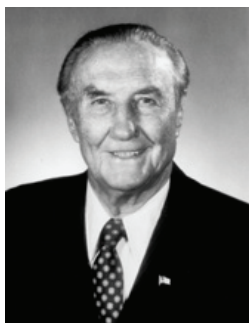


The bill is introduced in one house at a time, and in the same manner regardless of whether it's a Senate bill or a House bill. First, the bill is read aloud and given a number; next, the Speaker or President sends it to the appropriate committee. The committees then send the bill to the appropriate subcommittee, which investigates it, debates it, and sends it back to the main committee with recommendations. The subcommittee can either:

- Report the bill favorably with a “do pass” recommendation
- “Pigeonhole” the bill by refusing to report it; this essentially spells the end of the bill
- Recommend an amended form of the bill
- Give the bill an unfavorable recommendation

## How a Bill Becomes a Law: Committee to Floor Debate

- Calendar
- Rules Committee
- Debate
  - House vs. Senate
  - Filibusters
  - cloture



The late Strom Thurmond holds the record for the longest filibuster in Senate history—24 hours and 18 minutes against the Civil Rights Act of 1957

If the committee recommends the bill, it then gets scheduled on a calendar. In the House, the Rules Committee must then give the bill a “rule,” which means approving it for floor debate and setting up a time for that debate. In the Senate, the majority leader decides when the bill will come to the floor for debate. In both the House and the Senate, the majority and minority floor leaders meet in advance to decide how much time to spend debating the bill.

The House and the Senate have very different rules regarding how bills get debated. The House restricts any representative from holding the floor in a debate for over one hour without unanimous consent. Also, if someone holding floor begins to discuss at length a topic other than the bill under consideration, the speaker of the House has the power to force them to give up the floor. In the Senate, however, members can speak for as long as they want on any topic they choose. Sometimes senators abuse this privilege, attempting to “talk a bill to death” by refusing to give up the floor to their opposition. This tactic is known as a “filibuster,” a term which became popular in the 1850s and comes from the Dutch word meaning “pirate.” In order to break a filibuster, at least 60 senators must vote to invoke cloture, a rule established in 1917 which limits each senator’s debate time.

## How a Bill Becomes a Law: Voting



- Quorum

### Types of votes

- Voice vote
- Standing vote
- Roll-call vote
- Electronic voting  
(House only)

The House requires a quorum for a vote to take place; this means that a majority of the full House membership must be present. To determine if enough members are present, the House clerk may be instructed to undertake a “quorum call.”

Congressional voting can take place in several different ways:

Voice vote—Representatives respond with “aye” or “no” when their name is called. This is the most common type of vote.

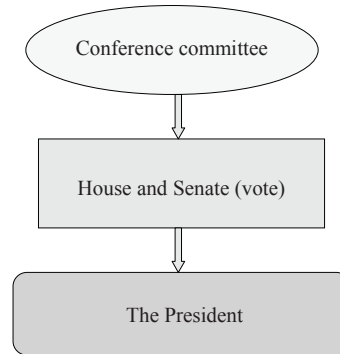
Standing vote—Representatives stand up and are counted.

Roll-call vote—The roll-call vote may be requested if one-fifth of a quorum is present. Used to determine which members are present and whether each is voting yes or no.

Electronic Voting— In electronic voting, (used only in the House, mostly for quorum calls), representatives register their votes by using an electronic card to access one of several computer stations on the House floor. They then press one of three buttons: “yea,” “nay,” or “Present” (This last button is for quorum calls).

## How a Bill Becomes a Law: From Passage to the President

- Conference committee
- House and Senate vote again
  1. Changes cannot be made
  2. Majority vote needed for passage
- Sent to President



If the House and the Senate have passed different versions of a bill, a conference committee is formed to iron out the differences and come to an acceptable compromise on the wording of the bill. The bill then goes back to the House and the Senate for a vote; no further changes can be made at this time. If the bill passes by majority vote, then:

- The speaker of the House signs it
- The president of the Senate signs it
- The bill gets sent to the President of the United States for his signature

## How a Bill Becomes a Law: The President



President George W. Bush signs a law on corporate responsibility

### The President's Options

- Sign it
- Veto it
- Pocket veto
- Ignore it
- Overriding a veto

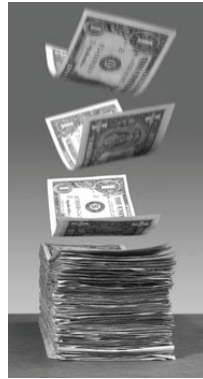
When presented with a bill passed by Congress, the president can do one of four things:

1. He can sign it, thus making it law.
2. He can reject it, an act known as a “veto.” A veto prevents the measure from becoming law and sends it back to Congress for possible revision.
3. He can exercise a “pocket veto.” This can only occur at the end of a congressional session. A pocket veto situation happens like this: Congress sends a bill to the White House for the president to sign but then adjourns within ten days of doing so. If the president doesn’t either sign or veto the bill, it dies.
4. He can choose not to sign it or veto it, in which case it becomes law within ten days.

If the president vetoes a bill, senators and representatives can then revise the measure and send it back to the president or override the veto by a two-thirds majority vote in each house.

## Expressed Powers of Congress

- Power to tax
- Power to borrow money
- Commerce power
- Currency power
- Bankruptcy power
- War powers



The following powers of Congress are specifically mentioned in the Constitution:

- Power to tax—Congress can tax the people in order to raise money to “pay the Debts and provide for the common Defense and general Welfare of the United States” (Article I, Section 8, Clause 1). However, Congress cannot impose taxes that benefit a private individual, group, or corporation; it also cannot tax exports.
- Power to borrow money—Congress can “borrow Money on the credit of the United States” (Article I, Section 8, Clause 2). The Constitution does not place limits on the amount Congress can borrow or on the purposes for which the money is borrowed.
- Commerce power—Congress has the authority to regulate both foreign and interstate trade.
- Currency power—Congress can “coin Money [and] regulate the value thereof” (Article I, Section 8, Clause 5). This means it can issue money, determine its value, and declare it to be legal tender.
- Bankruptcy power—Congress can “establish...uniform Laws on the subject of Bankruptcies throughout the United States (Article I, Section 8, Clause 4).
- War powers—Only Congress can declare war. Congress also has the power to “raise and support Armies,” to “provide and maintain a Navy,” to regulate the armed forces, to call out “the Militia” (today, the national Guard), and to “provide for organizing, arming, and disciplining” the National Guard.



## Other Expressed Powers

- Naturalization
- Postal power
- Copyright and patent power
- Weights and measures power
- Territorial power
- Judicial power



Candidates for naturalization, early 1900s

Naturalization—Congress makes the laws under which immigrants can become U.S. citizens.

Postal power—Congress establishes post offices and post roads.

Copyright and patent power—Congress issues copyrights to authors and patents to inventors.

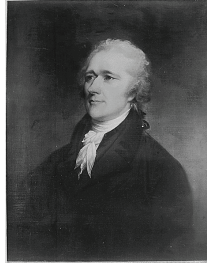
Weights and measures power—Congress sets the standards for weights and measures in the United States.

Territorial power—Congress manages U.S. territories (such as Puerto Rico and Guam) and other federal properties (such as the District of Columbia, national parks, military installations, etc.).

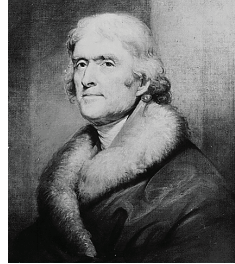
Judicial power—Congress can create federal courts and define and set punishments for federal crimes.

## Implied Powers

- Article I: “necessary and proper”
- The “Elastic Clause”
- Strict vs. loose interpretation
- Hamilton vs. Jefferson



Alexander Hamilton



Thomas Jefferson

Article I of the Constitution states that Congress can make any laws that are “necessary and proper” for the government to function effectively. This part of the Constitution is often referred to as the “Elastic Clause” because it has been “stretched” to cover a wide variety of situations. The Elastic Clause often has become a bone of contention between those who advocate a strict interpretation of the Constitution and those who favor a loose interpretation. Strict constructionists believe that the implied powers inherent in the Elastic Clause should only be used when absolutely necessary; loose constructionists believe that implied powers can be invoked for anything that advances the general welfare of the country.

Battles over implied powers occurred almost from the day the Constitution was ratified. The most notable clash came in the 1790s between Secretary of the Treasury Alexander Hamilton and Secretary of State Thomas Jefferson. The two men disagreed on Hamilton’s plan to create a national bank, which he hoped would provide for a uniform currency, stabilize the nation’s weak economy, and encourage economic growth and development. While Hamilton, a loose constructionist, believed the national bank was constitutional under the Elastic Clause, Jefferson held a stricter interpretation of the clause and asserted that the only way to create a national bank was by constitutional amendment. Hamilton prevailed, and the First Bank of the United States was created.

## Non-Legislative Powers

- Investigatory Power
- Electoral Power
- Executive Powers
- Impeachment Power



A depiction of the impeachment trial of  
Andrew Johnson

**Investigatory Power**—Congress can investigate any matter related to its legislative powers.

**Electoral Power**—If a presidential election ends with no candidate having a majority of electoral votes, the House of Representatives will select the president from among the top three vote-getters.

**Executive Power**—The Senate must confirm all major appointments made and treaties signed by the president.

**Impeachment Power**—The House of Representatives has the power to impeach (accuse and bring charges) against the president, vice-president, and all “civil officers” of the U.S. government. The Senate actually tries the cases of officials being impeached.





## **The Judicial Branch**

## The Judicial System: Inception

- The judiciary under the Articles of Confederation
- Constitutional Convention
- Article III of the Constitution
- Judiciary Act of 1789



Before the Constitution, the United States had no national judicial system. Under the Articles of Confederation, each state put its own interpretation on national laws and decided how to apply them—a situation which increasingly led to confusion and conflict between states. Thus, at the 1787 Constitutional Convention in Philadelphia, creating a national judiciary was of paramount concern. In Article III of the Constitution, the Framers of the Constitution provided specifically for the creation of the Supreme Court; it left the creation of the rest of the federal judiciary to Congress. With the Judiciary Act of 1789, Congress laid the foundation for the federal court system.

# Federal Courts

## Constitutional Courts

- U.S. Supreme Court
- Courts of appeals
- District courts
- U.S. Court of International Trade



## Special Courts

- Court of Federal Claims
- Military tribunals
- Court of Appeals for the Armed Forces
- Territorial courts
- U.S. Tax Court
- Court of Veterans Affairs

There are two types of courts at the federal level: constitutional courts and special courts. Constitutional courts are often referred to as the “regular courts”: they include the Supreme Court, courts of appeals, district courts, and the U.S. Court of International Trade. Federal courts beneath the Supreme Court—those created by Congress—are known as “inferior courts.” Special courts hear a narrow range of cases related to the expressed powers of Congress as referred to in Article I of the Constitution. Examples of special courts include the Court of Federal Claims (where people sue the federal government for damages), military tribunals, courts governing U.S. territories (such as Guam and the U.S. Virgin Islands), the United States Tax Court, and the Court of Veterans Affairs, which hears cases involving matters relating to veterans of the U.S. military. One other special court is the Court of the District of Columbia: since Washington, D.C. is not a state, it needs a special court to perform the functions state courts normally would.

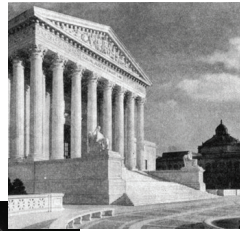
## Levels of Federal Courts



Lowest—district courts



Middle—court of appeals



Highest—  
Supreme Court

At the lowest federal court level is the federal district court, which is the first one to hear a case. At the next level is the court of appeals, which hears challenges to verdicts on cases tried in the lower courts. At the highest level is the Supreme Court, which provides the final rulings on questions of constitutionality.



## The Inferior Courts

- All courts below the U.S. Supreme Court
- Federal district courts
- Court of appeals
- Court of International Trade
- Court of Appeals for the Federal Circuit



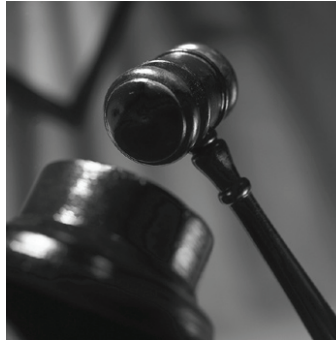
All courts below the U.S. Supreme Court are considered to be inferior courts. There are a total of 94 federal district courts; these courts hear about 80% of federal cases. Courts of appeals were created in 1891 by Congress to alleviate the Supreme Court's caseload. There are a total of 12 courts of appeals, which only hear cases that have been appealed in federal district courts. There are two other inferior courts: the Court of International Trade and the Court of Appeals for Federal Circuit. The former hears civil cases relating to tariffs and trade; the latter handles appeals of civil cases.

# Jurisdiction

Jurisdiction: the right of a court to hear a case and apply the law.

## Types of Jurisdiction

- Original
- Appellate
- Exclusive
- Concurrent



Jurisdiction refers to the right of a particular court to hear and rule on a specific case. A court determines its jurisdiction by checking the subject matter of the case and the parties involved.

There are four different types of jurisdiction: the first court to hear a case has original jurisdiction. A court that hears a case on appeal has appellate jurisdiction. Sometimes a court has exclusive jurisdiction over a case; for example, certain cases can only be heard in federal courts and not state courts. Concurrent jurisdiction deals with cases that can be heard either in federal or state courts.

## The Supreme Court and “Judicial Review”



Chief Justice John Marshall

- *Marbury v. Madison* (1803)
- Judicial review: the Supreme Court has the ultimate say as to whether laws and acts of government are constitutional

Though the Constitution created the Supreme Court, it didn't define in detail its powers and duties, nor did it clearly define its relation to other federal courts. The 1803 case of *Marbury vs. Madison* changed that concept. The facts of the case had more to do with politics than the nature of the U.S. judicial system. In the last days of John Adams's presidency, the outgoing Federalist Party had commissioned several Federalist-leaning judges in an attempt to “pack” the judiciary. When Thomas Jefferson became president, he learned about these “midnight judges” and instructed Secretary of State James Madison not to deliver them their commissions. One of the “midnight judges,” William Marbury, sued the Jefferson Administration; he sought a “writ of mandamus” (a court order) that would force Jefferson to release the commission under the terms of the Judiciary Act of 1789, which created the federal court system.

Chief Justice John Marshall used the case as an opportunity to affirm the authority of the Supreme Court. He stated that while Marbury **was** entitled to his commission, the section of the Judiciary Act which allowed for writs of mandamus was unconstitutional. More importantly, the Court's unanimous opinion in the case asserted that only the Supreme Court could declare laws and actions unconstitutional, a concept now known as “judicial review.” Though *Marbury* greatly augmented the power and importance of the Supreme Court, Justices in the years since the decision have exercised this power infrequently on the federal level. In most cases involving judicial review, the Supreme Court has upheld the constitutionality of federal and state government laws and actions. The Court has declared acts of Congress to be unconstitutional only approximately 150 times since *Marbury vs. Madison*.

## The U.S. Supreme Court



Supreme Court Justices as of 2005 (left to right): Antonin Scalia, Ruth Bader Ginsburg, John Paul Stevens, David Souter, William Rehnquist, Clarence Thomas, Sandra Day O'Connor, Stephen Breyer, Anthony Kennedy

Supreme Court Justices are appointed by the president and confirmed by the U.S. Senate. Like other judges of the constitutional courts, Supreme Court Justices hold their positions for life—in other words, they stay on the bench until they retire, resign, or die. The reason for this is to allow them to remain as impartial as possible by keeping them beyond the influence of politics: in theory, judges who don't have to worry about getting reappointed or reelected are less likely to be swayed by partisan concerns or public opinion. The U.S. Supreme Court convenes the first Monday in October and stays open approximately nine months. Each week that the court is in session, the justices hear cases Monday through Thursday then meet Friday to discuss them. The following Monday they announce any decisions to the public.

# The U.S. Supreme Court



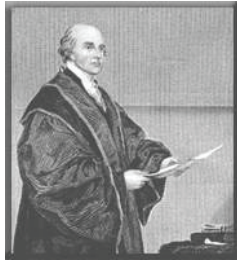
## Opinions of the Court

- Majority Opinion
- Concurring Opinion
- Dissenting Opinion

There are three types of Supreme Court opinions:

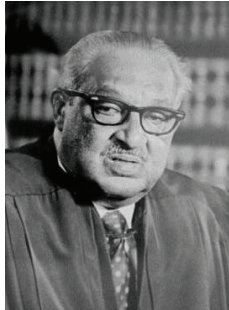
1. Majority opinion: the primary ruling of the court; expresses the decision of the majority of the justices
2. Concurring opinion: written by a justice who agrees with the majority opinion, but not with how it was reached
3. Dissenting opinion: written by a justice who disagrees with the majority opinion

## Notable Supreme Court Justices



John Jay:  
First U.S. Supreme  
Court Justice

Thurgood Marshall: first  
African American Supreme  
Court Justice



Sandra Day  
O'Connor: first  
female Supreme  
Court Justice

## U.S. Supreme Court Cases: Freedom of Religion

- 1st Amendment
  - The “Establishment Clause”
  - The “Free Exercise Clause”
- 14th Amendment

### Cases

- *Zorach v. Clauson*, 1952 (religious studies)
- *Engel v. Vitale*, 1962 (no mandatory prayer or Bible-reading in schools)
- *Edwards v. Aguillard*, 1987 (evolution and creationism)
- *Westside Community Schools v. Mergens*, 1990 (student religious groups)



The 1st Amendment to the Constitution states that “Congress shall make no law respecting an establishment of religion”; this is often referred to as the “Establishment Clause.” The 1st Amendment also bans Congress from passing any laws that prohibit the “free exercise” of religion; this is often referred to as the “Free Exercise Clause.” These two clauses form the basis for freedom of religion in the United States. In addition, the 14th Amendment’s guarantee that states cannot “make or enforce any law which shall abridge the privileges...of the citizens of the United States” or “deny to any person within its jurisdiction the equal protection of the laws” ensures freedom of religion at the state and local levels.

Important Supreme Court cases involving freedom of religion have included:

- *Zorach v. Clauson*, 1952: The Court ruled that schools must release students for religious studies as long as the studies do not take place on school property.
- *Engel v. Vitale*, 1962: The Court outlawed mandatory prayer and Bible-reading in schools.
- *Westside Community Schools v. Mergens*, 1990: The Court stated that the 14th Amendment’s Equal Access Clause allows students to have religious groups on public school campuses if other non-academic clubs exist.
- *Edwards v. Aguillard*, 1987: The Court ruled that the teaching of evolution in public schools could not be forbidden and the teaching of creationism could not be made mandatory.

## U.S. Supreme Court Cases: Freedom of Religion (continued)

- *Lynch v. Donnelly*, 1984 (seasonal displays)
- *Marsh v. Chambers*, 1983 (legislative prayers)
- *Bob Jones University v. U.S.* 1983 (religion and racial discrimination)
- *Lemon v. Kurtzman*, 1971 (state aid to religious schools)



*Lynch v. Donnelly* (1984) allowed Nativity scenes on public property if the scenes were part of a larger display that also featured non-religious objects

- *Lynch v. Donnelly*, 1984: The Court ruled that seasonal displays on public property could include religious elements (such as a Nativity scene) as long as non-religious objects were featured as well.
- *Marsh v. Chambers*, 1983: The Court ruled that state legislatures and the U.S. Congress could have chaplains begin legislative sessions with a prayer. The ruling cited the long history of the practice in America, and also distinguished it from school prayer by noting that unlike students, legislators are adults and therefore “not susceptible to religious indoctrination or peer pressure.”
- *Bob Jones University v. U.S.*, 1983: Bob Jones University, a private college in South Carolina, had a policy of refusing to admit students who married interracially or advocated interracial dating and marriage. The IRS claimed the school practiced racial discrimination and consequently denied it tax-exempt status. The school appealed, claiming their policy came from the Bible. The Supreme Court ruled against the university, asserting that the federal government had a “fundamental overriding interest in eradicating racial discrimination in education.”
- *Lemon v. Kurtzman*, 1971: The Court established the so-called “Lemon Test” to determine the constitutionality of any law that provides for aid to religious schools. For such a law to be constitutional, it has to have a “secular legislative purpose,” it can neither “advance” nor “inhibit” religion, and it must not foster “an excessive government entanglement with religion.”



## U.S. Supreme Court Cases: Freedom of Expression



- *Near v. Minnesota*, 1931 ("prior restraint")
- *Miller v. California*, 1973 (obscenity)
- *Brazenburg v. Hayes*, 1972 (confidentiality)

The Constitution also protects freedom of expression—specifically, freedom of speech and of the press. The 1st Amendment states that Congress cannot pass any law “abridging the freedom of speech, or of the press.” However, the Supreme Court has ruled that freedom of expression is not absolute, and in certain cases has placed limitations on these freedoms.

Important Supreme Court cases involving freedom of expression have included:

- *Near v. MN*, 1931: “Prior restraint” refers to censorship of a work before publication. In the *Near* decision, the Court ruled that prior restraint was generally unconstitutional, but could be exercised if necessary to preserve national security.
- *Miller v. CA*, 1973: The Court laid out a three-part test for defining whether a given piece of material can be legally characterized as “obscene.” First, an “average person applying contemporary community standards” would be likely to find that the material “appeals to the prurient interest” (i.e., is specifically designed to arouse sexual desire). Second, the material has to depict or describe “in a patently offensive way, sexual conduct” specifically defined by an anti-obscenity law. Third, the material has to lack “serious literary, artistic, political, or scientific value.”
- *Brazenburg v. Hayes*, 1972: The press has often argued for the need to protect the confidentiality of its sources, claiming that without confidentiality many sources would not reveal information important to the general public. In *Brazenburg*, the Court more or less disagreed with the idea of a right to confidentiality, stating that reporters have the same obligation as other citizens to “respond to relevant questions put to them in the course of a valid grand jury investigation or criminal trial.” However, the Court left it up to Congress and the States to enact laws protecting the confidentiality of a reporter’s sources. Approximately 30 states today have such “shield laws.”

## U.S. Supreme Court Cases: Freedom of Expression (cont.)



- *Tinker v. Des Moines Independent School District*, 1969 (symbolic speech)
- *Texas v. Johnson*, 1989 (flag burning)
- *44 Liquormart Inc., v. Rhode Island*, 1996 (commercial speech)

- *Tinker v. Des Moines School Independent District*, 1969: “Symbolic speech” involves statements made in forms other than verbal or written communication. In the *Tinker* case, a group of Iowa high school students wore black armbands to school to show their opposition to the Vietnam War. The school then suspended the students. In its ruling, the Court came out in favor of the students, claiming that a school can limit students’ freedom of speech only if such speech is likely to cause a “substantial disruption.” The ruling also contained the famous assertion that students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.”
- *Texas v. Johnson*, 1989: The Court ruled that burning the American flag as a form of political protest is protected as freedom of expression.
- *44 Liquormart, Inc., v. RI*, 1996: The Court ruled that commercial speech is protected by the 1st and 14th Amendments, but advertising that is false or misleading is still forbidden.

## Freedom of Expression vs. National Security

- Sedition
- Alien and Sedition Acts, 1798
- Espionage Act of 1917/  
Sedition Act of 1918
- *Schenck v. U.S.*, 1919



Sometimes freedom of expression conflicts with national security. Sedition involves advocating or inciting the undermining or overthrow of government. In the past, Congress has enacted laws that criminalize seditious speech. The first such instance occurred with the Alien and Sedition Acts of 1798, which were passed during a period in which America was in an “undeclared war” with France. The Acts empowered the president to deport foreigners residing in the U.S. and also made it a crime to engage in any “false, scandalous, and malicious” criticism of the government. They were repealed because they could allow the President to use these against his adversaries in politics.

During World War I, Congress passed the Espionage Act of 1917, which made it a crime to interfere with the draft. A year later, the Sedition Act made it illegal to interfere with the sale of Liberty bonds (sold by the government to finance the war), obstruct military recruiting, or to “print, write, or publish any disloyal, profane, scurrilous, or abusive language about the form of government of the United States.”

Over 1000 people were convicted of violating the Espionage and Sedition Acts. Some challenged their convictions in court, and in 1919 the case of *Schenck v. U.S.* reached the Supreme Court. Charles Schenck, a socialist, had published and distributed fliers urging men to resist the draft. The Court upheld Schenck’s conviction, noting that “words can be weapons” and asserting the right of Congress to pass laws prohibiting speech that poses a “clear and present danger.”

## Freedom of Expression vs. National Security (continued)



Seditious Acts during  
a time of peace:

Smith Act, 1940

- *Dennis v. U.S.*, 1951
- *Yates v. U.S.*, 1957

McCarran Act, 1950

- *Communist Party v. SACB*, 1961
- *Albertson v. SACB*, 1965

Anti-sedition laws have also been established during times of peace. The Alien Registration Act of 1940 (also known as the Smith Act) made it illegal to advocate “overthrowing or destroying the government of the United States...by force or violence.” Legal challenges to the Smith Act have characterized it as violating the 1st Amendment; the results of these cases have been mixed. The 1951 case of *Dennis v. U.S.* concerned officers of the American Communist Party who had been convicted under the Smith Act. The Supreme Court upheld the convictions, stating that “an attempt to overthrow the government by force...is a sufficient evil for Congress to prevent.” However, in the 1957 case of *Yates v. U.S.* the Court overturned the Smith Act convictions of some Communist Party leaders, ruling that while it is not illegal to merely urge someone to believe in the overthrow of the government, it is illegal to urge them to actually do something to overthrow the government.

The McCarran Act of 1950 required all communists to register with the U.S. Attorney General. Challenges to the act resulted in the following decisions:

- *Communist Party v. SACB*, 1961: The Court ruled that the government could not use an individual’s political beliefs as justification for forcing that person to register with the Attorney General.
- *Albertson v. SACB*, 1965: The Court ruled that to force someone to register with the Attorney General violates the 5th Amendment’s protection against self-incrimination.

# Freedom of Assembly and Petition

- “Time-place-manner”
- “Content neutral”

## Cases

- *Grayned v. City of Rockford*, 1972
- *Cox v. Louisiana*, 1965
- *Forsyth County v. Nationalist Movement*, 1992



The 1st Amendment states that “Congress shall make no law...abridging...the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” Freedom of assembly covers not only public protests and rallies, but also extends to a person’s right to create and/or belong to political parties, interest groups, or other such associations that have “peaceable” goals. However, the courts have ruled that limits do exist to freedom of assembly. In general, the government can make laws regulating the “time, place, and manner” of public assemblies so long as these laws are “content neutral.” In other words, a law or ordinance cannot limit freedom of assembly based on the content of a protest or rally; it can only limit when, where, and how the protest or rally can take place.

Important Supreme Court cases involving freedom of assembly and petition have included:

- *Grayned v. City of Rockford*, 1972: The Court upheld city ordinances prohibiting disturbances or noises that disrupt a school.
- *Cox v. Louisiana*, 1965: The Court upheld laws prohibiting parades near a courthouse when they are intended to influence a trial.
- *Forsyth County v. Nationalist Movement*, 1992: The Court ruled that a county could not charge a fee for public demonstrations.

## Due Process



Pierce v. Society of Sisters involved a Roman Catholic order's challenge of an Oregon law requiring public education

- Substantive due process
- Procedural due process

### Cases

- *Rochin v. CA*, 1952 (procedural due process)
- *Pierce v. Society of Sisters*, 1925 (substantive due process)

The 5th Amendment states that the government cannot deprive any person of “life, liberty, or property without due process of law.” Due process cases involve questions of whether the government has acted fairly and reasonably, and in accordance with appropriate laws and rules. Over the years, court rulings have made a distinction between **substantive due process** and **procedural due process**. Substantive due process deals with government laws and policies; procedural due process deals with government actions and methods.

Two cases illustrate the difference between substantive due process and procedural due process:

- *Rochin v. CA*, 1952: When police confronted Rochin, a suspected drug dealer, he swallowed the evidence. The officers then forced him to have his stomach pumped. The Supreme Court ruled the police had violated procedural due process.
- *Pierce v. Society of Sisters*, 1925: A 1922 Oregon law had required all children between the ages of eight and 16 to attend public schools. The Society of Sisters, a Roman Catholic order, appealed the law; the Supreme Court then ruled that the statute violated substantive due process because it “unreasonably interferes with the liberty of parents to direct the upbringing and education” of their children. The Court acknowledged that while the state did have a right to pass mandatory education laws, it did not have the right to force children to receive that education from public schools.



## Due Process (continued)

- *Schmerber v. CA*, 1966  
(police power)

### Right to Privacy

- *Griswold v. CT*, 1965
- *Roe v. Wade*, 1973



**PRIVATE**

*Schmerber v. CA*, 1966: Legally, the term “police power” refers to the authority of the state to protect public health, safety, and welfare. In *Schmerber*, a policeman had ordered blood drawn from a man suspected of drunk driving. The man appealed, claiming his due process rights had been violated. The Supreme Court disagreed, stressing that the blood had been taken according to accepted medical practice, the officer had reasonable cause to believe the man was drunk, and that in the time it would have taken to obtain a search warrant ordering the blood drawn, the evidence—the alcohol in the suspect’s bloodstream—could have disappeared.

Legally, a “right to privacy” refers to security from government intrusion into one’s private life. Though the Constitution does not specifically guarantee a right to privacy, the Supreme Court has ruled that due process essentially creates a right to privacy. Notable cases dealing with the right to privacy include:

- *Griswold v. CT*, 1965: This case concerned a state law that made birth-control counseling illegal and outlawed the use of birth-control devices. The Court ruled that the law violated due process, stating that the government had no right to regulate what goes on in the “marital bedroom.”
- *Roe v. Wade*, 1973: This famous ruling dealt with a woman’s right to have an abortion. The Court struck down a Texas law outlawing abortion, stating that the right to privacy encompassed “a woman’s decision whether or not to terminate her pregnancy.”

## Rights of the Accused

### Important terms

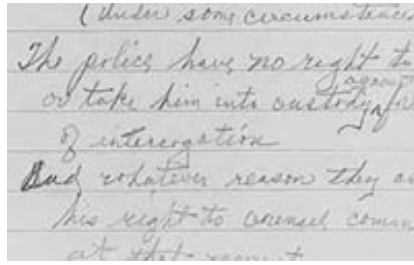
- Writ of *habeas corpus*
- Bill of attainder
- *Ex post facto* Laws
- Double jeopardy
- Jury trial
- Bench trial



- Writ of *habeas corpus*: *Habeas corpus* is a Latin term which literally means “you have the body.” The principle refers to the idea that a person held in jail must be brought before a court to determine why they’re being held. In other words, a person cannot be held in jail indefinitely without the government filing formal charges against them.
- Bill of attainder: An act or law that declares a person or group of people guilty of a crime and prescribes punishment or penalties without a trial.
- *Ex post facto* laws: *Ex post facto* is Latin for “from a thing done afterward.” An *ex post facto* law defines a specific crime and retroactively applies punishment or penalty for committing that crime. In essence, even if an action was not defined as a crime when a person committed it, an *ex post facto* law still penalizes the person. Although *ex post facto* criminal laws are illegal, civil laws can be made retroactive.
- Double jeopardy: This term refers to being tried twice for the same crime. The 5th Amendment prohibits double jeopardy, stating that no one can be “subject for the same offence to be twice put in jeopardy of life or limb.” However, a person can be tried twice for the same crime if their action violated both state and federal law.
- Jury trial: The 6th Amendment states that a person accused of a crime have the right to a “speedy and public trial, by an impartial jury of the state.” In the trial, the accused must be informed of the charges against them, have the opportunity to confront their accusers and witnesses against them, be allowed to call witnesses to testify in their favor, and be provided with a lawyer to assist them with their defense.
- Bench trial: Sometimes a person accused of a crime can waive their right to a jury trial and opt for a bench trial instead. In a bench trial, the judge alone hears the evidence and renders a verdict.



## Rights of the Accused (continued)



Excerpt from Chief Justice Earl Warren's handwritten notes to Justice William Brennan on the *Miranda* case

- *Mapp v. OH*, 1961 (exclusionary rule)
- *Gideon v. Wainwright*, 1963 (right to counsel)
- *Miranda v. AZ*, 1966 (self-incrimination)

Important Supreme Court cases involving rights of the accused have included:

- *Mapp v. OH*, 1961: The 4<sup>th</sup> Amendment protects citizens against “unreasonable searches and seizures.” Any evidence obtained by authorities as a result of an illegal search cannot be used against the accused at trial: this is known as the **exclusionary rule**. In *Mapp*, the Supreme Court threw out evidence obtained in a police search that had been conducted without a warrant.
- *Gideon v. Wainwright*, 1963: In this case, the Court reaffirmed the 6th Amendment’s right to counsel, ruling that anyone accused of a felony is entitled to a public defender.
- *Miranda v. AZ*, 1966: In a decision based on the 5th Amendment’s right against self-incrimination, the Court ruled that before any police questioning can take place, all suspects must be informed of their constitutional rights.

## Rights of the Accused: The 8<sup>th</sup> Amendment

- *U.S. v. Salerno*, 1987 (preventive detention)
- *Furman v. Georgia*, 1972 (outlawed death penalty laws)
- *Gregg v. Georgia*, 1976 (allowed “two-stage” death penalty laws)
- *Coker v. Georgia*, 1977 (limited when death penalty can be imposed)

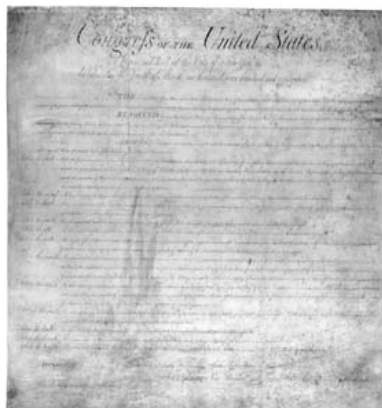


The 8th Amendment protects those accused of a crime from having to pay excessive fines for bail or be subject to “cruel and unusual punishment.” One major debate involves the issue of whether capital punishment violates the 8th Amendment’s guarantee against cruel and unusual punishment. Important Supreme Court cases involving the 8th Amendment have included:

- *U.S. v. Salerno*, 1987: In 1984, Congress passed the Preventive Detention Law, which allowed a federal judge to hold defendants without bail if they will likely commit another crime before trial or are apt to flee. In the *Salerno* case, the appellants argued that the law undermined presumption of innocence and effectively inflicted punishment without the benefit of a trial; however, the Court disagreed and upheld the Preventive Detention Law.
- *Furman v. GA*, 1972: The Court outlawed capital punishment, asserting that current state laws gave too much discretion to judges and juries in deciding whether to impose death sentences.
- *Gregg v. GA*, 1976: After *Furman*, Congress and many states passed “two-stage” death penalty laws which provided for two trials in capital cases: one to determine guilt or innocence and another to determine whether a person convicted of murder deserved to be put to death. In *Gregg*, the Court upheld the constitutionality of these two-stage laws, effectively reinstating capital punishment.
- *Coker v. GA*, 1977: The Court ruled that the death penalty could only be imposed for “crimes resulting in the death of the victim.”

## Civil Rights and Liberties

- Civil rights
- Civil liberties
- Equal Protection Clause



The Bill of Rights outlines many basic civil rights and liberties

Civil rights are the guaranteed governmental protections of individual constitutional rights for all people. Civil rights are embodied in laws that prohibit discrimination and ensure equal protection of the law for all. Civil liberties are protections from excessive or arbitrary actions of government; examples include freedom of speech, freedom of religion, and guarantees against unreasonable searches and seizures.

The 14th Amendment says that no state can “deny to any person within its jurisdiction the equal protection of the laws.” This part of the amendment is often referred to as the Equal Protection Clause. Though not all discrimination is illegal—after all, national, state, and local governments all need to be able to classify and draw distinctions between different groups of people for legal and administrative purposes—no acts, laws, or practices can unfairly single out a specific class of people.

## Civil Rights: Segregation

- “Jim Crow” laws
- *Plessy v. Ferguson*, 1896



Cartoon depicting *Plessy v. Ferguson*

After Reconstruction ended in 1876, many Southern states began to pass racial segregation laws (also known as “Jim Crow” laws) designed to keep blacks and whites separate. Although segregation in the South clearly favored whites, it was not until 1896 that any legal challenge to segregation reached the Supreme Court.

*Plessy v. Ferguson*, 1896: The case arose when Homer Plessy, a person of mixed race, took a seat in the “Whites Only” section of a Louisiana train and refused to move when ordered. He was arrested and convicted for violating Louisiana’s segregation law. In the lower courts, Plessy lost, so he appealed to the Supreme Court. The Court ruled against Plessy; Justice Henry B. Brown, writing the opinion for the 8-1 majority, stated that as long as the facilities provided were “equal,” it was legal to segregate by race. The *Plessy* decision provided a legal basis for segregation, and the phrase “separate but equal” became ingrained in the public consciousness.

## Civil Rights: Ending Segregation

- *Brown v. Board of Education of Topeka, Kansas*, 1954
- *De jure* segregation vs. *de facto* segregation
- *Alexander v. Holmes County Board of Education*, 1969



A mother holds a paper announcing the *Brown* decision



Thurgood Marshall (center)

- *Brown v. Board of Education Topeka*, 1954: By the 1950s, the NAACP was actively working to overturn *Plessy* and to end segregation in K–12 education as well as in higher education. The association managed to get five separate cases before the Supreme Court; the justices ruled on all the cases under the “umbrella” of a decision in the case of *Brown v. Board of Education of Topeka, Kansas*. NAACP Lawyer Thurgood Marshall argued that segregation was inherently harmful psychologically and socially to black children. Chief Justice Earl Warren knew how important the Court’s decision would be, and he worked behind the scenes to get a unanimous decision in order to deter future challenges to the ruling. Voting 9-0, the Court ruled that public school segregation violated the 14<sup>th</sup> Amendment. In writing the decision, Warren explicitly repudiated *Plessy*, asserting that “separate but equal is inherently unequal.”
- *De jure* segregation vs. *de facto* segregation: When it came to obeying *Brown* and actually desegregating schools, Southern states predictably dragged their feet. A year after the initial *Brown* decision, the Supreme Court issued a “second” *Brown* decision ordering that schools be desegregated “with all deliberate speed.” While *Brown* eliminated the legal basis for school segregation, *de facto* segregation still existed in many places because the federal government had only a limited ability to enforce the ruling.
- *Alexander v. Holmes County Board of Education*, 1969: By the end of the 1960s, some school districts, such as Mississippi’s Holmes County, had still failed to desegregate. In the Alexander case, the Court put an end to *de facto* segregation, ruling that “the continued operation of segregated schools under a standard allowing for ‘all deliberate speed’ ...is no longer constitutionally permissible.”

## Civil Rights



President Lyndon Johnson signs the Civil Rights Act of 1964 while Dr. Martin Luther King, Jr. looks on

- The Civil Rights Act of 1964
- *Regents of the University of California v. Bakke*, 1978
- *United Steelworkers v. Weber*, 1979

- The Civil Rights Acts of 1964 attacked many of the mainstays of “Jim Crow” while also providing several major benefits for minorities. Its provisions included banning the use of different voter registration standards for whites and blacks, barring discrimination in “public accommodations,” allowing for withholding of federal funds from programs which were “administered in a discriminatory manner,” and establishing a right to equality of opportunity in employment. In effect, the act provided the attorney general and the Justice Department with the legal might they needed in order to aggressively dismantle segregation.
- *Regents of the University of CA v. Bakke*, 1978: So-called “affirmative action” policies were designed to remedy the past effects of discrimination against minorities. Such policies often accomplished this goal by requiring quotas: a mandatory number or percentage of minorities that had to be hired or accepted out of a total pool of applicants. The *Bakke* case highlighted a problem inherent in affirmative action programs. Bakke, a white man, had been denied admission to the medical school at the University of California at Davis. UC Davis admissions used a quota system that guaranteed 16 of the medical school’s 100 places to minorities. Bakke sued the University of California, claiming the school’s quotas violated the Equal Protection Clause and amounted to reverse discrimination. The Supreme Court ruled in Bakke’s favor, stating that while race may be used as one factor in determining admissions it cannot be the only factor.
- *United Steelworkers v. Weber*, 1979: This case involved a white steelworker who sued because he had been rejected in favor of black co-workers for a training program at his company; quotas had figured into his rejection. The Court ruled in favor of the company, stating that quotas did not necessarily mean reverse discrimination—especially in cases where they helped to “overcome manifest racial imbalances.”









## The Executive Branch

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### Executive Branch: Inception

- The Articles of Confederation: combined executive and legislative branches
- The Virginia Plan: proposed separate executive and legislative branches
- Some feared a strong executive branch could lead to tyranny or monarchy
- Checks on executive power



Pennsylvania delegate James Wilson

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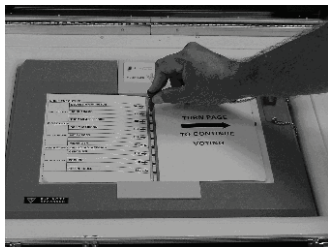
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### Presidential Elections



- Held every four years
- First Tuesday in November
- Inauguration dates

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## The Electoral College

- Reasons for the creation of the Electoral College
- Choosing electors
- Ballots cast in December, made official in January



The Electoral College meets in 1876

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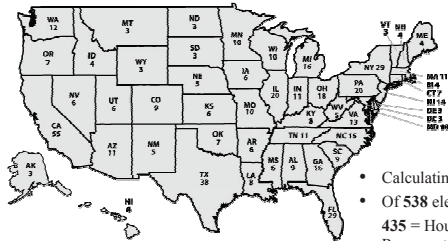
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## Electoral Votes



California has the most electoral votes; states like Wyoming and Vermont have the least

- Calculating electoral votes
- Of 538 electoral votes:  
435 = House of Representatives  
100 = The Senate
- The 23rd amendment

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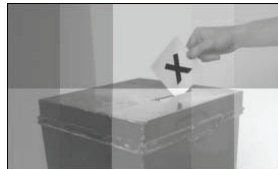
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## Electoral College Reform

- “Winner-take-all” system
- Problems
- Proposed reforms
  - o Direct Popular Election
  - o Percentage/Proportional
  - o District




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## Presidential Primaries and Caucuses



Future president Gerald Ford runs for Congress in the 1948 Michigan primary

- Primary: an election held to pick a party's candidates for a general election
- Caucus: a group of people (usually those from a single political party) who meet to choose a candidate to support in a general election

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## National Conventions

- Delegates formally select candidates for president and vice-president
- Platform: a party's formal statement about its positions, goals, and principles
- Unity



Ronald Reagan gives his acceptance speech at the 1984 Republican national convention

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## Presidential Requirements and Roles



John F. Kennedy became the youngest president to take office

To be eligible to become president, you must:

- Be at least 35 years old
- Have been born in the U.S
- Have resided in the U.S. for at least 14 years

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## Presidential Term of Office

- The two-term precedent
- The 22<sup>nd</sup> Amendment



George Washington set the two-term precedent



President Franklin D. Roosevelt was elected to four terms

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## The 25<sup>th</sup> Amendment

- Deals with instances in which the president dies or becomes disabled
- Established an order of succession
- Set rules for choosing a new vice-president



Lyndon Johnson takes the presidential oath of office after the assassination of JFK

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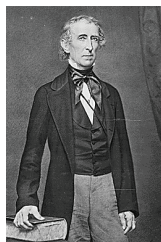
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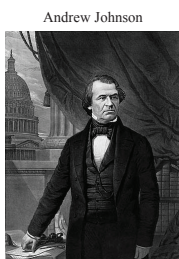
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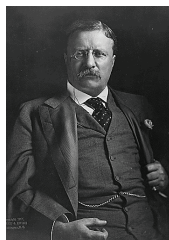
## The Vice-President



John Tyler



Andrew Johnson



Theodore Roosevelt

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## Presidential Powers



- Executive
- Legislative
- Judicial
- Diplomatic
- Military

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## Executive Powers

- Chief Executive
- Executive orders
- Appointments
- Removals



President Richard Nixon signs an Executive Order

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## Legislative Powers



President George H.W. Bush signs into law the 1990 Americans with Disabilities Act

- Recommend legislation to Congress
- Approve measures passed by Congress
- Veto power
- Call special sessions of Congress

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## Judicial Powers

- Appointment of federal judges
- Reprieves
- Pardons
- Commutations
- Amnesty



Supreme Court Justice Warren Burger and President Nixon at press conference announcing Burger as new Chief Justice

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## Military Powers



President Lyndon Johnson pins a medal on soldier in Vietnam

- Commander in chief of the U.S. military
- Power to deploy troops
- The War Powers Resolution

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## Diplomatic Powers

- Treaties
- Recognition
- Setting foreign policy



President Kennedy signs the 1963 Nuclear Test Ban Treaty

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## The Cabinet



- Advises the president
- Not mentioned in the Constitution
- George Washington's Cabinet

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## The Modern Cabinet

Name of Department	Year Established	Name of Department	Year Established
State	1789	Health and Human Services	1953
Treasury	1789	Housing and Urban Development	1965
Defense	1789	Transportation	1967
Justice	1870	Energy	1977
Interior	1849	Education	1979
Agriculture	1889	Veterans Affairs	1988
Commerce	1903	Homeland Security	2002
Labor	1913		

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## The Growth of Presidential Power

- Only government official elected by the country as a whole
- Executive branch: decisions made by one person
- Congressional legislation
- Executive Orders




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## The Legislative Branch

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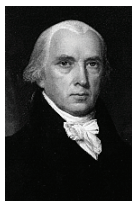
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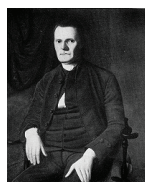
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### Legislative Branch: Inception

- The Virginia Plan and the New Jersey Plan
- The “Great Compromise”
  - Bicameral legislature: the House of Representatives and the Senate
  - House representation based on population
  - Senate—each state allowed two votes
  - Length of terms for representatives, senators



James Madison



Roger Sherman

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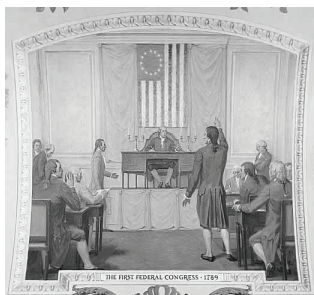
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### The First Congress

The first Congress met in New York City in 1789




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# The House of Representatives

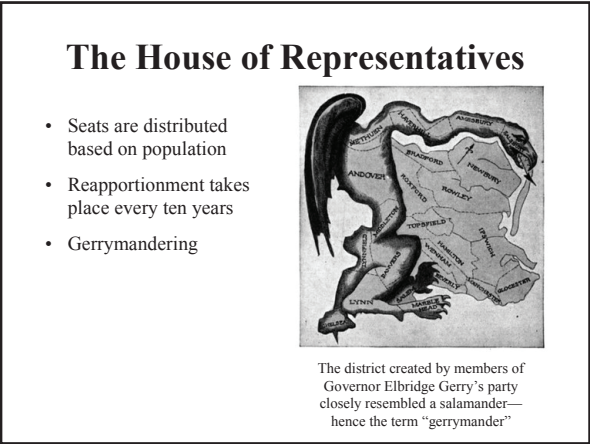
- Seats are distributed based on population
- Reapportionment takes place every ten years
- Gerrymandering



The map shows the state of Massachusetts divided into 14 congressional districts. The districts are labeled with names: ANDOVER, BEDFORD, BELLEVILLE, BOSTON, CAMBRIDGE, CHILMARK, COVINGTON, DORCHESTER, DUXBURY, FALMOUTH, HENRIETTA, HUNTERDON, LEXINGTON, LYNN, MIDDLEBURY, NANTUCKET, and QUINCY. The districts are shaped to follow the outline of a salamander, with its head at the top right, its body curving around the center, and its tail at the bottom left. This is a classic example of gerrymandering, where district boundaries are drawn to favor a particular political party.


The district created by members of Governor Elbridge Gerry's party closely resembled a salamander—hence the term "gerrymander"

- # The House of Representatives
- Seats are distributed based on population
  - Reapportionment takes place every ten years
  - Gerrymandering
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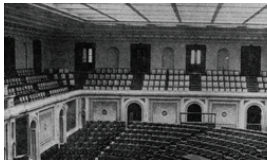
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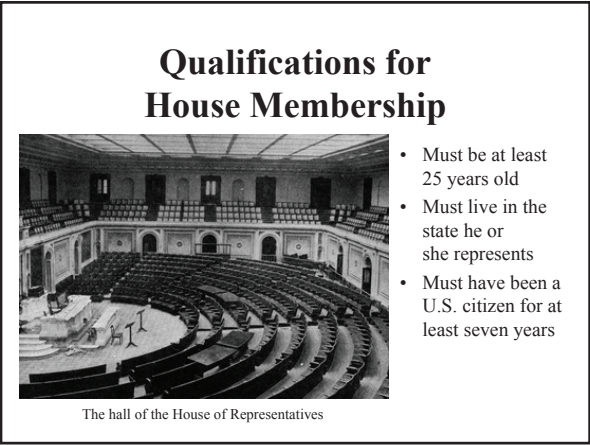
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# Qualifications for House Membership

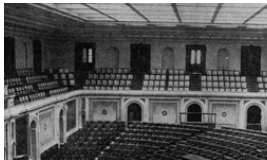


- Must be at least 25 years old
- Must live in the state he or she represents
- Must have been a U.S. citizen for at least seven years

The hall of the House of Representatives

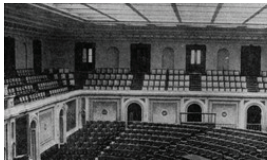


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The hall of the House of Representatives

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- The hall of the House of Representatives

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# House Officers

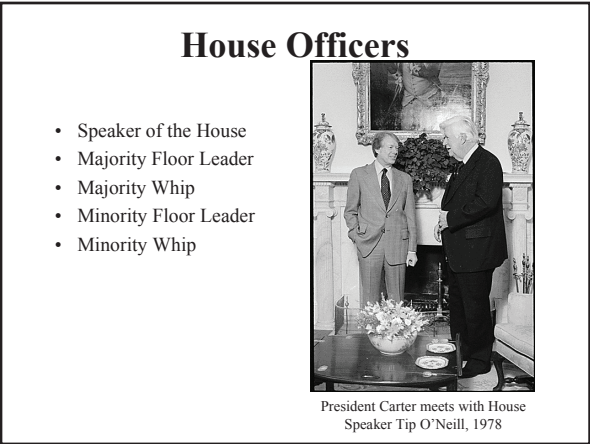
- Speaker of the House
- Majority Floor Leader
- Majority Whip
- Minority Floor Leader
- Minority Whip



A black and white photograph showing President Jimmy Carter and House Speaker Tip O'Neill standing together in the House of Representatives. President Carter, on the right, is wearing a dark suit and glasses, and is looking towards Speaker O'Neill. Speaker O'Neill, on the left, is wearing a light-colored suit and glasses, and is looking towards the camera. They are standing in front of a large, ornate fireplace mantel. On the mantel, there are two large vases and a framed portrait of a man. In the foreground, there is a large, ornate table with a glass top, and on it are several small plates and a large vase of flowers.


President Carter meets with House Speaker Tip O'Neill, 1978

- # House Officers
- Speaker of the House
  - Majority Floor Leader
  - Majority Whip
  - Minority Floor Leader
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President Carter meets with House Speaker Tip O'Neill, 1978

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## House Committees

- Standing committees: permanent committees that debate proposed bills
- Select committees: temporary panels created to address a specific issue or situation
- Committee chairmen

Agriculture	International Relations
Appropriation	The Judiciary
Armed Services	Resources
The Budget	Rules
Education and the Work Force	Science
Energy and Commerce	Small Business
Financial Services	Standards of Official Conduct
Government Reform	Transportation and Infrastructure
Homeland Security	Veterans' Affairs
House Administration	Ways and Means

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## The Senate




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## The Senate: Facts



The Senate in 1939

- A “continuous body”
- One-third of the Senate comes up for reelection every two years
- Senators can run for reelection as often as they desire

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## Qualifications for Senate Membership

- Must be at least 30 years old
- Must live in the state he or she represents
- Must have been a U.S. citizen for at least nine years



The chamber of the U.S. Senate

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## Senate Officers

- President of the Senate
- President Pro Tempore
- Majority Floor Leader
- Majority Whip
- Minority Floor Leader
- Minority Whip



James Hamilton Lewis became the first Senate Party Whip in 1913

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## Senate Committees

Agriculture, Nutrition and Forestry	Finance
Appropriations	Foreign Relations
Armed Services	Health, Education, Labor and Pensions
Banking, Housing and Urban Affairs	Homeland Security and Government Affairs
Budget	Judiciary
Committee, Science and Transportation	Rules and Administration
Energy and Natural Resources	Small Businesses and Entrepreneurship
Environment and Public Works	Veteran Affairs

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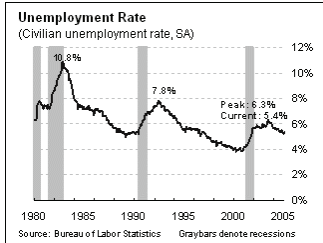
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## Joint Committees and Conference Committees

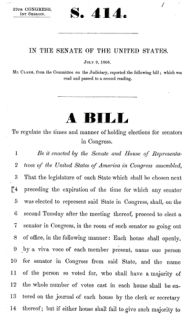
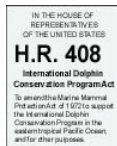
- **Joint committees:** Deal with issues of concern to both houses of Congress
- **Conference committees:** Created to reach a compromise on the wording of a bill that has passed both the House and the Senate



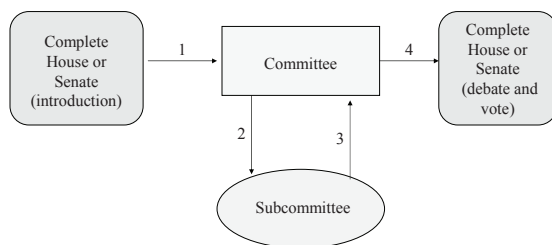
Joint committees, such as the Joint Committee on Economics, research issues that affect both houses, such as unemployment

## Congressional Bills

Bills are named according to whether they originated in the House (HR), the Senate (SR), or the White House (WHR). They then receive a number.

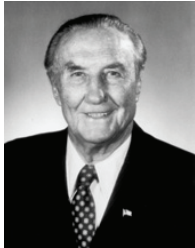


## How a Bill Becomes a Law: Introduction to Committee



## How a Bill Becomes a Law: Committee to Floor Debate

- Calendar
- Rules Committee
- Debate
  - House vs. Senate
  - Filibusters
  - cloture



The late Strom Thurmond holds the record for the longest filibuster in Senate history—24 hours and 18 minutes against the Civil Rights Act of 1957

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## How a Bill Becomes a Law: Voting



- Quorum

### Types of votes

- Voice vote
- Standing vote
- Roll-call vote
- Electronic voting (House only)

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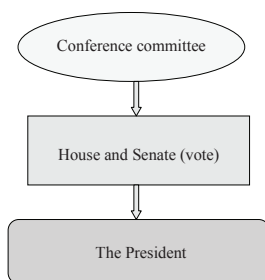
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## How a Bill Becomes a Law: From Passage to the President

- Conference committee
- House and Senate vote again
  1. Changes cannot be made
  2. Majority vote needed for passage
- Sent to President




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## How a Bill Becomes a Law: The President



President George W. Bush signs a law on corporate responsibility

### The President's Options

- Sign it
- Veto it
- Pocket veto
- Ignore it
- Overriding a veto

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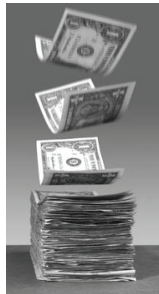
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## Expressed Powers of Congress

- Power to tax
- Power to borrow money
- Commerce power
- Currency power
- Bankruptcy power
- War powers




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## Other Expressed Powers

- Naturalization
- Postal power
- Copyright and patent power
- Weights and measures power
- Territorial power
- Judicial power



Candidates for naturalization, early 1900s

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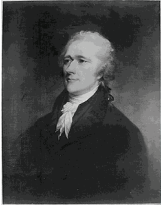
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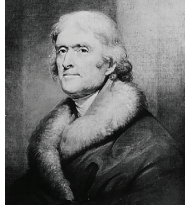
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## Implied Powers

- Article I: “necessary and proper”
- The “Elastic Clause”
- Strict vs. loose interpretation
- Hamilton vs. Jefferson



Alexander Hamilton



Thomas Jefferson

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## Non-Legislative Powers

- Investigatory Power
- Electoral Power
- Executive Powers
- Impeachment Power



A depiction of the impeachment trial of  
Andrew Johnson

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## The Judicial Branch

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## The Judicial System: Inception

- The judiciary under the Articles of Confederation
- Constitutional Convention
- Article III of the Constitution
- Judiciary Act of 1789




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## Federal Courts

### Constitutional Courts

- U.S. Supreme Court
- Courts of appeals
- District courts
- U.S. Court of International Trade



### Special Courts

- Court of Federal Claims
- Military tribunals
- Court of Appeals for the Armed Forces
- Territorial courts
- U.S. Tax Court
- Court of Veterans Affairs

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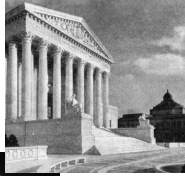
## Levels of Federal Courts



Lowest—district courts



Middle—court of appeals



Highest—  
Supreme Court

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## The Inferior Courts

- All courts below the U.S. Supreme Court
- Federal district courts
- Court of appeals
- Court of International Trade
- Court of Appeals for the Federal Circuit




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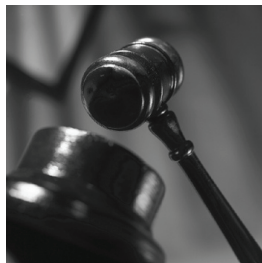
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## Jurisdiction

Jurisdiction: the right of a court to hear a case and apply the law.

### Types of Jurisdiction

- Original
- Appellate
- Exclusive
- Concurrent




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## The Supreme Court and “Judicial Review”



Chief Justice John Marshall

- *Marbury v. Madison* (1803)
- Judicial review: the Supreme Court has the ultimate say as to whether laws and acts of government are constitutional

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## The U.S. Supreme Court



Supreme Court Justices as of 2005 (left to right): Antonin Scalia, Ruth Bader Ginsburg, John Paul Stevens, David Souter, William Rehnquist, Clarence Thomas, Sandra Day O'Connor, Stephen Breyer, Anthony Kennedy

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## The U.S. Supreme Court



### Opinions of the Court

- Majority Opinion
- Concurring Opinion
- Dissenting Opinion

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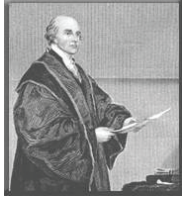
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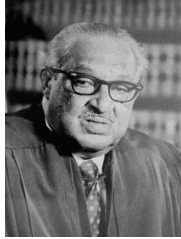
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## Notable Supreme Court Justices



John Jay:  
First U.S. Supreme  
Court Justice

Thurgood Marshall: first  
African American Supreme  
Court Justice



Sandra Day  
O'Connor: first  
female Supreme  
Court Justice

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## U.S. Supreme Court Cases: Freedom of Religion

- 1st Amendment
  - The "Establishment Clause"
  - The "Free Exercise Clause"
- 14th Amendment

### Cases

- *Zorach v. Clauson*, 1952 (religious studies)
- *Engel v. Vitale*, 1962 (no mandatory prayer or Bible-reading in schools)
- *Edwards v. Aguillard*, 1987 (evolution and creationism)
- *Westside Community Schools v. Mergens*, 1990 (student religious groups)




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## U.S. Supreme Court Cases: Freedom of Religion (continued)

- *Lynch v. Donnelly*, 1984 (seasonal displays)
- *Marsh v. Chambers*, 1983 (legislative prayers)
- *Bob Jones University v. U.S.* 1983 (religion and racial discrimination)
- *Lemon v. Kurtzman*, 1971 (state aid to religious schools)



*Lynch v. Donnelly* (1984) allowed Nativity scenes on public property if the scenes were part of a larger display that also featured non-religious objects

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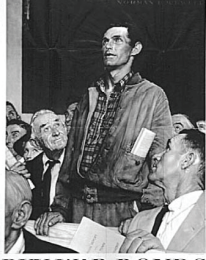
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## U.S. Supreme Court Cases: Freedom of Expression

SAVE FREEDOM OF SPEECH



BUY WAR BONDS

- *Near v. Minnesota*, 1931 ("prior restraint")
- *Miller v. California*, 1973 (obscenity)
- *Brazenburg v. Hayes*, 1972 (confidentiality)

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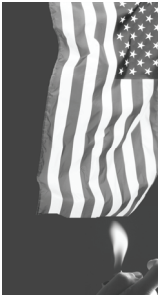
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## U.S. Supreme Court Cases: Freedom of Expression (cont.)



- *Tinker v. Des Moines Independent School District*, 1969 (symbolic speech)
- *Texas v. Johnson*, 1989 (flag burning)
- *44 Liquormart Inc., v. Rhode Island*, 1996 (commercial speech)

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## Freedom of Expression vs. National Security

- Sedition
- Alien and Sedition Acts, 1798
- Espionage Act of 1917/  
Sedition Act of 1918
- *Schenck v. U.S.*, 1919




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## Freedom of Expression vs. National Security (continued)



Seditious Acts during  
a time of peace:

Smith Act, 1940

- *Dennis v. U.S.*, 1951
- *Yates v. U.S.*, 1957

McCarran Act, 1950

- *Communist Party v. SACB*, 1961
- *Albertson v. SACB*, 1965

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## Freedom of Assembly and Petition

- “Time-place-manner”
- “Content neutral”

### Cases

- *Grayned v. City of Rockford*, 1972
- *Cox v. Louisiana*, 1965
- *Forsyth County v. Nationalist Movement*, 1992




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## Due Process



*Pierce v. Society of Sisters* involved a Roman Catholic order's challenge of an Oregon law requiring public education

- Substantive due process
- Procedural due process

### Cases

- *Rochin v. CA*, 1952 (procedural due process)
- *Pierce v. Society of Sisters*, 1925 (substantive due process)

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## Due Process (continued)

- *Schmerber v. CA*, 1966 (police power)

### Right to Privacy

- *Griswold v. CT*, 1965
- *Roe v. Wade*, 1973



**PRIVATE**

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## Rights of the Accused

### Important terms

- Writ of *habeas corpus*
- Bill of attainder
- *Ex post facto* Laws
- Double jeopardy
- Jury trial
- Bench trial



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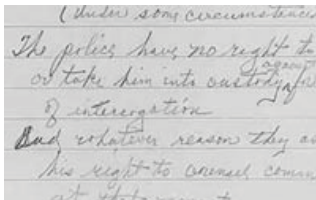
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## Rights of the Accused (continued)



Excerpt from Chief Justice Earl Warren's handwritten notes to Justice William Brennan on the *Miranda* case

- *Mapp v. OH*, 1961 (exclusionary rule)
- *Gideon v. Wainwright*, 1963 (right to counsel)
- *Miranda v. AZ*, 1966 (self-incrimination)

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## Rights of the Accused: The 8<sup>th</sup> Amendment

- *U.S. v. Salerno, 1987* (preventive detention)
- *Furman v. Georgia, 1972* (outlawed death penalty laws)
- *Gregg v. Georgia, 1976* (allowed “two-stage” death penalty laws)
- *Coker v. Georgia, 1977* (limited when death penalty can be imposed)




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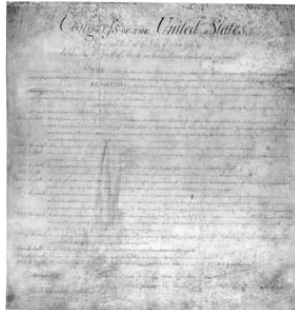
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## Civil Rights and Liberties

- Civil rights
- Civil liberties
- Equal Protection Clause



The Bill of Rights outlines many basic civil rights and liberties

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## Civil Rights: Segregation

- “Jim Crow” laws
- *Plessy v. Ferguson, 1896*



Cartoon depicting *Plessy v. Ferguson*

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## Civil Rights: Ending Segregation

- *Brown v. Board of Education of Topeka, Kansas*, 1954
- *De jure* segregation vs. *de facto* segregation
- *Alexander v. Holmes County Board of Education*, 1969



A mother holds a paper announcing the *Brown* decision



Thurgood  
Marshall  
(center)

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## Civil Rights



President  
Lyndon  
Johnson signs  
the Civil  
Rights Act of  
1964 while  
Dr. Martin  
Luther King,  
Jr. looks on

- The Civil Rights Act of 1964
- *Regents of the University of California v. Bakke*, 1978
- *United Steelworkers v. Weber*, 1979

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