

THE BIRTH OF THE CONSTITUTION

The Articles of Confederation

During the Revolutionary War, the United Colonies needed a document to govern the lands then struggling to be free from England's rule. The Articles of Confederation became the first national constitution of the United States in March of 1781.

The Articles of Confederation established a government organized around a Congress. Each of the thirteen states would only have one vote regardless of size or population. For a law to pass, nine of the thirteen states had to agree.

The Congress had the power to declare war, make peace, and make treaties. It could also coin and borrow money, create post offices, admit new states, and create an army and navy.

On the other hand, the Congress could not tax, and it could not control or interfere with trade between the individual states.

There was no one person who was in charge of this new government. Because they feared the return of tyranny, the founding fathers were very cautious not to create a new "king"—that was exactly why they had separated from England. So, as a result, there was no executive to carry out the laws passed by Congress. Ultimately, this lack of a leader caused much confusion.

The Articles of Confederation created a loose friendship between the thirteen states. This loose friendship was enough to win the War for Independence and keep the states together as one country. But without an executive, the power to tax, and the ability to regulate trade, the Congress could not function effectively. Many Americans felt the Articles of Confederation needed to be revised.

By 1786, more problems were beginning to surface. A convention of five of the thirteen states, called the Annapolis Convention, met at Annapolis, Maryland, in September, 1786. They met to study the trade problem. There was not enough representation to make any big decisions, so the delegates led by Alexander Hamilton (New York) and James Madison (Virginia) called for another convention to begin in May, 1787, in Philadelphia, Pennsylvania. In February of that year, Congress agreed with the delegates and stated the convention would have the "sole and express purpose of revising the Articles of Confederation."



Revolutionary War Soldiers

Date _____ Name _____

THE BIRTH OF THE CONSTITUTION
The Articles of Confederation
≈ Challenges ≈

1. Define:

Confederation: _____

Constitution: _____

Commerce: _____

2. What was the first form of our national government? _____

3. When did our first form of government begin to govern the United States? _____

4. For a law to pass, how many states had to agree? _____

5. What were the powers of Congress under the Articles of Confederation? _____

6. What could Congress **NOT** do under the Articles? _____

7. Why was there no executive under the Articles? _____

8. What meeting occurred in September, 1786? What was its purpose? _____

9. What was scheduled to happen in May, 1787? Why? _____

THE BIRTH OF THE CONSTITUTION

The Constitutional Convention

The Constitutional Convention opened in Philadelphia in May, 1787, and finished its work in September. The delegates to the convention were not elected by the people, but instead were selected by their state legislatures.

The delegates to the convention were men of great ability. Many had fought in the Revolutionary War, many were educated, and many were wealthy. They were men of great power and influence in their own states. Eventually, two would become presidents of the United States, one a vice president, and 26 would serve in Congress. All in all, there were 65 official delegates, but only 55 made it to Philadelphia. The average attendance at each day's meeting was about 30.

George Washington, a delegate from Virginia, was chosen to be the president of the convention. At first, the purpose of the convention was to revise the Articles of Confederation, but very quickly the delegates decided to replace the Articles with a new plan for government.

Two important leaders were absent from the convention. John Adams and Thomas Jefferson, who were influential in the writing of the Declaration of Independence, were in Europe serving as ambassadors to other nations. Benjamin Franklin of Pennsylvania was the oldest delegate at 81 years old, and Jonathan Dayton of New Jersey was the youngest at 26. Other delegates present were Alexander Hamilton and James Madison. There was one state that refused to send delegates to the Constitutional Convention; Rhode Island did not send any representatives to Philadelphia.

During those five hot summer months in 1787, the 55 delegates struggled to create a more flexible form of government for the new United States. The most serious task that faced the delegates was how to achieve a balance between liberty and authority. There were many different viewpoints and opinions on how to go about that task. The concept of compromise unified the differences into a supreme document capable of representing the opinions of all Americans.

The Constitution that resulted from this historic convention is now over 200 years old. Few written constitutions have lasted as long as the Constitution of the United States.



George Washington was chosen as the president of the Constitutional Convention.

Date _____ Name _____

THE BIRTH OF THE CONSTITUTION

The Constitutional Convention

≈ Challenges ≈

1. Define:

Convention: _____

Compromise: _____

Delegate: _____

2. Where did the Constitutional Convention meet in May, 1787? _____

3. During what months of 1787 was our Constitution written? _____

4. Which state didn't send delegates to the Convention? _____

5. Who served as president of the convention? _____

6. What was the most serious task that the convention faced? _____

7. Name two famous politicians who were present at the convention. _____

8. Name two famous politicians who were absent from the convention. _____

9. Who was the oldest delegate? _____

10. Who was the youngest delegate? _____

THE BIRTH OF THE CONSTITUTION

Compromise

Without compromise in 1787, our government would have collapsed in infancy. Compromise is a settlement in which both sides give up something in order to reach an agreement. There were many different compromises made during the Constitutional Convention. The most important compromises dealt with how our government would be set up.

A major concern of the delegates was how to set up the lawmaking body of our government, the legislative branch. How should states be represented in the legislative body? Who would have control—the small states or the large states? This issue threatened to destroy the convention. Eventually, the delegates came to an agreement known as the Great Compromise, which combined the best of the Virginia Plan and the New Jersey Plan.

The Virginia Plan was proposed by the states having the larger populations. First, they suggested that the lawmaking body be called Congress. This Congress was to be *bicameral* (having two houses). The first house would be elected by the people, and the second house would be elected by the first house. The number of Congressmen was to be determined by the population of the state. The larger states liked this plan because they had a larger population and as a result would be able to control the government. They favored a plan based on population.

An alternative was the New Jersey Plan supported by the smaller states. First, the small states proposed a Congress that was *unicameral* (having one house) with each state having the same number of representatives or votes. The smaller states would then be equal with the larger states. They favored a plan based on equality.

Eventually a compromise was reached. The compromise became known as the Great Compromise, because without this basic issue settled, the Convention would have failed.

The Great Compromise called for a bicameral Congress. The first house was to be called the House of Representatives, with representatives elected by the people for a two-year term. The number of representatives each state could elect would depend on the population of the state. This pleased the large states.

The second house was to be called the Senate, with senators elected by their state legislatures for a six-year term. Each state would have two senators. This pleased the small states. The Great Compromise had succeeded; both sides got what they wanted.



The Convention was held in the Philadelphia Statehouse, now known as Independence Hall.

THE BIRTH OF THE CONSTITUTION

Compromise **≈ Challenges ≈**

1. Define:

Bicameral: _____

Unicameral: _____

2. What question was resolved with the Great Compromise? _____

3. What plan was supported by the large states? Why? _____

4. What plan was supported by the small states? Why? _____

5. Fill in the information:

A. Virginia Plan:

1. How many houses? _____

2. Number of congressmen determined by: _____

B. New Jersey Plan:

1. How many houses? _____

2. Number of congressmen determined by: _____

6. What was the Great Compromise, and how did it establish the legislative body?

7. Circle the correct ending to each statement:

A. Representatives in the House of Representatives are chosen by:

POPULATION

EQUALITY

B. Senators in the Senate are chosen by:

POPULATION

EQUALITY

THE BIRTH OF THE CONSTITUTION

Separation of Powers

Another problem facing the Constitutional Convention was how to divide the powers of a government. Who will make the laws? Who will make sure the laws are obeyed? Who will make sure the laws are “good” laws? These questions were answered in the next set of compromises.

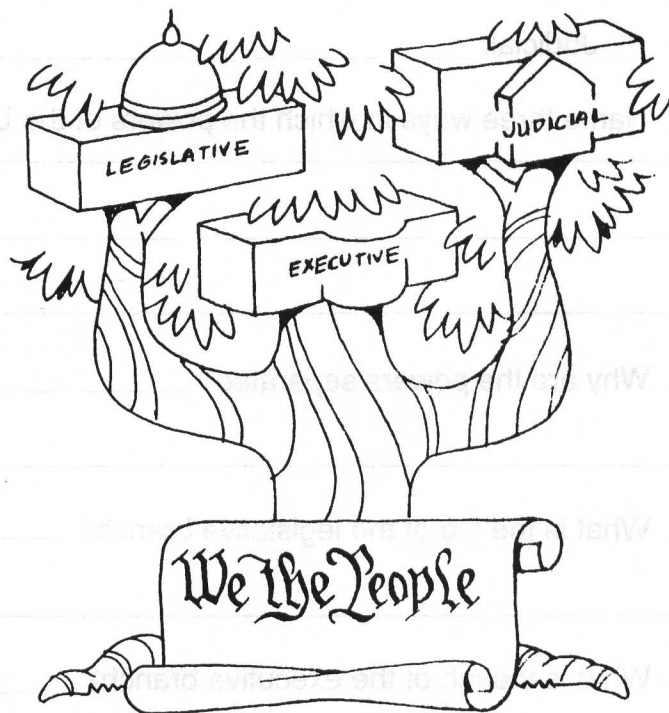
American government can be seen as a tree. The Constitution is the trunk, or base, with three branches extending from that trunk. Those three branches are the legislative branch, the executive branch, and the judicial branch. Each branch has different responsibilities and looks out for and checks the other two branches. These concepts, respectively, are called *separation of powers* and *checks and balances*.

The *legislative* branch was defined during the Great Compromise. Together, the House of Representatives and the Senate make the laws to govern our country. The legislative branch also checks the executive and judicial branches.

The second branch is the *executive* branch. Eventually, the delegates decided to create a chief executive. Under the Articles of Confederation, there was no national leader. The founding fathers had feared creating another “king.” There was much discussion, even talk of having two equally powered leaders. The convention agreed to create one President, but only if the President would be checked or watched by the legislative and judicial branches. The job of the President and the executive branch is to carry out the laws passed by the legislative branch.

The third branch established the *judicial* system. The judicial branch was to be headed by the Supreme Court. It is the job of the Supreme Court to interpret or define the laws. The Supreme Court is chosen by the President and approved by the Senate. The judicial branch checks the executive and legislative branches.

Each branch has its own specific responsibilities. Each has a separate power. Part of the responsibility of a branch is to control or check the power of the other branches. That way, no one branch gets to be too powerful; each branch is balanced.



The U.S. Constitution provides for the legislative, executive, and judicial branches of government.

THE BIRTH OF THE CONSTITUTION

Separation of Powers

≈ Challenges ≈

1. Define:

Separation of Powers: _____

Checks and Balances: _____

Legislative: _____

Executive: _____

Judicial: _____

2. Name three ways in which the powers of the United States are divided.

3. Why are the powers separated? _____

4. What is the job of the legislative branch? _____

5. What is the job of the executive branch? _____

6. What is the job of the judicial branch? _____

7. What two branches are checked by the legislative branch? _____

8. What two branches are checked by the executive branch? _____

9. What two branches are checked by the judicial branch? _____

Organization of the Constitution

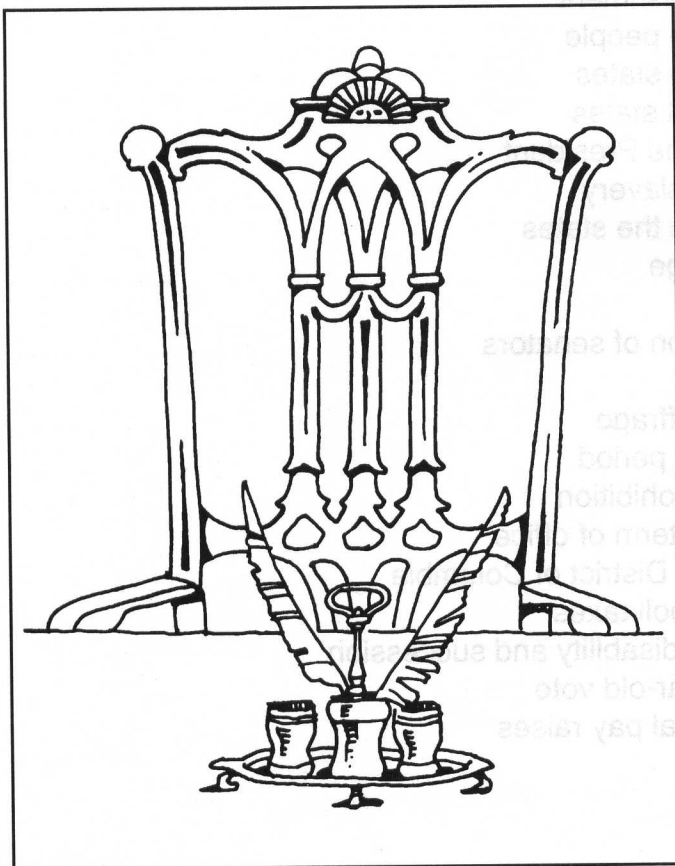
On September 17, 1787, the Constitutional Convention approved the Constitution of the United States. The document was then sent out to the states to be *ratified*, or approved, through a specific procedure set up in the Constitution. On June 21, 1788, New Hampshire became the ninth state to ratify the Constitution, and the necessary three-fourths majority was achieved. The United States began to function under a new form of government.

The Constitution is divided into several parts. It starts with the *Preamble*, or introduction. The main body of the document consists of seven *Articles*. The final section of the Constitution contains the *Amendments*, or changes to the Constitution. There are presently 27 Amendments.

The first three Articles deal with the three separate branches of government. The last four Articles discuss the powers of the states and the procedures for ratifying and amending the Constitution. Each Article is further subdivided into Sections and then into Clauses.

On your copy of the Constitution you will notice that some phrases or sections are printed in *italics*. This indicates that these parts are no longer in effect due to the passage of time or changes made by the Amendments.

On the next page is a chart of the organization of the Constitution.



Throughout the convention Ben Franklin had noticed the back of George Washington's chair. There was a sun carved into it. "I have often and often in the course of this session looked at that behind the President without being able to tell whether it was rising or setting; but now at length I have the happiness to know that it is a rising and not a setting sun," Franklin observed.

Organization of the Constitution

PREAMBLE	Introduction
ARTICLE I	Legislative Branch
ARTICLE II	Executive Branch
ARTICLE III	Judicial Branch
ARTICLE IV	Relationships Among States
ARTICLE V	Amending the Constitution
ARTICLE VI	Supreme Law of the Land
ARTICLE VII	Ratifying the Constitution

AMENDMENTS:

I	Freedom of religion, press, speech, assembly, petition
II	Right to bear arms
III	Quartering of soldiers
IV	Searches and seizures
V	Life, liberty, and property
VI	Rights of the accused
VII	Right to trial by jury
VIII	Bail and punishment
IX	Rights of the people
X	Rights of the states
XI	Suits against states
XII	Election of the President
XIII	Abolition of slavery
XIV	Civil rights in the states
XV	Black suffrage
XVI	Income tax
XVII	Direct election of senators
XVIII	Prohibition
XIX	Women's suffrage
XX	"Lame duck" period
XXI	Repeal of Prohibition
XXII	Presidential term of office
XXIII	Voting in the District of Columbia
XXIV	Abolition of poll taxes
XXV	Presidential disability and succession
XXVI	Eighteen-year-old vote
XXVII	Congressional pay raises

THE BIRTH OF THE CONSTITUTION

Organization of the Constitution

≈ Challenges ≈

1. Define:

Ratify: _____

Amend: _____

Article: _____

2. When was the Constitution approved by the Convention? _____

3. What date was the Constitution approved by the states? _____

4. What do you think the sun represents in Franklin's quotation? _____

5. What is the purpose of the Preamble? _____

6. How many Articles are in the Constitution? _____

7. What is Article I about? _____

... Article II? _____

... Article III? _____

8. How many Amendments have been added to the Constitution? _____

9. Why have certain phrases or sections been italicized? _____

THE BIRTH OF THE CONSTITUTION

The Preamble

(See the Preamble)

The Preamble lists the major goals to be accomplished by the United States government under the Constitution. The importance of the Preamble and the Constitution are expressed in the first three words, "We the people . . ." The Constitution was created by the people, not by some king, dictator, or absolute ruler.

The founding fathers had six goals in mind when they set out to create the Constitution. They are:

- (1) to form a more perfect union
(set up a stronger government than they had under the Articles of Confederation)
- (2) establish justice
(improve the court system)
- (3) insure domestic tranquility
(have peace in all states)
- (4) provide for the common defense
(protect the country from enemies)
- (5) promote the general welfare
(have good living conditions)
- (6) secure the blessings of liberty to ourselves and our posterity.
(have freedom for themselves and future Americans)

The Preamble expresses the hopes of the people for a good and honest government for themselves and their children.

PREAMBLE TO THE UNITED STATES CONSTITUTION:

We the people of the United States, in order to form a more perfect Union, Establish Justice, insure domestic Tranquility, provide for the common Defense, promote the general Welfare, and secure the blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.



THE LEGISLATIVE BRANCH

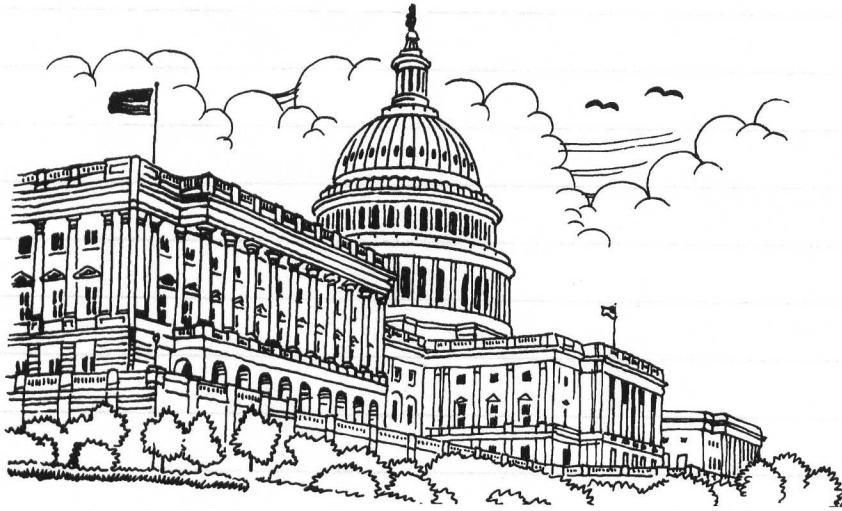
Introduction

(See Article I, Section 1)

The legislative branch of the United States government is described in Article I of the Constitution. Its major job is to make our country's laws. The American system of government is based on a representative form of government. Not all Americans can meet in the same place at the same time to make laws, so Americans choose representatives to make the laws for them. Representatives carry out the will of the people, or they are replaced during the next election.

Laws are passed by a *majority* vote. Majority means one over half. For example, among 10 people, six or more of them must agree in order to pass a law. The larger group of politicians is known as the majority, and the smaller group is known as the *minority*. If you are in the minority, you try to encourage members of the majority to change sides.

The legislative branch of our Federal government is called Congress. Congress is made up of the House of Representatives and the Senate. Congress begins its meetings on the third day of January every odd-numbered year. The meetings are called terms and they last two years with a recess, or break, during the summer. The first term of Congress met from 1789-91. The House of Representatives and the Senate meet in different chambers on opposite sides of the Capitol Building in Washington, D.C.



The House of Representatives and the Senate meet in the U.S. Capitol Building.

The Congress makes its own rules governing its meetings. It can *expel*, or remove, a member by a two-thirds vote. That means that two thirds of the members, not just a majority, have to agree to an action. A record is kept of all the meetings and is published in the *Congressional Record*.

Members of Congress also have certain *privileges*. They cannot be arrested when going to or coming from Congress, or while attending a session of Congress. A member cannot be sued or punished for anything he or she might say in Congress.

The Constitution goes on to define the individual responsibilities and requirements of the two houses of Congress: the House of Representatives and the Senate, our lawmaking bodies.

THE LEGISLATIVE BRANCH

Introduction

≈ Challenges ≈

1. Define:

Majority: _____

Minority: _____

Privilege: _____

Expel: _____

2. What is the major duty of the legislative branch? _____

3. What is the legislative body called? _____

4. Where does it meet? _____

5. What two houses make up the Congress? _____

6. When do its meetings begin? _____

7. What is the name of the record of the meetings of Congress? _____

8. List two privileges of members of the United States Congress. _____

THE LEGISLATIVE BRANCH

The House of Representatives

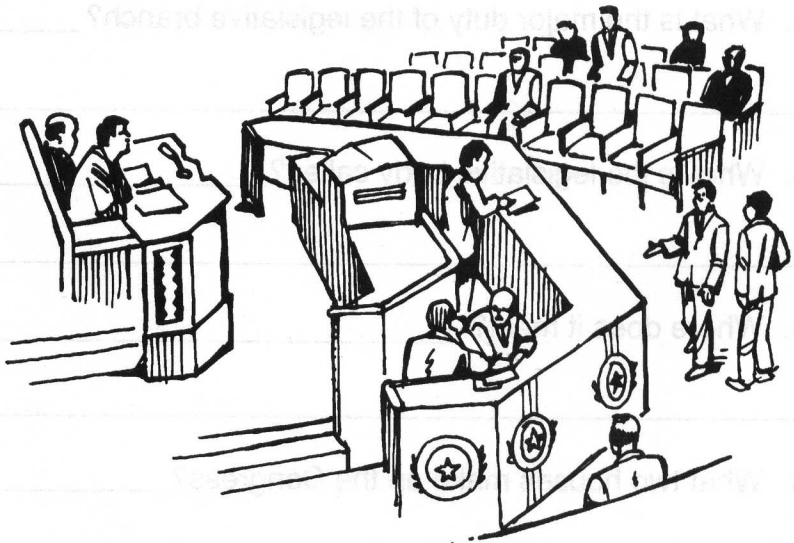
(See Article I, Section 2)

The largest house of Congress is the House of Representatives. There are 435 representatives in the House. The number of representatives a state has is based on the number of people, or population, in the state. There is one representative for every 500,000 people. So if a state has two million people, that state would be able to send four representatives to Washington, D.C.

The term of office for a representative is two years. In order to stay in office, he or she must be reelected every two years.

To find out how many people are in a state, the government conducts a *census*, or count of the people, every ten years. The first census was conducted in 1790. When will the next census occur?

In order to be a representative, there are certain requirements to be met. A representative must be at least 25 years old, must be a citizen of the United States for at least seven years, and must live in the state from which he or she is elected.



The speaker's podium in the House of Representatives' chamber.

Within the House, there are several leaders. The Speaker of the House is the presiding officer. The Speaker is selected by the members of the House and is usually a member of the majority party. The Speaker of the House is second in line to take over the presidency, after the Vice President, in the event of an emergency.

The House of Representatives has the sole power to begin *impeachment* proceedings against a government official. To impeach is to accuse an official of some wrongdoing or misuse of power. The House begins the process by accusing the official, but the trial is carried out by the Senate. More about impeachment will be discussed in later chapters.

THE LEGISLATIVE BRANCH

The House of Representatives ≈ **Challenges** ≈

1. Define:

Census: _____

Impeach: _____

2. How many representatives are there in the House of Representatives? _____

3. How many representatives does your state send to Washington, D.C.? _____

4. When was the last census taken in the United States? _____

When will the next census be taken? _____

5. What was the population of the United States at the last census? _____

6. What are the three qualifications to be a representative?

a) _____

b) _____

c) _____

7. What is the title of the presiding officer of the House? _____

8. The House begins the impeachment process by doing what? _____

THE LEGISLATIVE BRANCH

The Senate

(See Article I, Section 3)

The other house that makes up the Congress is the Senate. The Senate is the smaller of the two groups, with only 100 members. These people are known as senators. Each state, regardless of how big or small, has two senators. Currently there are 50 states, so we have 100 senators in Washington, D.C.

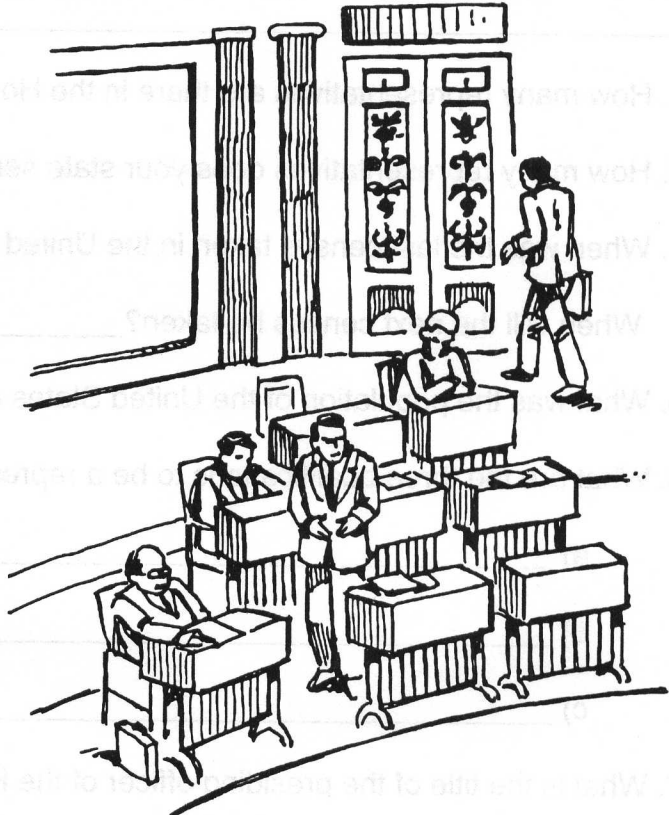
Each senator is elected for a six-year term, but every two years, one third of the senate is up for reelection. For example, in 1992, 33 senators were elected for six-year terms. In 1994, 33 others will be elected, and in 1996, 34 will be elected. This way, there is never an entirely new group of senators; there will always be some experienced senators to guide the newcomers.

According to the original Constitution, the senators were chosen by their state legislatures, but in 1913, the Seventeenth Amendment changed this and allowed the people to elect their senators directly.

In order to be a senator there are certain requirements that must be met. A senator must be at least 30 years old, a citizen of the United States for at least nine years, and live in the state he or she represents.

The Senate also has certain leaders. The Vice President of the United States is in charge of all meetings of the Senate. He can only vote in the event of a tie between the senators. If the Vice President is absent, the senators choose an alternate presiding officer known as the president pro tempore (temporary president). The president pro tempore is third in line to take over the presidency in the event of an emergency.

With regards to the impeachment process mentioned in the last lesson, the Senate acts as the jury and tries any impeachment cases. When the House of Representatives accuses an official of a crime, the Senate decides whether or not the official is guilty. The Chief Justice of the Supreme Court acts as the judge. Two thirds of the senators present must find the official guilty in order to remove him or her from office.



Senators at their desks in the U.S. Senate chamber.

THE LEGISLATIVE BRANCH

The Senate ≈ **Challenges** ≈

1. What are the names of the two houses of Congress? _____

2. How many senators does each state send to Washington? _____

3. What is the total number of senators today? _____

4. What is the term of office of a senator? _____

5. What is the term of office of a representative? _____

6. What are the three requirements to be a senator?

a) _____

b) _____

c) _____

7. What are the titles of the two presiding officers of the Senate? _____

8. What does the Senate do during the impeachment process? _____

THE LEGISLATIVE BRANCH

Rules, Rights, and Privileges of Congress

(See Article I, Sections 5, 6)

Each house of Congress develops a set of rules for its members, but the Constitution also sets forth specific rules and rights.

In order for a meeting to be held, there must be a *quorum*. A quorum is one person over half of the number of members. For example, for the Senate to have a quorum, there must be 51 senators present (one over half: 51/100). The same is true of the House of Representatives.

The House and Senate may *expel*, or remove, a member for breaking its rules. To expel a member, two thirds of the House or Senate must agree to the removal.

The House and Senate publish the notes, minutes, and records of their meetings in what is known as the *Congressional Record*.

Both houses of Congress must meet in the same city and must meet during the same time. Neither house can *adjourn*, or stop meeting, without the consent of the other house.

Representatives and senators are paid by the United States government, and their salary is set by law. Members of Congress cannot be arrested during meetings or while going to or from meetings. They also cannot be punished for anything said during one of their meetings.

One right reserved to the House of Representatives is the handling of money matters. Only the House may introduce bills to raise money.



Representatives and senators have many duties including meeting with voters, preparing bills and speeches, and attending committee meetings.

Date _____ Name _____

THE LEGISLATIVE BRANCH
Rules, Rights, and Privileges of Congress
≈ Challenges ≈

1. Define:
Quorum: _____

Expel: _____

Adjourn: _____

2. How many representatives from the House of Representatives would need to be present in order for there to be a quorum?

3. What fraction of the Senate must agree to expel a member? _____

What number is that? _____

4. Where can you find the notes of the meetings of Congress? _____

5. Who pays the salaries of representatives and senators? _____

6. What house is the only house to introduce bills to raise money? _____

THE LEGISLATIVE BRANCH

How Bills Become Laws

(See Article I, Section 7)

The laws, or rules, our country has were passed to keep our country functioning. There is a long step-by-step process in the making of laws.

Before a law is a law, it is known as a *bill*. A bill is an idea that a representative or a senator has that he would like to see become a law. A bill may start in either the House of Representatives or the Senate, except for money bills, which must start in the House.

Let's say Senator X has a bill to proclaim June 21 as National Cardinal Day. He takes his bill in written form to his fellow senators, and it is given a code number. If the other senators disagree with the bill, they vote it down, and the bill is dead. If they agree, the bill is passed over to the House of Representatives.

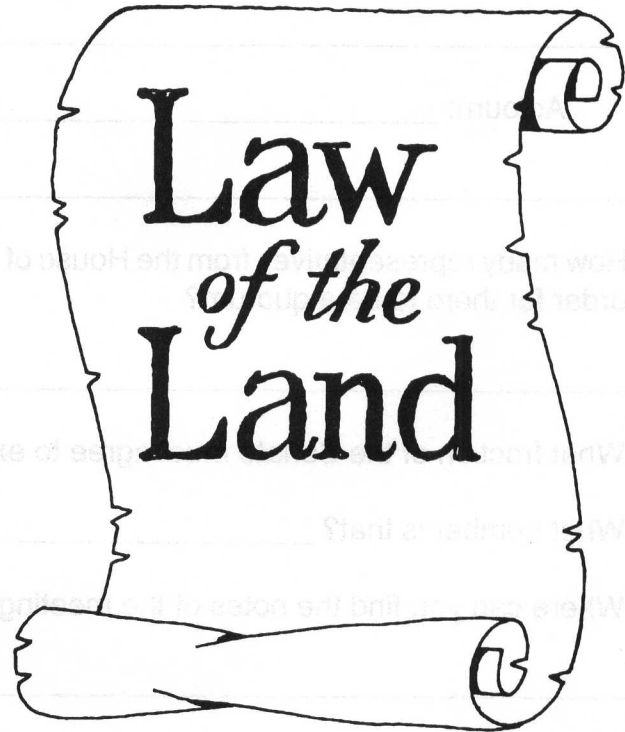
The bill is given to the House of Representatives to discuss and vote on. If they disagree, they vote it down and send it back to the Senate for changes. If the Senate refuses to make changes, the bill dies. If the House approves the bill, it is given to the President for his approval.

If the President agrees with the bill, he signs it and it becomes a law. The bill can also become law if the President does not respond to it within ten working days.

If the President does not agree with the bill, he *veto*es it. With a veto, the President is rejecting the bill. If the President does not sign the bill within ten days after Congress adjourns, the bill dies. This is known as a pocket veto.

If the bill has been vetoed and Congress is still in session, the bill then goes back to the house where it started, in our case, the Senate.

If two thirds of the Senate agree with the bill, that is called *overriding* the President's veto. If the Senate votes to override the veto, then the House of Representatives must override it also. If both houses vote to override the veto, then the bill becomes a law without the President's approval.



Bills must go through a long, difficult process before they finally become the law of the land.

THE LEGISLATIVE BRANCH

How Bills Become Laws

≈ Challenges ≈

1. Define:

Veto: _____

Override: _____

2. Where can a bill be introduced? _____

3. Money bills must be introduced in which house? _____

4. If a bill is approved by the House of Representatives, where must it go next? _____

5. When both houses approve a bill, then where does it go? _____

6. If the President vetoes a bill, what process must happen for the bill to become a law? _____

7. What fraction of representatives and senators must agree in order to override the President's veto? _____

8. If the veto is not overridden, what happens to the bill? _____

PROJECT:

Make a bill of your own and explain the process, from beginning to end, of how that bill will become a law.

THE LEGISLATIVE BRANCH***Powers of Congress***

(See Article I, Section 8)

The Constitution gives the Congress (the House and the Senate) certain specific powers. Among those listed in Section 8 are the powers to tax, borrow money, regulate commerce (trade), and naturalization (the process by which one can become a United States citizen). Also included are the powers to coin money, establish a system of weights and measurements, establish a post office, declare war, and provide a military. These are many of the important powers specifically granted to the Congress.

Article 1, Section 8, Clause 18 is very important to the Congress. It is known as the “elastic clause.” The elastic clause gives Congress the power “to make all laws which shall be necessary and proper” to carry out its responsibilities.

The powers given to Congress can be broken down into three areas: *enumerated* powers, *implied* powers, and *inherent* powers.

Enumerated powers are powers specifically given to the Congress by the Constitution. They are written. An example would be the power to declare war.

Implied powers are powers given to the Congress that are general. They are stated, but not enough information is given in the Constitution about details.

An example would be: the Constitution in Article 1, Section 8, Clause 7 states,

“To establish post offices and post roads.” Obviously, more is needed to run the post office than just roads; there are the mail carriers, security, and buildings. The Constitution assumes that the Congress will take care of these matters, too.

Inherent powers are unlisted powers that a government must have simply because it exists as a government and needs to run its affairs smoothly. The best example of this is the need to conduct foreign affairs. The Constitution does not discuss foreign affairs, but because the United States is a country, we must deal with foreign countries diplomatically.



Congress is responsible for maintaining the military forces in the United States.

THE LEGISLATIVE BRANCH

Powers of Congress ≈ **Challenges** ≈

1. List and describe four powers given to the Congress by Article I, Section 8:

- a) _____

- b) _____

- c) _____

- d) _____

2. What is the "elastic clause"?

3. Define enumerated powers and give an example.

4. Define implied powers and give an example.

5. Define inherent powers and give an example.

THE LEGISLATIVE BRANCH

Limits on Congress and the States

(See Article I, Sections 9, 10)

We saw in the last lesson what powers the Constitution gave the Congress. Now we are going to look at what the Constitution told the Congress it could *not* do.

First, the Constitution told the Congress it could not make any laws outlawing the slave trade until 1808. This clause deals with the rivalry between the northern and southern states. As you will study, this rivalry erupts into the Civil War in 1861.

The second limitation deals with the legal term known as *habeas corpus*. Habeas corpus literally means “you shall have the body.” This right of habeas corpus allows a person to be seen and heard in a courtroom by a judge. If you are to be found guilty or not guilty, you have the right to appear in court. The government can not take that right away except in cases of rebellion or invasion.

The Constitution outlawed *bills of attainder*. A bill of attainder is a law passed by the government that convicts a person of a crime and punishes them without a trial.

Another limitation set by the Constitution is that Congress cannot pass *ex post facto* laws. An *ex post facto* law punishes people for a crime that was not a crime when they did it. For example, Mr. Z was smoking a cigarette on his lawn on Monday. On Tuesday, Congress passed a law forbidding smoking in the United States. Wednesday, the police came and arrested Mr. Z for smoking on Monday. When Mr. Z smoked on Monday, it was not a crime. Under the *ex post facto* clause of the Constitution, punishment of Mr. Z is forbidden.

Other limits on Congress are that it cannot tax products from a state, it cannot give preference to any state’s seaport, government money can only be spent by passing a law, and finally, Congress cannot issue titles of nobility. That means the Senate or House cannot make people knights, lords, or duchesses.

The Constitution also puts certain limits on the states. First, they cannot make treaties with other countries. Secondly, they cannot coin their own money. Finally, they cannot do the items mentioned in the above three paragraphs.

The powers of government can be put into three categories: *delegated*, *concurrent*, and *reserved* powers. Delegated powers are powers that are given to the national government in Washington, D.C., such as the power to declare war. Concurrent powers are powers that are shared between the national and state governments, such as the power to tax. Finally, reserved powers are powers that only the states have, such as the power to create a school system. It is important to keep these different powers in mind as we discuss the remainder of the Constitution.



Prior to the Constitution, people were often arrested and jailed without being charged or having a trial.

THE LEGISLATIVE BRANCH

Limits on Congress and the States

≈ Challenges ≈

1. What does "habeas corpus" mean, literally? _____

2. Why does the Constitution prevent Congress from taking away our right of habeas corpus? _____

3. What is a bill of attainder? _____

4. What is an ex post facto law? Give an example. _____

5. What is one other limit placed on the Congress? _____

6. What are two additional limitations placed on the states by the Constitution?

a) _____

b) _____

7. Explain these three powers:

Delegated: _____

Concurrent: _____

Reserved: _____

THE EXECUTIVE BRANCH

Introduction

(See Article II, Section 1)

As you have seen, the job of the legislative branch is to make the laws. It is the job of the executive branch to carry out, or execute, those laws. They enforce, or make sure people are obeying, the laws made by the legislative branch.

If the Congress makes it a law that the speed limit should be 70 MPH, then it is the job of the executive branch and its offices to make sure that the citizens of the United States are obeying the speed limit.

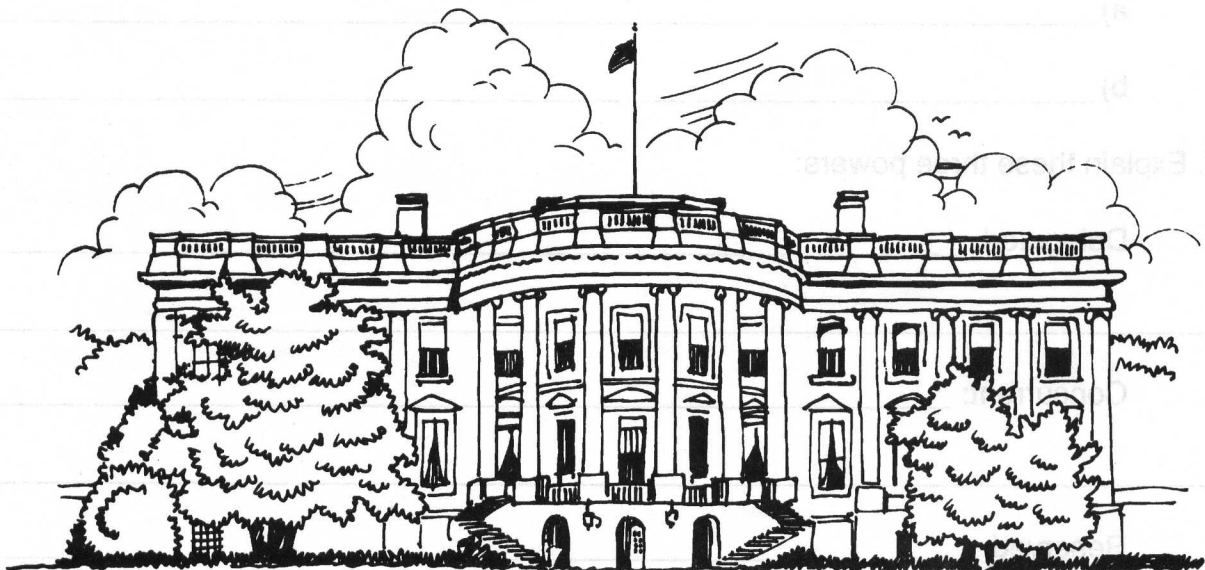
The executive branch of the United States is very large today. The head of the executive branch is the President, but many thousands of people work for him. The executive branch handles much of the day-to-day work of the country.

The President is the chief executive, and he is elected for a four-year term. His second-in-command is called the Vice President. They are both elected at the same time.

The President and Vice President are chosen by the electoral college. The electoral college is made up of men and women from the different states. Each state gets a certain number of people, or electors. That number is determined by the total number of representatives and senators a state has. For example, if Illinois has 22 representatives and 2 senators, then Illinois would get 24 electors, or people, to vote for the President.

When we go to the polls in a presidential election, our votes are counted and the electors take those totals and elect the President based on who the people have selected. Since the common people were poorly educated and informed in the early years of our nation, the electoral college was originally established to keep the common people from making a mistake and electing a disastrous leader.

If there is a tie in a presidential election, or no one candidate receives a clear majority, then the House of Representatives, with each state having only one vote, elects the President.



The President of the United States lives in the White House.

THE EXECUTIVE BRANCH

Introduction
≈ Challenges ≈

1. Define:

Execute: _____

Executive: _____

2. If the legislative branch makes the laws, then the executive branch does what with the laws?

3. What is the title of the chief executive, or head, of the executive branch of the United States?

What is the name of the person who is currently in that office? _____

4. What is the title of the second-in-command? _____

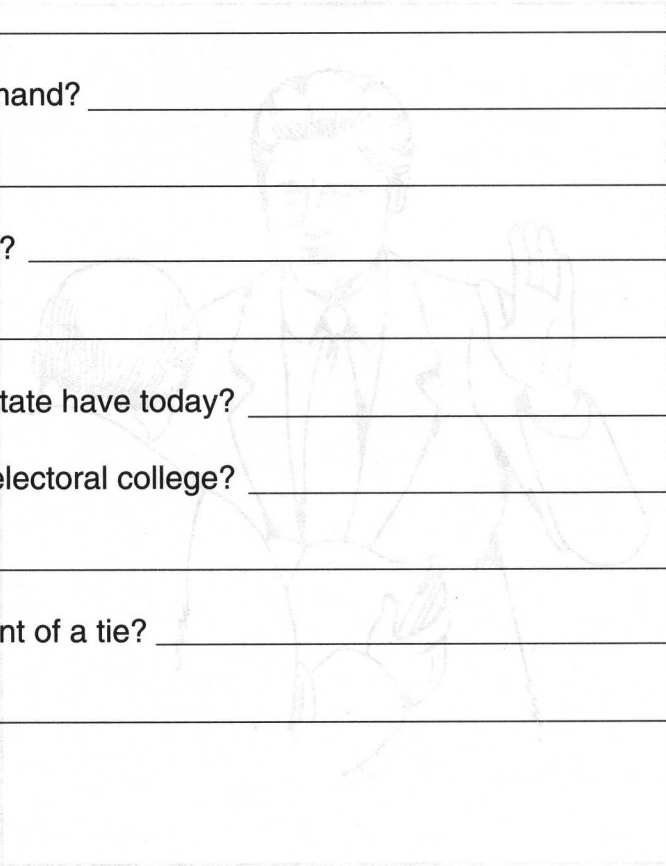
What is that person's name today? _____

5. What is the job of the electoral college? _____

6. How many electoral votes does your state have today? _____

7. What was the original purpose of the electoral college? _____

8. Who chooses the President in the event of a tie? _____



THE EXECUTIVE BRANCH

Qualifications for President

(See Article II, Section 1)

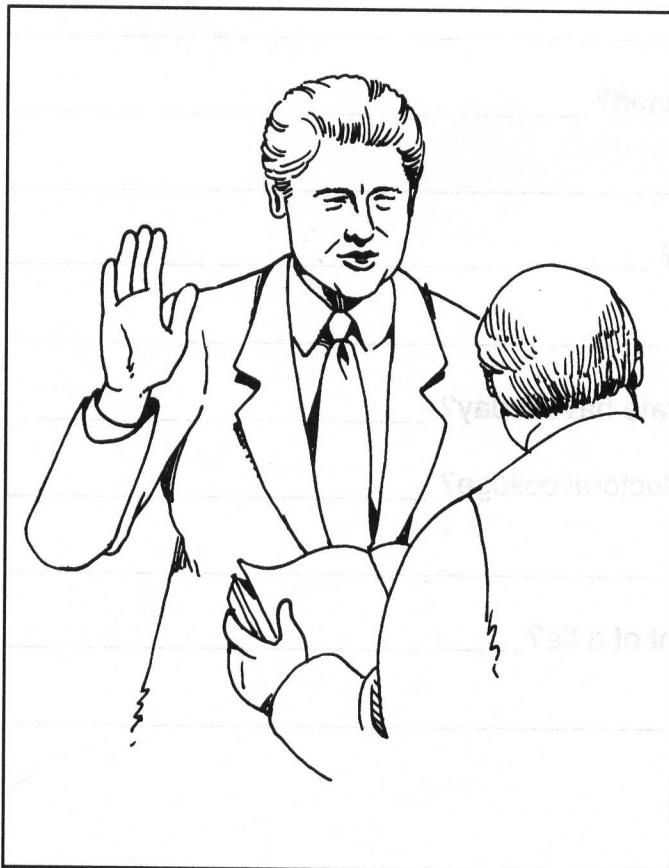
Just as there were requirements to be a representative or a senator, the Constitution set forth certain requirements to be the President of the United States.

In order to be President, a person must be a natural-born citizen of the United States—not an immigrant. He or she must be at least 35 years old and have been a resident of the United States for at least 14 years.

In the event that the President dies or is unfit to continue as President, there is a detailed line of succession. The Vice President assumes the power of the Presidency first; if he is unable, then the Speaker of the House of Representatives takes over. After him is the president pro tempore of the Senate, then the various Cabinet department heads in order of the establishment of the departments, beginning with the Secretary of State. The 25th Amendment outlines what is done when the President dies or is disabled.

The salary of the President is set by the Congress and does not change during the President's term of office. Currently the salary is \$200,000.

The President and Vice President are elected on the first Tuesday after the first Monday in November. They are sworn in on Inauguration Day, January 20. Usually, the Chief Justice of the Supreme Court is the person who administers the oath of office to the President at the ceremony. The oath of office is as follows:



"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect, and defend the Constitution of the United States." "So help me God" is added by the Presidents.

President Bill Clinton taking the oath of office.

THE EXECUTIVE BRANCH

**Qualifications for President
≈ Challenges ≈**

1. What three requirements must be met in order to be President of the United States?

a) _____

b) _____

c) _____

2. In the proper order of succession, who will take over in the event the President dies? List four people.

a) _____

b) _____

c) _____

d) _____

3. What is the salary of the President? _____

4. When is a President elected? _____

When is a President inaugurated? _____

Why do you suppose there is a gap of time? _____

5. Who usually administers the oath of office to the President? _____

THE EXECUTIVE BRANCH

Powers and Duties of the President

(See Article II, Section 2.3)

The job of the President is not an easy one. The Constitution spells out many different responsibilities, powers, and duties of the President and the executive branch. The powers of the President can be put into five categories: Commander in Chief, Chief Executive, Chief of State, Chief Legislator, and Chief of Party.

First, the President is the Commander in Chief of the United States Armed Forces. He is the number one military person in the United States. All decisions regarding the Army, Navy, Air Force, and Marines are the responsibility of the President. He can also call the National Guard (or state militias) from the individual states into the service of the United States.

Secondly, the President is the Chief Executive. To run a country the size of the United States, you need many people doing many things. It is the job of the President as Chief Executive to make sure all of his cabinet, staff, and other employees are doing their jobs correctly.

The President is also the Chief of State. This responsibility was given to the President by the Constitution so that the United States would have one person in charge of all foreign relations. The President represents the United States when he or she travels to other countries to meet with foreign leaders. The President also greets and hosts other foreign dignitaries when they visit the United States. The President may also make treaties with other countries, but the Senate must ratify, or approve, the treaty by a two-thirds vote.

Another duty of the President is that of Chief Legislator. We saw in Article 1 how the President had the power to veto laws. The Constitution gives the President the power to approve or disapprove of the laws that Congress is making. He can also suggest that certain laws be made by working with his supporters in the House or the Senate.

Finally, the President is also the Chief of Party. When he is elected President, he becomes the head of his political party, Republican or Democratic. He makes decisions regarding the make-up of his individual political party.



The President is the Commander in Chief of the armed forces, and he periodically inspects the troops.

THE EXECUTIVE BRANCH

Powers and Duties of the President

≈ Challenges ≈

1. What are the five categories that the powers of the President can be put into?

- a) _____
- b) _____
- c) _____
- d) _____
- e) _____

2. What is the President's responsibility to the United States Military? a) What is his title, and b) what can he do?

- a) _____
- b) _____

3. What is the President's responsibility to the business aspect of the United States government? a) What is his title, and b) what can he do?

- a) _____
- b) _____

4. What is the President's responsibility to the aspect of foreign relations? a) What is his title, and b) what can he do?

- a) _____
- b) _____

5. What is the President's responsibility to approve, disapprove, or suggest laws? a) What is his title, and b) what can he do?

- a) _____
- b) _____

6. What is the President's responsibility to his political party? a) What is his title, and b) what can he do?

- a) _____
- b) _____

THE EXECUTIVE BRANCH

Impeachment

(See Article I, Section 3 and Article II, Section 4)

The Constitution also defines the way to remove officials from office when they have failed at their job. This process is called *impeachment*.

To be removed from office by impeachment, a person must be found guilty of *treason, bribery, or other high crimes and misdemeanors*. By high crimes and misdemeanors the founding fathers meant more serious crimes than a traffic ticket.

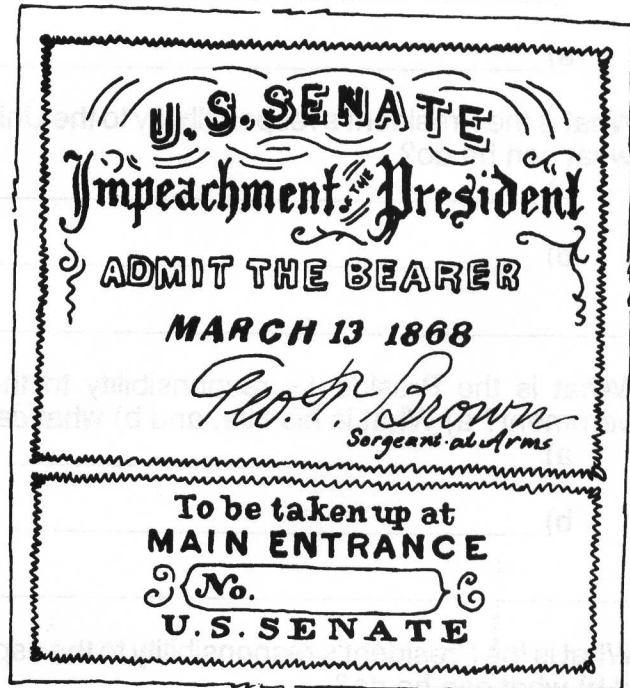
In order for the impeachment process to begin, the House of Representatives must believe that an official has committed one of the above-mentioned offenses. The House will then come up with a list of charges against the official.

The next step of the process continues in the Senate. The senators act as the jury and hear both sides of the case against the accused official. When it is the President being tried, the Chief Justice of the Supreme Court acts as the judge. Two thirds of the Senate must agree in order for the official to be convicted of the charges and removed from office.

In all of United States history, no President has ever been removed from office by impeachment. Two Presidents, however, have gone through part or all of the impeachment process.

In 1867, President Andrew Johnson was charged with several offenses, and the House voted to impeach him. The Senate held the trial, and when the vote was taken, Johnson escaped being convicted by only one vote!

In 1974, the House of Representatives began to investigate President Richard Nixon and his involvement with the break-in of the Watergate Office Complex in Washington, D.C. By the end of July, 1974, the House had prepared several charges against President Nixon. Instead of letting the impeachment process go any further, Nixon resigned as President on August 9, 1974. Nixon was the first President ever to resign.



During the impeachment of President Andrew Johnson, tickets were issued to the public for admittance to the trial.

THE EXECUTIVE BRANCH

Impeachment ≈ **Challenges** ≈

1. Define:
Impeach: _____

Misdemeanor: _____

Bribery: _____

Treason: _____

2. Which house of Congress begins the impeachment process? _____

3. Which house of Congress acts as the jury and tries the case? _____

4. Who acts as the judge at the impeachment trial of a President? _____

5. In order for an official to be convicted, what fraction of the Senate needs to agree? _____

6. Who was the only President to have gone through the entire impeachment process?
When? _____

7. At what point during the impeachment process did President Nixon resign? When? _____

8. How many Presidents have been removed from office by being found guilty after the
impeachment process? _____

THE EXECUTIVE BRANCH

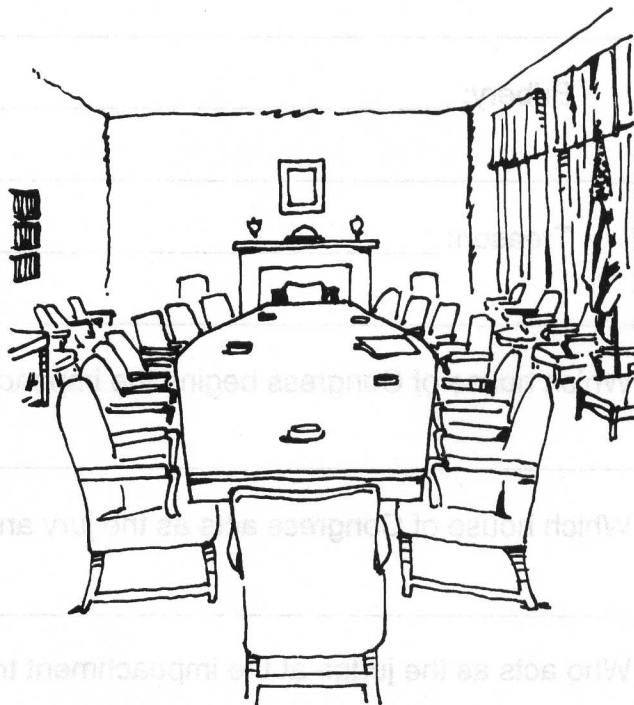
Organization of the Executive Branch and the Cabinet

(See Article II, Section 2.3)

As we have seen, the executive branch of the United States government is quite large. Let's look now at what makes up the executive branch and the Cabinet.

There are four divisions of the executive branch: the Cabinet departments, independent agencies, government corporations, and regulatory agencies.

While the Constitution did not specifically create the Cabinet, President Washington in 1789 felt he needed advisors. The Cabinet is a group of men and women who are the President's closest advisors. They are each in charge of one of the fourteen departments. A list of the Cabinet Departments may be found on page 66 of this workbook. The most important Cabinet departments are the Department of State, Department of Defense, and the Department of the Treasury. Each advisor is given the title of "Secretary." If you were head of the Department of State, for example, you would be known as the Secretary of State. Each department head, or secretary, has many people working under him or her to keep the government



The Cabinet meeting room.

running smoothly. Each Cabinet department deals with specific areas of national concern.

Another section of the executive branch overseen by the President is the independent agencies. These agencies are not as important as Cabinet departments, but are essential to the mission of the United States. One example of an independent agency is the National Aeronautics and Space Administration (NASA).

A third category is known as government corporations. These are businesses run by the United States government in order to provide specific services to the people. The United States Postal Service is a government corporation. Another example is the Federal Deposit Insurance Corporation (FDIC), which insures the money that is deposited in banks.

The final division of the executive branch is the regulatory commissions. These groups make sure that the rules set for certain large industries are being followed and that the safety of the public is not in jeopardy. Examples are the Federal Communications Commission (FCC), which licenses radio and television stations, and the Federal Aviation Administration (FAA), which makes sure airports, aircraft, and pilots are safe.

As you can see, the President has a great deal of responsibility and a large number of people to oversee to ensure that the government is functioning properly.

THE EXECUTIVE BRANCH

Organization of the Executive Branch and the Cabinet

≈ Challenges ≈

1. What are the four divisions of the executive branch?

a) _____

b) _____

c) _____

d) _____

2. How many cabinet departments are there? _____

3. What is the title of the head of the Department of Defense? _____

4. Referring to page 66, list three more cabinet departments.

a) _____

b) _____

c) _____

5. Which President created the Cabinet? When? _____

6. Give an example of an independent agency. _____

7. Give an example of a government corporation. _____

8. Give an example of a regulatory commission. _____

DEBATE: *What are the pros and cons of having a national executive?*