

# The Federal Government

## Why Study Civics?

I describe the American form of government as a three horse team provided by the Constitution to the American people so that their field might be plowed. The three horses are, of course, the three branches of government—the Congress, the executive, and the courts.

—President Franklin D. Roosevelt

The Constitution established a federal government made up of the legislative, executive, and judicial branches. The framers divided power among these branches in order to prevent any one branch from abusing its power. The three branches also limit each other's power through a system of checks and balances. These checks and balances ensure that the branches work “as a three horse team” for the welfare of citizens.

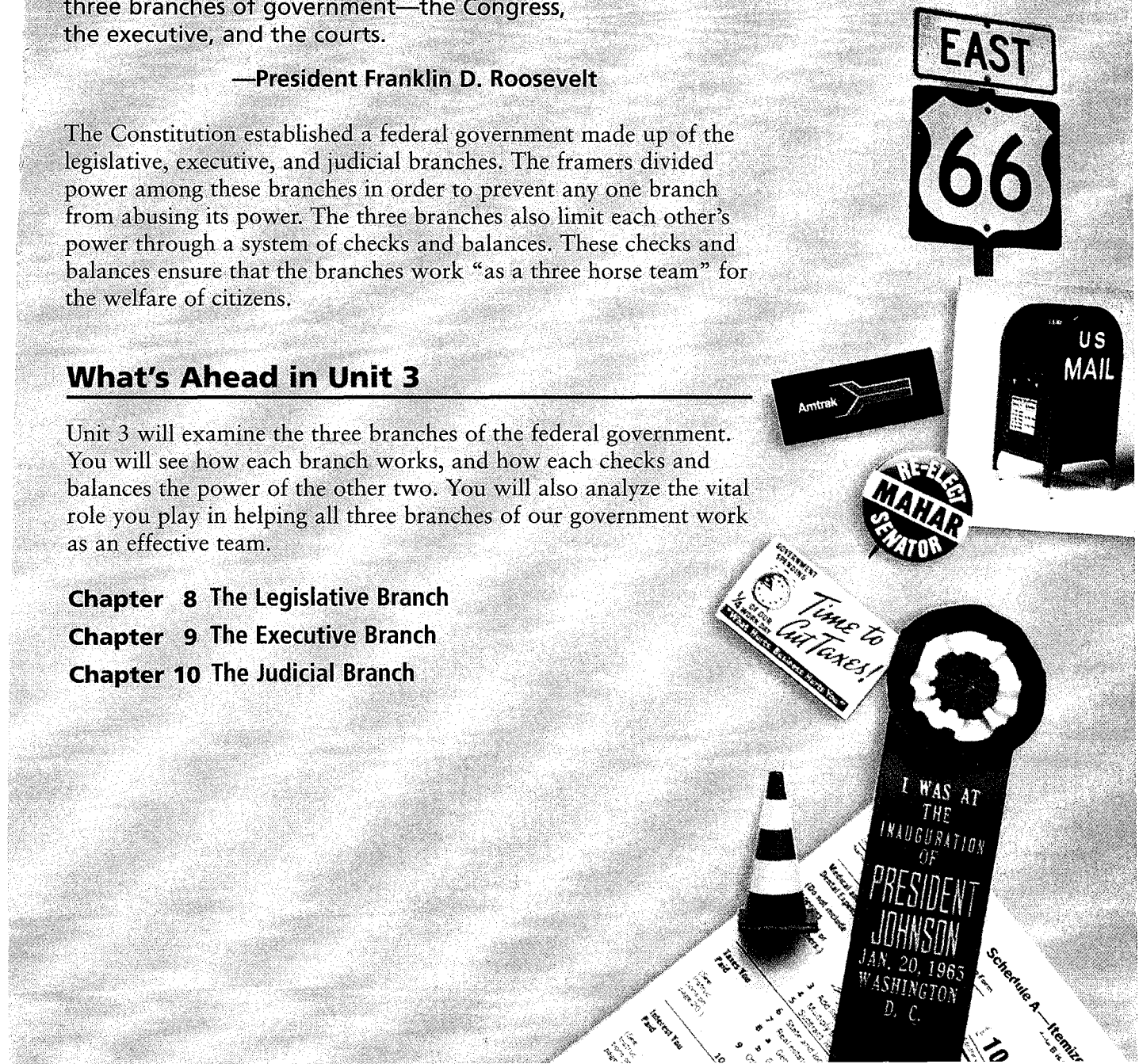
## What's Ahead in Unit 3

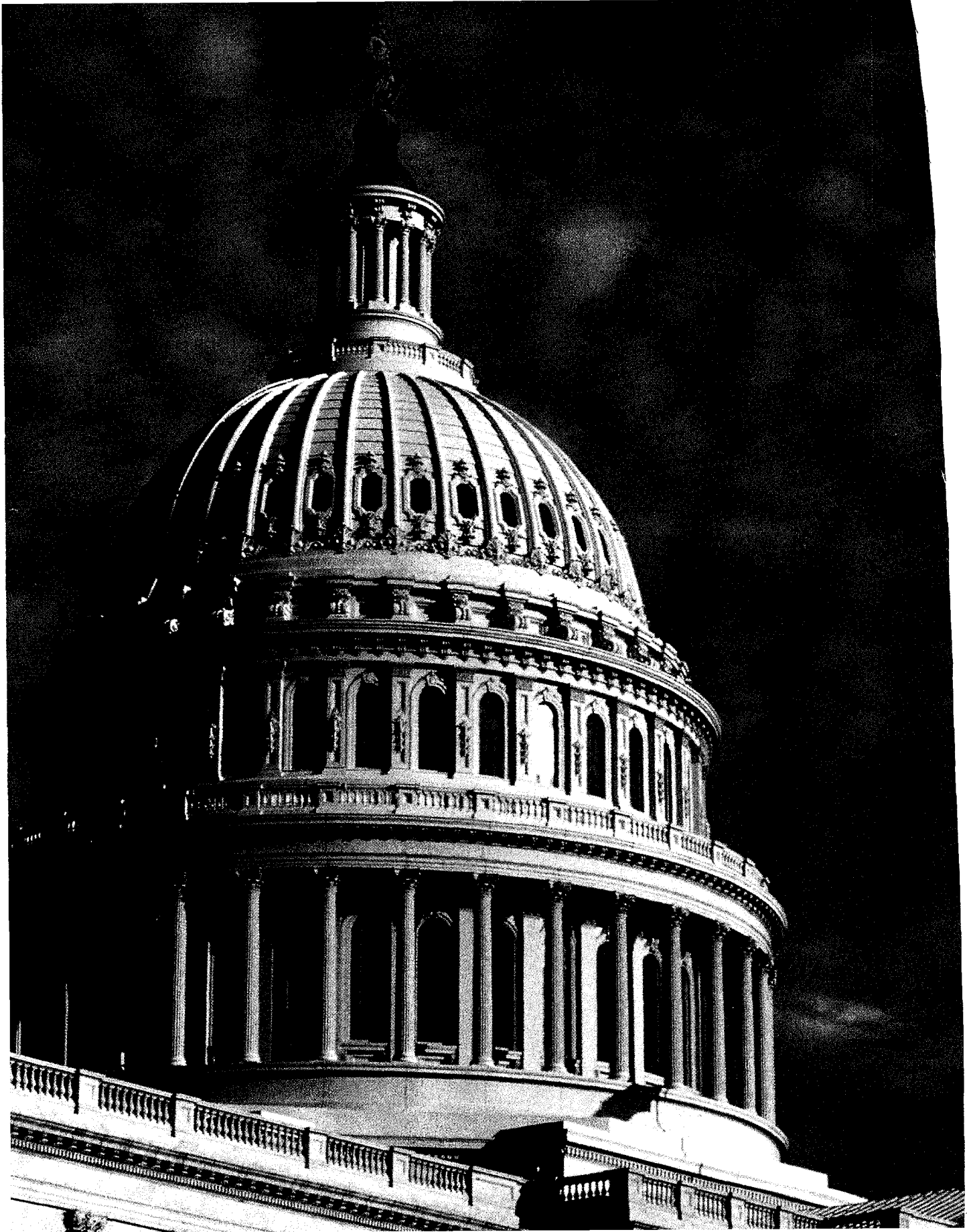
Unit 3 will examine the three branches of the federal government. You will see how each branch works, and how each checks and balances the power of the other two. You will also analyze the vital role you play in helping all three branches of our government work as an effective team.

**Chapter 8** The Legislative Branch

**Chapter 9** The Executive Branch

**Chapter 10** The Judicial Branch





## CHAPTER 8

# The Legislative Branch

### Citizenship and You

Diana Perez earned minimum wage at her supermarket job. This was an after-school job and she was happy having the extra spending money.

Then Diana got to know one her co-workers, Anne Petrini. Anne was the mother of two children and was supporting her family with the money she made at the supermarket. Anne often spoke about how hard it was to get by earning the minimum wage.

One day, Anne and Diana read in the newspaper that the Senate was considering a bill that would raise the minimum wage.

"We should write to our senators," Diana said.

"Do you really think that would help?" Anne asked.

"I'm not even sure raising the minimum wage is a good idea," added Christine, another co-worker. "The boss says that she can't afford to pay us more. If Congress raises the minimum wage, some of us might lose our jobs."

Anne, Diana, and Christine decided to find out more. Could Congress pass laws about how much a worker should be paid? Would a senator or representative pay attention to letters from citizens? How do members of Congress make up their minds about laws when people have strong feelings for and against them?



### Keep It Current

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### What's Ahead in Chapter 8

In this chapter, you will read about the members of Congress and the lawmaking powers given to Congress by the Constitution. You will find out how Congress is organized and follow a bill as it makes its way through Congress.

#### Section 1 The Members of Congress

#### Section 2 The Powers of Congress

#### Section 3 How Congress Is Organized

#### Section 4 Following a Bill in Congress

### *Citizen's Journal*

Suppose you worked in the supermarket and Anne and Diana asked you to join them in writing to your senators. Think about what you might write as you read this chapter. Then write a letter to your senators expressing your opinion on the proposal to increase the minimum wage.

## SECTION 1

# The Members of Congress

### SECTION PREVIEW

#### Objectives

- Describe the groups to which a member of Congress is responsible.
- Explain the duties of a member of Congress.
- Compare the jobs of a representative and a senator.
- Summarize the requirements for being a member of Congress and the salary and benefits.

#### Building Civics Vocabulary

- A **policy** is a plan of action designed to achieve a certain goal.
- **Constituents** are the people a member of Congress represents.
- A proposed law is called a **bill**.
- Members of Congress may receive support from **interest groups**, or groups of people who work together for similar interests or goals.
- **Lobbyists** are people who represent interest groups.
- A **census** is an official count of the population.
- The area a House member represents is called a **congressional district**.



#### Focus

Congress is the legislative, or lawmaking, branch of the national government. It is made up of two houses, the Senate and the House of Representatives.

The most important job of Congress is to make laws. Laws do not simply state what you can and cannot do. A law can establish a national policy, a plan of action designed to achieve a certain goal. Laws, for example, spell out how the government raises and spends its money. They protect the environment and provide money for school lunches. Laws, as Diana Perez learned, can also determine how much workers are paid.

## The Responsibilities of Lawmaking

We are often faced with important decisions in our lives. Can you remember a time when you had to make a decision? Your parents wanted you to decide one way, your friends wanted you to decide a different way, and you were caught in the middle trying to make up your mind what to do.

This is the kind of situation members of Congress face every day. A member has responsibilities to different groups of people. Often these groups make different demands. Lawmaking involves balancing many responsibilities and handling conflicting pressures.

**Local versus National Needs** Each member of Congress represents a group of citizens much smaller than the nation. One of a member's major responsibilities is to his or her constituents (kun STICH oo ents), the people he or she represents. Constituents expect senators and representatives to listen to their ideas about problems and issues and to be their voice in Congress.

In addition, a member of Congress has a responsibility to the whole nation. The laws Congress makes often affect all Americans. Sometimes, the needs of a member's constituents are in conflict with the needs of Americans in general. For example, a representative from a wheat-growing region may have to vote on a law that would please local wheat farmers but would anger the nation's consumers by raising the price of bread.

**Political Parties** A member of Congress also has a responsibility to his or her political party. A party is an organization of people who share certain ideas about what government should do. Most members of Congress today belong to either the Republican party or the Democratic party. Each party works to elect its candidates to Congress. In return, the party expects its members to support the party's position on an issue before Congress.



## Activist Gets Congress to Listen

**F**ighting for her own rights and those of others is nothing new for Judith Heumann. "I have made it a pattern in my life," says Heumann, "to speak up against injustices whether to other people or to myself."

Ever since the disease of polio caused her to lose the use of her legs as a young child, Heumann has known discrimination firsthand. After graduating from college, her application to teach in the New York City Schools was turned down because she was in a wheelchair. A law suit against the city's Board of Education earned her the right to teach.

In the early 1980s, Heumann joined with activists across the United States working for passage of the Americans with Disabilities Act (ADA), a proposed law that would protect people with disabilities from discrimination and require that public

buildings and mass transit systems be made accessible to disabled people.

Heumann talked to members of Congress and their staff. She sought support from civil rights organizations, women's groups, and religious groups. At a joint House and Senate hearing on the proposed law, she testified about the type of discrimination she had experienced as a disabled person.



In 1990, almost six years after Heumann and others began working for passage of the ADA, it became law. During those years, Heumann always remained confident. "You have to believe in your heart that the change that you want to occur has to occur. You have to be convinced that it is a genuine problem and that working with others you can convince people not only of the problem but also of the importance of the solution."

Recognized nationally for her successful leadership, Heumann was appointed the Department of Education's Assistant Secretary for Special Education and Rehabilitative Services during the Clinton administration.

### Active Citizenship

What actions did Heumann take to help win passage of the ADA?

This responsibility may present a member of Congress with a difficult choice. The senator who received Diana Perez's letter about the bill, or proposed law, to increase the minimum wage was pressured

from two sides. As a Republican, he felt he should follow his party's position and oppose the bill. However, most of the letters he had received from constituents were in support of the bill.



In his Washington, D.C. office, Representative Robert Matsui of California studies bills, meets constituents, and discusses issues with members of his staff.

**Interest Groups** A member of Congress may well want to run for re-election when his or her term of office ends. For this reason, members try to gain support and raise money for campaigns. They often get help from **interest groups**, groups of people who work together for similar interests or goals. Interest groups can supply both votes and money. Examples of well-known interest groups are the American Medical Association, the American Farm Bureau, and the National Rifle Association.

An interest group works to convince senators and representatives to support bills that help its members and to oppose bills that hurt them. This is done by hiring **lobbyists**, people who represent interest groups. For example, hotel and motel owners formed one interest group that opposed the minimum wage bill. They argued that it would increase their costs by forcing them to pay their workers more. Their lobbyists tried to convince members of Congress to oppose the bill.

Often a member of Congress supports the goals of a particular interest group. In

return, that group encourages its members to vote for him or her in the next election.

**Factors in Decision Making** A member of Congress votes on hundreds of bills every year. Each vote represents a decision the member must make. He or she must weigh conflicting information and arguments presented by constituents, fellow party members, and lobbyists.

A member must also search his or her own conscience and values. Predicting what the result of a bill will be in the long run can be difficult, but the member must consider that, too. All of these factors are part of the responsibilities of lawmaking.

**Servants of the People** In addition to being a lawmaker, a member of Congress plays a second important role as servant of the people. In this role, a member gives information and help to individual constituents who have special needs or problems. The owner of a small business, for example, may want to know the latest government rules that apply to her business. Many members of Congress place a great deal of emphasis on this role because it helps a member's constituents directly—and makes them more likely to vote for him or her for re-election.

## Members of Congress at Work

In 1899, one senator reportedly joked, “God made a day 24 hours long for the ordinary man. After a man becomes a United States senator, he requires a day 48 hours long.” These words still ring true for senators as well as for representatives. Although they work hard, it is almost impossible for them to do all that is required of them.

Members of Congress spend a great deal of time learning about the issues on which they must vote. In 2001, for example, members needed to know about issues ranging from use of American military

apparatus and trade with the Middle East, to air pollution and child care.

Members of Congress try to be present on the floor of the House or Senate chamber as much as possible. There, they listen to and give speeches, and vote on bills.

Every day, members of Congress go to meetings. Every day, dozens of people compete for their time—a fellow member with questions about a bill, a lobbyist with arguments against one, a constituent visiting the Capitol. Between meetings, members prepare bills, study reports, and read many letters from constituents.

**Congressional Staff** Members of Congress rely heavily on their personal staffs—about 12,000 workers who help them do their jobs. Administrative assistants run a member's offices in his or her home state and in Washington, D.C. Legislative assistants study bills. Caseworkers handle requests from constituents.

Members and their staffs try to make their local offices a link between citizens and the government. Some local offices, for example, set up regular neighborhood meetings so that people can talk about issues that concern them. These opinions will be taken into account when bills are proposed and voted upon.

## Representatives

You read in Chapter 5 that the House of Representatives is elected on the basis of population. The Constitution requires a **census**, an official count of the population made every ten years to find out how many representatives each state should have. Then Congress gives each state a fair proportion of the 435 seats in the House of Representatives. For example, the 2000 census determined that California, with the biggest population, should have 53 representatives. Vermont and Wyoming, with very small populations, have only one

representative each. States can gain or lose representatives after each census, but each state must have at least one representative.

The area that a member of the House represents is called a congressional district. Each state is divided into as many congressional districts as it has representatives in the House. By law, all congressional districts must have about the same number of people. Today, districts contain an average of 647,000 people.

The process of drawing district boundaries, which is controlled by state governments, can lead to controversy. Sometimes certain areas in a state have greater percentages of voters from one political party. Then districts can be created to favor one party over another. For example, if the Democratic party controls a state's legislature, it can draw boundaries in such a way that Democrats will be in the majority in most of the state's districts. This



Like other senators, Olympia Snowe of Maine attends meetings in her home state to keep in touch with constituents.

is a strategy that might be used to make sure that a majority of representatives from the state will be Democrats.

**Term of Office** Representatives serve for two years. All 435 representatives end their terms of office on January 3rd, every two years. They must run for re-election or retire. There is no limit to the number of times a representative can be re-elected.

If they wish to stay in office for more than two years, representatives must constantly work to earn the approval of the people in their districts. For this reason, a typical representative spends more than one fourth of his or her time working for constituents—writing letters, receiving visitors, and doing casework.

## Senators

In the Senate, each state is represented by two senators. Thus, a senator pays attention to the interests of the state as a whole, not just one district. For example, a representative from a congressional district in central Illinois will be very interested in farm policies because most of the constituents grow crops and raise livestock. A senator from Illinois, in contrast, is concerned not only with farming, but also with all other parts of the state's economy, including manufacturing, banking, mining, and shipping.

**Term of Office** Senators are elected for terms of six years. One third of the senators are elected every two years. Unlike the terms of representatives, the terms of senators overlap. As a result, at any one time, there are a number of experienced senators in the Senate.

The framers of the Constitution hoped that longer, overlapping terms would make senators less sensitive to the shifting moods of the people than representatives, who face re-election every two years. As a more stable body, the Senate was expected to prevent quick, unwise changes in the law.

## Requirements, Salary, and Benefits

The requirements for being a senator or a representative are similar. Senators and representatives must live in the states in which they are elected. Representatives must be at least 25 years old, and senators must be at least 30 years old. A representative must have been a citizen of the United States for at least seven years, but a senator must have been a citizen for at least nine years.

A member of Congress received an annual salary of \$145,100 in 2001. In addition, a member receives benefits to help him or her do the job. For example, a member can have two offices, one in Washington, D.C., and one in his or her congressional district or state. A member receives allowances for running both offices and paying staff salaries, as well as money to travel home to meet with constituents. Members also have free use of the postal service to send mail, such as newsletters, to constituents.

### Section 1 Assessment

1. **Define** policy, constituents, bill, interest groups, lobbyists, census, congressional district
2. How do interest groups try to influence members of Congress?
3. How do home offices help keep members of Congress in touch with their constituents?
4. What are some major differences between the jobs of senators and representatives?
5. What are some of the benefits received by members of Congress?
6. **Evaluate** Based on what you know about the area you live in, what do you think are some local needs your representative should take into account?

## SECTION 2

# The Powers of Congress

### SECTION PREVIEW

#### Objectives

- Describe how Congress uses its powers to meet the goals stated in the Preamble to the Constitution.
- Explain how limits on the power of Congress protect the rights of citizens.

#### Building Civics Vocabulary

- A plan for raising and spending money is a **budget**.



Each year, our cities, states, and nation face many problems. Congress has the power to try to solve some of these problems. Others are left to local and state governments or to individuals and groups. For example, fixing the potholes in a street is the responsibility of a city. However, repairing the interstate highway, which runs between states, must be done by the national government.

Which problems Congress can try to solve is determined in part by the powers given it in the Constitution. As you will see, these powers are broad, but they have their limits.

### Powers Given to Congress

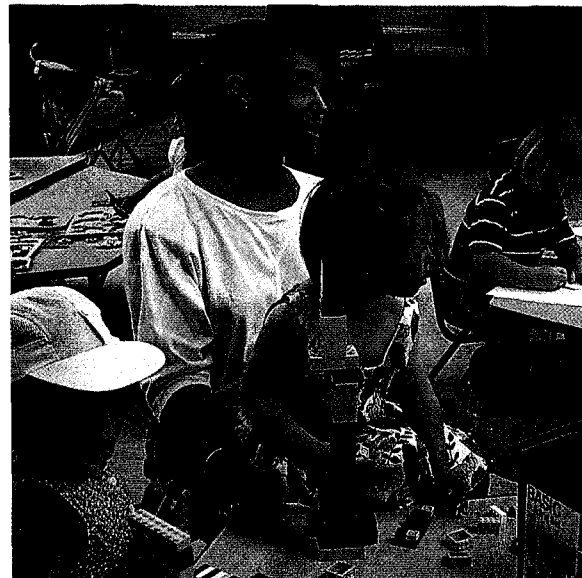
In Chapter 5 you learned that the powers given to Congress are known as delegated powers. Most of these powers are listed in the Constitution, in Article 1, Section 8. In deciding which powers to give to Congress, the framers had the goals of the Preamble in mind. These goals are “to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense,

promote the general welfare, and secure the blessings of liberty.” Each power reflects one or more of these goals.

**Promoting the General Welfare** The term *general welfare* refers to the needs of all the people of a nation. Congress promotes the general welfare by making laws that help people live better.

Many of these laws are based on the power of Congress to regulate commerce, or business, with foreign nations and between states. For example, a law sets up an agency which controls air traffic in the nation and writes and enforces rules for air safety. Another agency approves or disapproves increases in interstate telephone rates.

Congress can limit commerce in order to promote the general welfare. In 1808, Congress passed a law forbidding traders to bring African slaves into the United States. Today, a law says that companies that do



Many think that in its responsibility to promote the general welfare, Congress should provide more funds for nursery schools and day care.



not pay all their workers minimum wages may not ship their goods to other states.

Congress also has the power to collect taxes and to borrow money. Without money the government could not function. Any bill that has to do with raising money must begin in the House of Representatives. After a money bill has been introduced in the House, the Senate may then act on it by proposing amendments.

In addition, Congress has the power to decide how the money it collects will be spent. In this difficult task, Congress determines how much money will go to education, space programs, medical research, law enforcement and so on.

Congress is said to have the “power of the purse” because it has final approval of the government’s **budget**, or plan for raising and spending money. With this power, Congress has the ability to act as a check on the executive branch. The President can do very little unless Congress provides the money.

**Providing for Defense** Congress has the power to establish and maintain an army and a navy to defend the nation. Congress also has the sole power to declare war. The last time Congress used this power was during World War II, when the United States declared war on Japan in 1941.

In the 1960s and early 1970s, Presidents Lyndon B. Johnson and Richard M. Nixon sent American troops into battle in the Vietnam War even though Congress did not declare war. In 1973, Congress passed a law called the War Powers Resolution, commonly known as the War Powers Act. That law limits the President’s power to send troops into combat without approval by Congress. In the years since, however, Presidents and Congress have continued to debate the question of when congressional approval is needed to send American troops into battle.

**Establishing Justice** Congress has the power to create federal courts below the level of the Supreme Court. In addition, the appointment of judges to these courts and to the Supreme Court must be approved by the Senate.

Another power of Congress that helps to establish justice is the power to impeach, or accuse an official, such as the President or a federal judge, of serious wrongdoing. Only the House can impeach. The Senate, however, has the power to put the impeached official on trial. If found guilty, the official is removed from office. In our history, two Presidents have been impeached by the House—Andrew Johnson in 1868 and Bill Clinton in 1998. In both cases, the Senate voted not to convict the President.

**Unlisted Powers** Not all powers of Congress are specifically listed. A clause in the Constitution, often called the elastic clause, allows Congress to make all laws that are “necessary and proper” for carrying out the listed powers. For example, in order to coin money, Congress must set up a mint. The mint has power to design coins and bills, buy metal and paper, hire workers, and distribute the money to banks. None of these powers are listed in the Constitution. The elastic clause gives Congress room to stretch its powers. It makes the government flexible enough to carry out its work and change with the times.

**Nonlegislative Powers** Fulfilling the goals of the Preamble involves more than making laws. The Constitution grants Congress several important nonlegislative powers. You have already learned about the power to impeach, the power to approve treaties and appointments of federal judges, and the power to propose amendments to the Constitution. Congress also has the power to conduct investigations. It can gather information to help it make laws,

**POWERS OF CONGRESS** The Constitution gives Congress a wide range of powers. **Government** What are two nonlegislative powers granted specifically to the Senate?

Legislative Powers	Nonlegislative Powers
<ul style="list-style-type: none"> <li>• Collect taxes</li> <li>• Borrow money</li> <li>• Regulate trade with foreign nations and among the states</li> <li>• Make laws about naturalization</li> <li>• Coin money and set a standard of weights and measures</li> <li>• Establish post offices and highways</li> <li>• Issue patents and copyrights</li> <li>• Declare war</li> <li>• Create, maintain, and make rules for armed forces</li> <li>• Make laws for the District of Columbia</li> </ul>	<ul style="list-style-type: none"> <li>• Elect a President (House) and a Vice President (Senate) if no candidate gets a majority in the electoral college</li> <li>• Confirm appointments and treaties made by the President (Senate)</li> <li>• Propose amendments to the Constitution</li> <li>• Call conventions to propose amendments if demanded by states</li> <li>• Admit new states to the Union</li> <li>• Bring impeachment charges (House)</li> <li>• Try impeachment cases (Senate)</li> </ul>

and it can find out how the executive branch is enforcing laws.

## Limits on the Powers of Congress

There are both general and specific limits to the powers of Congress. The general limits come from the system of checks and

balances you read about in Chapter 5. The executive branch is able to veto proposed laws, and the judicial branch can declare laws unconstitutional.

The specific limits are listed in Article 1, Section 9 of the Constitution. The most important of these limits protect the rights of citizens.

In some countries, a person can be held in jail without having been charged with a crime and given a trial. In the United States, if you are held in jail without a charge, a lawyer or friend can get a writ of *habeas corpus* (HAY bee uhs KOR pus). This paper orders the police to bring you into court. The court then decides if the police have enough evidence to keep you in jail. If not, you must be released. The Constitution says that Congress cannot take away a citizen's right to a writ of *habeas corpus* except in times of invasion or civil war.

The Constitution also prevents Congress from passing bills of attainder. A bill of attainder is a law that convicts a person of a crime without a trial. In addition, Congress cannot pass *ex post facto* laws. Such a law makes a particular act a crime and then punishes people who committed the act before the law was passed. For example, you cannot be punished for something you do in April if a law against the act was not established until May.

These specific limits to the power of Congress were originally looked on as a kind of bill of rights. Together, they help to protect the rights of citizens in dealing with the police and the courts.

## Section 2 Assessment

1. **Define budget**
2. Describe two powers that help Congress "promote the general welfare."
3. For what purposes does Congress conduct investigations?
4. Why are bills of attainder and *ex post facto* laws unfair?
5. **Evaluate** Do you think the framers were right in giving the power of the purse to Congress rather than to the President? Explain.

## SECTION 3

# How Congress Is Organized

## SECTION PREVIEW

### Objectives

- Describe the major congressional leadership posts and explain how they are filled.
- Summarize the role of committees in Congress.
- Explain the President's role in the lawmaking process.

### Building Civics Vocabulary

- The **Speaker of the House** is the presiding officer in the House of Representatives.
- The **president pro tempore** presides over the Senate when the Vice President is absent.
- The party with more members in Congress is called the **majority party**.
- The party with fewer members is called the **minority party**.
- **Floor leaders** are the chief officers of each party in Congress.
- Assistant floor leaders are called **whips**.
- The President can stop a bill using a **pocket veto**. The President keeps the bill for ten days during which time Congress ends its session.



### Focus

The terms, or meeting periods, of Congress have been numbered in order since the first Congress met in 1789. The 107th Congress began in 2001. Each two-year term of Congress is divided into two sessions, one for each year. Each house stays in session from January 3 until its members vote to end the session. Sessions often last until October.

The Constitution does not tell Congress how to make laws. When Congress first began meeting, any member could propose a bill at any time. Any other member could stop action on it by nonstop talking. Over time, Congress developed better ways to

consider bills. One important way was to divide the work of preparing bills among committees, or small working groups. Another way was to choose leaders to oversee the process of committee work.

## Leadership in Congress

The Constitution gives only a few directions about congressional leadership. First, it states that the House of Representatives must choose a presiding officer called the **Speaker of the House**. Second, it says that the Vice President of the United States is to serve as the presiding officer, or president, of the Senate. Finally, it directs the Senate to choose an officer called the **president pro tempore** (pro TEM puh REE), who will preside over the Senate when the Vice President is absent. This officer is also called president pro tem, for short.

The Constitution does not describe how the Speaker of the House or the president pro tem should be chosen. Early in the history of Congress, however, political parties gained control over who was elected to these positions.

## Facts & Quotes

### The Growth of Congress

The United States Congress celebrated its 212th anniversary in April 2001. The members of the 1st Congress would probably be amazed by the size and budget of our modern Congress.

	1st Congress	107th Congress
Members of House	65	435
Members of Senate	26	100
Standing Committees	0	36
Budget	\$374,000	\$3.1 billion

Today the Democratic and Republican parties make the decisions about leadership in Congress. In both the House and the Senate, the party with more members is called the **majority party**. The one with fewer members is called the **minority party**. In the first months of the 107th Congress, the Senate was split 50–50. Because the Vice President was a Republican, the Senate was considered to have a Republican majority. During the spring of 2001, Vermont Republican Senator James Jeffords switched parties to become an Independent, thus tipping the balance of power towards the Democrats.

Before a new Congress begins, members of each party hold meetings to select congressional leaders. The majority party in the House chooses the Speaker of the House. Likewise, the majority party in the Senate chooses the president pro tem.

**Speaker of the House** The Speaker is the most powerful member of the House. The Speaker presides over sessions, deciding the order of business and who may speak. The Speaker also appoints members of committees and refers bills to committees. These powers give the Speaker great influence over which bills pass or fail in the House.

**President of the Senate** As presiding officer of the Senate, the Vice President is in charge of sessions but cannot take part in debates and can vote only in case of a tie. Because the Vice President often is busy with executive duties, the president pro tem usually acts as the Senate's presiding officer.

**Floor Leaders** The chief officers of the majority and minority parties in each house are the **floor leaders**. They are responsible for guiding bills through Congress. Floor leaders work closely with committee leaders and party members to persuade them to accept compromises or trade-offs in order to win votes on bills.

Assistant floor leaders, called **whips**, aid floor leaders in each house. Whips try to persuade members to support the party's position on key issues and to be present when it is time to vote. On important issues, when close votes are expected, much depends on the skill of a party's floor leader and whip.

## **Working in Committees**

More than 10,000 bills are introduced in a term of Congress. Because it would be impossible for a member to study each bill and decide how to vote, both the Senate and the House have set up a system of committees. Much of the most important work of law-making is done in the committees.

**Introducing Bills** Most bills start as ideas for solving problems. Many ideas for bills begin in Congress. Others come from individual citizens, special interest groups, and the executive branch. A group interested in wildlife may want a law to protect mountain lions. People who live near the airport might ask for a law to reduce noise. The President may call for a special police force to solve drug problems facing the nation.

Citizens, interest groups, and the executive branch can draw up bills. However, only a senator or a representative can introduce bills in Congress. A representative introduces a bill in the House by dropping it in a special box called a hopper. A senator introduces a bill by reading it aloud from the Senate floor. All bills introduced during a term are marked *HR* in the House and *S* in the Senate. They are given numbers in the order in which they are introduced. For example, when the minimum wage bill was introduced in the Senate in 1998, it was marked S.1805.

**Standing Committees** In both houses of Congress, a bill is sent to a standing committee for action. There are 17 permanent standing committees in the Senate and 19 in the

House. Each committee deals with a certain area, such as education or banking.

Committees control the fate of bills. First, a standing committee carefully studies a bill. Next, it holds hearings, or public meetings, at which numerous speakers are often heard. The committee may propose changes in the bill. Finally, the committee decides whether to recommend that the entire House or Senate vote on the bill. If the committee does not recommend it, the bill dies, or goes no further.

Every committee has both Democratic and Republican members, but the majority of the members come from the majority party. The chairperson of every committee belongs to the majority party. These leaders have great power over bills because they decide which bills their committees will study. They also decide when and if the committees will meet and whether or not hearings will be held.

When the 107th Senate was evenly split, an even number of Democrats and Republicans served on committees. Each committee chairperson, however, was a Republican.

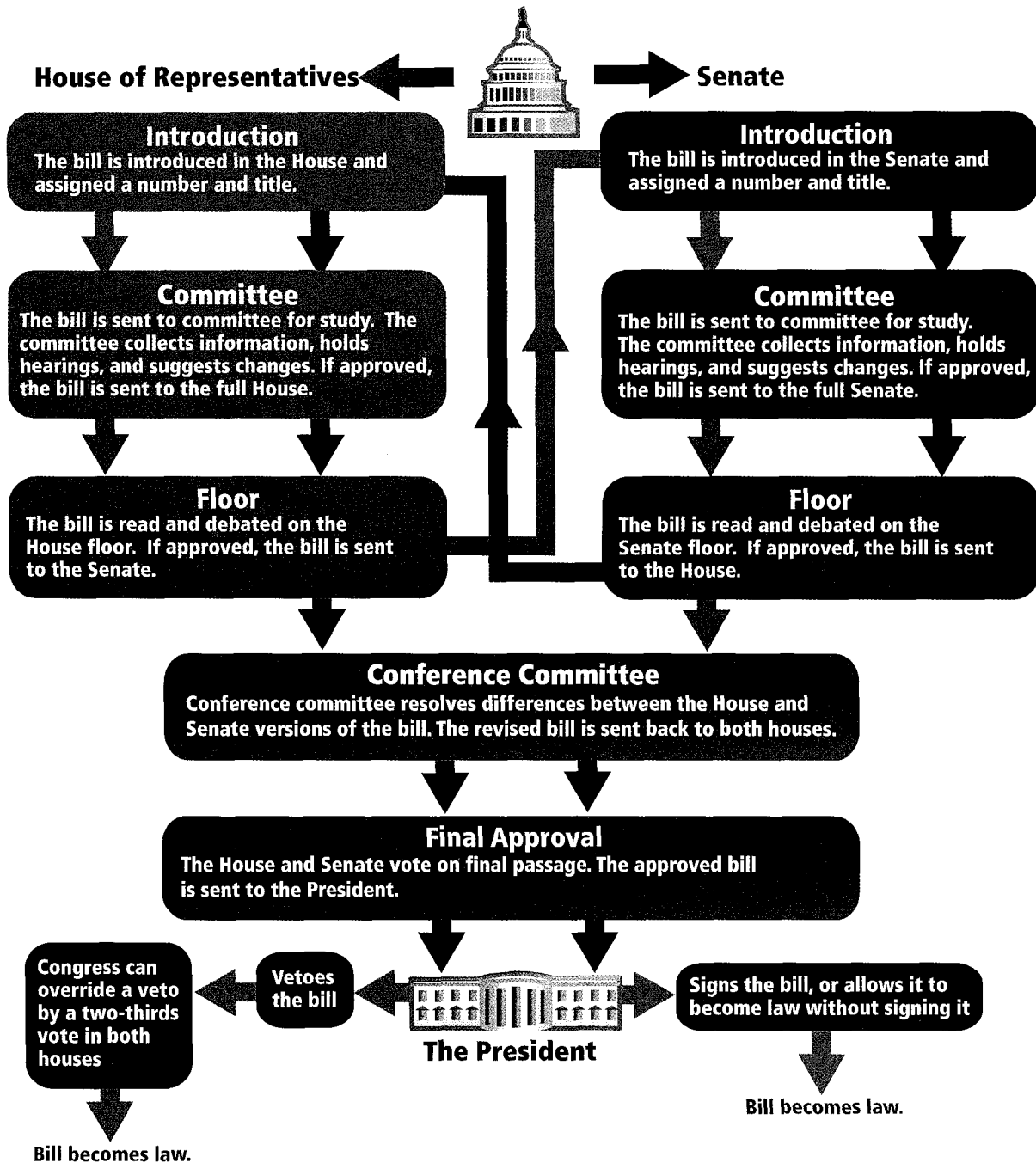
**Select Committees** Sometimes the House or Senate will form a select committee to deal with a problem not covered by any standing committee. For example, in 1998 the House of Representatives set up a select committee to determine whether China used technology from the United States to build advanced weapons.

**Joint Committees** A joint committee is made up of members of both the House and the Senate. Joint committees are usually select committees, formed to conduct investigations. Congress also has created a few standing joint committees, such as the Joint Committee on Atomic Energy.

**Conference Committees** Before a bill can go to the President to be signed, it must be passed by both houses. Sometimes a bill passes one house but is changed in the other.



**HOW A BILL BECOMES A LAW** A bill must pass through each house of Congress before reaching the President. **Government** Describe the purpose of the conference committee.



If the two houses cannot agree, a temporary joint committee—called a conference committee—is formed. This committee, made up of both senators and representatives, tries to settle the differences. The conference committee’s version of the bill must then be passed by both houses in order for it to move on.

## The President’s Role

After the same bill has been passed by a majority vote in both houses of Congress, it is sent to the President. The President can sign the bill, making it “the law of the land.” The bill will also become law if, while Congress is in session, the President holds the bill for ten days without either signing or vetoing it.

A President may veto, or reject, a bill in one of two ways. The first way is to send the bill back to Congress unsigned. Congress can override the veto by passing the bill again by a two-thirds vote of both houses. The second way a President can veto a bill is called a pocket veto. If the President pockets, or keeps, the bill for ten days, during which Congress ends its session, the bill will not become law.

### Section 3 Assessment

1. **Define Speaker of the House, president pro tempore, majority party, minority party, floor leaders, whips, pocket veto**
2. What powers and responsibilities does the Speaker of the House have?
3. What is the difference between standing committees and conference committees?
4. Describe the President’s role in the lawmaking process.
5. **Analyze** How have political parties influenced the organization of Congress?

## SECTION 4

# Following a Bill in Congress

### SECTION PREVIEW

#### Objectives

- Describe the ways the minority party in Congress can stop passage of a bill.
- Explain how the House and Senate reach compromises.
- Describe how a bill can “die” in committee.
- Analyze the advantages of our lawmaking process.

#### Building Civics Vocabulary

- A **filibuster** is the use of long speeches to prevent a vote on a bill.
- **Cloture** is an agreement to end the debate on a bill.



#### Focus

Suppose you have been hired to work as a summer intern for one of your state’s senators. The senator is thinking of introducing a bill that would raise the minimum wage, but she needs some background information. She tells you “I need you to prepare a report on recent minimum wage legislation. I need to know about bills that became laws *and* bills that failed to pass Congress.”

As you begin researching, you quickly learn that the minimum wage is a controversial issue. (Since the Fair Labor Standards Act set the first minimum wage at 25 cents per hour in 1938, Americans have been debating whether increasing the minimum wage helps or hurts our economy. Some people argue that minimum wage increases help low-income workers support themselves and their families. Others disagree, insisting that increases in the minimum wage hurt workers. Businesses may not be able to afford the wage

increase, these opponents argue, and they may have to lay off workers.

So what has happened in the past when minimum wage bills have been introduced in Congress? To learn more about this, you decide to research the stories of several minimum wage bills as they moved through Congress.

## Stopping a Bill

In March 1987, Senator Kennedy, a Democrat from Massachusetts, introduced the Minimum Wage Restoration Act, numbered S.837. The bill was assigned to the Labor and Human Resources Committee.

The Democrats were the majority party in the Senate at this time, so the chairperson of every committee was a Democrat. Senator Kennedy was chairman of the Labor and Human Resources Committee, and from this powerful position he was able to move the minimum wage legislation forward by scheduling hearings on the bill. At the hearings, committee members listened to testimony from supporters and opponents of S.837.

In July 1988, the Labor and Human Resources Committee sent S.837 to the full Senate. It recommended that the bill be approved. This is called reporting the bill.

The Senate began its debate on S.837. Senator Orrin Hatch, a Republican from Utah, felt the bill would be bad for the American economy. To try to block passage of the bill, Senator Hatch and some fellow Republicans started a **filibuster**, which is the use of long speeches to prevent a vote on a bill. Filibusters cannot happen in the House, where time limits are set for debates.

On September 22, the Democrats tried to stop the filibuster by calling for **cloture** (KLO chur), or agreement to end the debate on a bill. Cloture requires a three-fifths vote. At the final count only 53 senators voted in favor of cloture. The next day, the Democrats tried again but failed. Without an end to the filibuster, the Senate could not vote on the bill.

Even though they were the minority party in the Senate, the Republicans had stopped the bill.

## Compromise Bills

In the next Congress, Senator Kennedy introduced S.4, a new minimum wage bill. This time, several changes were made in the bill. Some Republicans liked it better, and in April the Senate passed the bill.

Meanwhile, the House also passed a minimum wage bill, numbered H.R.2. Because the two bills were not exactly alike, a conference committee was formed to write a compromise bill. This bill was passed by both houses of Congress and sent to the President. President George Bush believed a minimum wage increase would hurt the economy. He vetoed the bill.

After failing to override the veto, Congress worked out a compromise bill that satisfied the President, who signed it into law in November. This law increased the minimum wage to \$4.25 per hour in 1991.

The minimum wage remained at \$4.25 until 1996. At this time, the Republicans were the majority party in both the House and the Senate. In May, Representative Bill



Senator Edward Kennedy's bills to raise the minimum wage have generated debate in Congress and around the nation.

Archer, a Republican from Texas, introduced H.R.3448, the Small Business Job Protection Act of 1996. One of this bill's provisions was a two-stage increase in the minimum wage—from \$4.25 to \$4.75 per hour in 1996, and from \$4.75 to \$5.15 in 1997.

The bill H.R.3448 was sent to the Committee on Ways and Means, which approved the bill by a vote of 33-3. The bill was then passed by the full House. Several weeks later, the Senate passed a similar bill. A conference committee worked out a compromise bill that was then passed by both houses of Congress. President Clinton signed the bill in August, making it law.

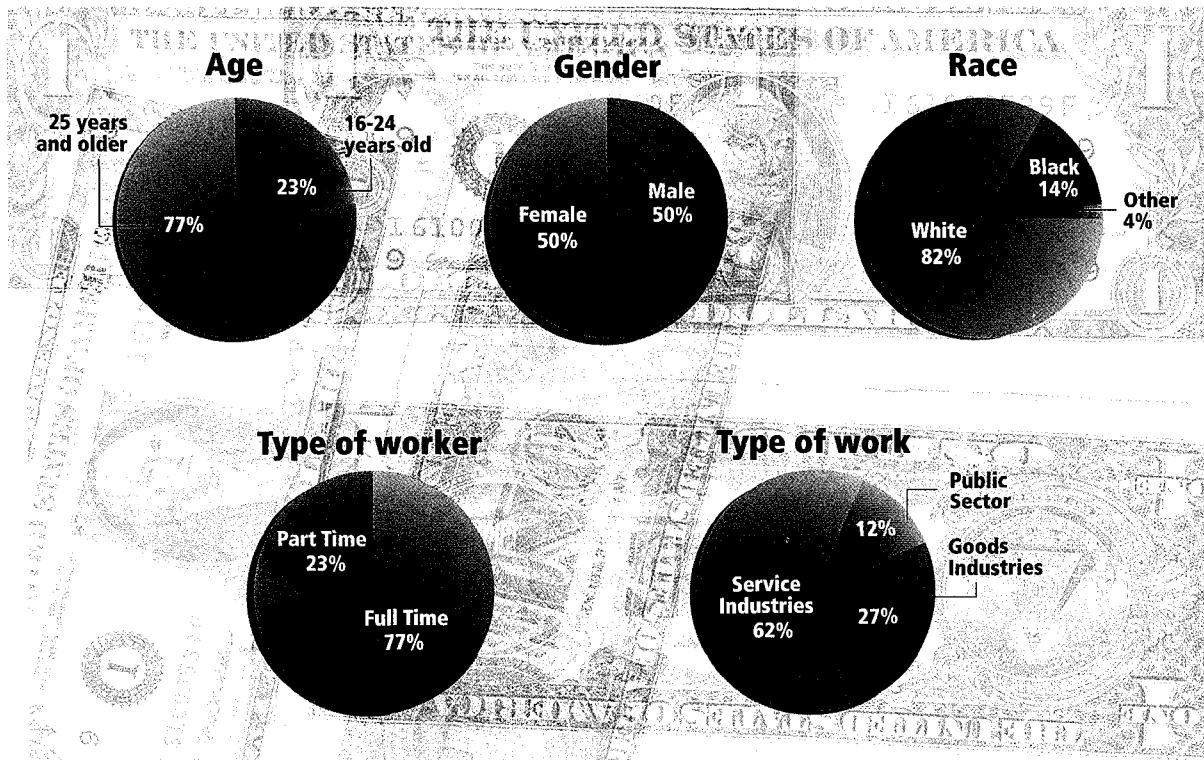
## A Bill Dies in Committee

In 1998, Senator Edward Kennedy introduced S.1805, the Fair Minimum Wage Act. When introducing this bill in the Senate chamber, Kennedy explained its purpose to his colleagues:

“The federal minimum wage is now \$5.15 an hour. Our bill will raise it by \$1.00 over the next two years—a 50 cent increase on January 1, 1999, and another 50 cent increase on January 1, 2000, so that the minimum wage will reach the level of \$6.15 at the turn of the century.”



### PROFILE OF MINIMUM WAGE EARNERS, 2000



Source: U.S. Bureau of Labor Statistics

Note: Percentages may not add up to 100 due to rounding.



About 1 million people worked for the minimum wage of \$5.15 an hour in 2000. **Economics** What percentage of minimum wage earners were over 25 years old in 2000?

The bill S.1805 was sent to the Labor and Human Resources Committee, chaired by Republican Senator Jim Jeffords of Vermont. It failed to gain the support of a majority of committee members. Therefore, the bill “died” when the 105th Congress ended.

## Advantages of the Lawmaking Process

By following these minimum wage bills through Congress, you have learned a lot about lawmaking. Clearly, a bill must overcome many hurdles before becoming a law. You realize, however, that the framers wanted Congress to take its time. They wanted every bill to be studied and debated carefully. Any bill that makes it through this process has an excellent chance of being a good law.

## Section 4 Assessment

1. **Define** *filibuster, cloture*
2. Explain how opponents of S.837 were able to block its passage in 1988.
3. How did the passage of a minimum wage bill in 1991 represent a compromise between Congress and the President?
4. Explain why the Fair Minimum Wage Act of 1998 was never voted on by the entire Senate.
5. Why did the framers set up so many hurdles in the lawmaking process?
6. **Evaluate** Do you think senators should be allowed to hold filibusters to prevent bills from coming to a vote? Explain.

## Extending the Chapter

### Global Views

**T**he United States Congress is not the only body of its kind in the world today. There are many other democratic nations with legislatures that represent citizens in government. In many of these nations the legislature is called a parliament. Like Congress, a parliament often has two houses.

In some parliaments, such as the Spanish Cortes and the Japanese Diet, all the representatives are elected. In others, such as the British Parliament and the Canadian Parliament, some members are appointed or inherit their seats.

In the British Parliament, for example, one house—the House of Lords—is made up mainly of members with inherited titles of

nobility. The other house of Parliament, which is called the House of Commons, is made up of representatives elected by the citizens. This house, which is subject to control by the voters, has the greater power.

Unlike the American system of government, a parliamentary system has no clear separation between the legislative and executive branches. The executive leaders, including the prime minister, are members of Parliament. They have a great deal of power because they both propose the laws and carry them out. The members of Parliament, however, must approve the laws. The Parliament also can force these leaders to resign by defeating their programs.



# DECISION MAKING SKILLS

## How to DETERMINE RELEVANCE

Suppose you wanted to buy a CD for a friend, a CD that he or she would be likely to keep. To make a good decision, what would you need to know? You might think about your friend's favorite group or type of music, as well as which CDs he or she already has. This information relates to your decision. However, you would not need to know which brand of CD player your friend has or which CDs are least expensive. These last two pieces of information would not help you choose the right CD.

Whenever you need to make a decision, some types of information are *relevant*, or related, to your subject. Others are not. To make a good decision, you need to determine which information is clearly connected to your subject. Stick to the subject. Do not get sidetracked by information that is *irrelevant*, or not clearly linked to your subject. If you start relying on irrelevant information, you will probably make a poor decision. In short, always ask yourself, "Does this information relate directly to my subject?"

Suppose that you are eighteen years old and have just taken a part-time job. You think your hourly pay is too low and want a new law to be passed that will raise the minimum wage. As you prepare to vote in your first national election, you look over the information on the candidates who want to represent your state in the Senate. Below is some information available to you:

Democratic candidate Bill Smith is a former governor who is popular with voters, partly because of his good sense of humor.

Republican candidate Jane Thickett has a nineteen-year-old daughter who supports raising farm workers' wages.

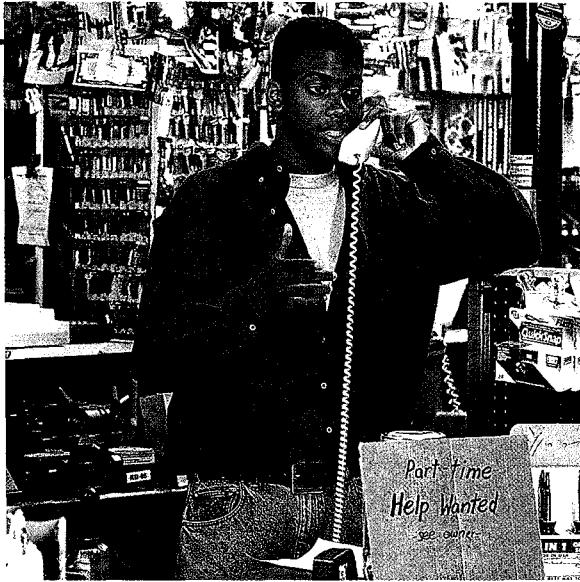
Mr. Smith actively campaigned for the Democratic presidential candidate, who supported an increase in the minimum wage.

You want to know which candidate is more likely to support an increase in the minimum wage. How might you determine whether each statement is relevant to the decision you must make?

### Explain the Skill

One way to distinguish relevant information from irrelevant information is to follow these steps. As you examine the steps, notice how they might be applied to the three pieces of information you just read.

- 1. Identify clearly the problem or issue you are examining.** Ask yourself, "What do I want to know or do?" (You want to know which candidate is more likely to support an increase in the minimum wage.)
- 2. Identify the kinds of information that might relate to your chosen subject.** Such information might consist of details, examples, explanations, evidence, or definitions. (Examples of a candidate's position on the minimum wage and explanations of why a candidate either supports or opposes increasing the minimum wage would be relevant to the subject.)
- 3. Examine each piece of information to determine whether it is relevant.** Judge whether each piece relates, or connects directly, to the subject. (The first two statements are not relevant. Neither the fact that Mr. Smith was a popular governor nor that Ms. Thickett's daughter supports higher farm worker wages is connected with the candidates' views. However, Mr. Smith's



support of the Democratic candidate *is* relevant. It shows that he probably agrees with that candidate's view on the minimum wage.)

## Analyze the Skill

Below are more pieces of information. Examine each one to determine whether it is relevant to the subject of the candidates' views on the minimum wage.

- A. Ms. Thickett has never been elected to any public office.
- B. One of the current senators from your state, who is going to retire, consistently voted against increases in the minimum wage.
- C. During an unsuccessful campaign for a seat in the House, Ms. Thickett declared that she would support an increase in the minimum wage only if it reduced the number of people on welfare.
- D. As governor, Mr. Smith introduced a bill to raise the wages of workers in the state highway department.

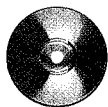
- E. Governor Smith's bill to increase highway workers' wages was rejected by the state legislature.
- F. Most business leaders argue that a wage increase would force many stores out of business.
- G. In a speech, Ms. Thickett pointed out that the minimum wage for American workers is much higher than wages in many other countries.
- H. As governor, Mr. Smith wrote an article calling for greater efforts to reduce poverty in the state.
- I. Both Ms. Thickett and Mr. Smith went to well-known law schools and later worked as lawyers.

## Skill Assessment

When you have determined whether each piece of information is relevant to the candidates' views on the minimum wage, answer the following questions.

- 1. Given your concern, which candidate would you vote for? Explain why.
- 2. Identify a piece of information that is an *example* of a candidate's position on the minimum wage. Identify a piece of information that is an *explanation* of a candidate's position on the minimum wage.
- 3. What does the term *relevant* mean?
- 4. Which statements are most relevant to helping you decide which candidate is more likely to support a minimum wage increase? Explain your answer. **(a)** A, E, F **(b)** C, G, H **(c)** A, B, H
- 5. Which statements were irrelevant to your decision?
- 6. What are some general kinds of information that might be relevant to any subject?

## How to ANALYZE CIRCLE GRAPHS

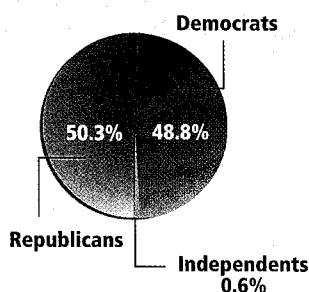


Use the *Simulations and Data Graphing* CD-ROM to create and interpret graphs.

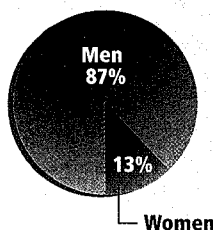
In this chapter, you learned about the legislative branch of our federal government. You read that there are 435 members of the House of Representatives and 100 Senators. As you would expect from a diverse nation such as ours, the 535 members of Congress represent a wide range of racial and ethnic groups. The circle graphs on this page provide some information about the members of our Congress.

### The 107th Congress

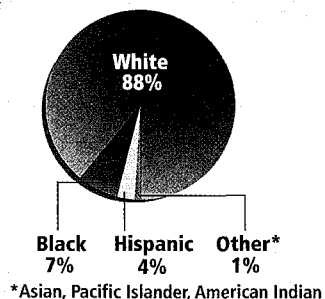
#### Political Party



#### Gender



#### Race or Ethnic Group



Note: Percentages may not add up to 100 due to rounding.

Source: Congressional Quarterly Weekly

### Explain the Skill

Circle graphs are a useful way to show statistical information as parts or percentages of a whole. In a circle graph, the entire circle represents 100 percent of a certain group. The circle is then divided into sections, with each section representing a percentage of the whole. The sections of a circle graph are shaped almost like wedges of pie, and for this reason circle graphs are sometimes called pie graphs.

### Analyze the Skill

The circle graphs on this page show statistical information about the 107th Congress, which took office in January 2001. To begin, identify the subject of the individual graphs by reading the label beside each graph. Then study each graph one at a time. Remember, each circle graph represents the entire Congress. The sections, or wedges, in each graph represent a certain percentage of the whole Congress.

### Skill Assessment

1. Which party had a majority in the 107th Congress?
2. In the 107th Congress, what percentage of the members were women?
3. How would you describe the typical member of the 107th Congress?
4. Create a circle graph showing how many students in your class are male and how many are female.

# CHAPTER 8 ASSESSMENT

## Building Civics Vocabulary

The vocabulary terms in each pair listed below are related to each other. For each pair, explain how the two terms are related.

Example: *Impeach* is related to *delegated powers* because impeachment is one of the delegated powers of Congress.

1. *constituents* and *congressional district*
2. *interest groups* and *lobbyists*
3. *Speaker of the House* and *majority party*

## Reviewing Main Ideas and Skills

4. How are the 435 seats in the House of Representatives divided among the states?
5. Describe two ways in which the Constitution specifically limits the powers of Congress.
6. How can Congress pass a law despite the President's veto?
7. **How to Determine Relevance** Explain the steps you could use to distinguish relevant information from irrelevant information. How do you think this process helps you to make good decisions?
8. **How to Analyze Circle Graphs** Look back at the circle graph on page 188. What percentage of minimum wage earners were men in 2000?

## Critical Thinking

9. **Predicting Consequences** If you wrote a letter to your representative in the House, do you think it could influence his or her position on a bill? What factors might work in your favor?

10. **Drawing Conclusions** If the House of Representatives were abolished and the Senate were left as our only lawmaking body, would our government be less democratic? Why or why not?

## Writing About Civics

11. **Giving Testimony** Suppose you have been invited to testify at a Labor and Human Resources Committee hearing on the minimum wage. A senator asks you, "What do you think the minimum wage should be and when, if ever, should it be increased?" Write a response to this question, offering arguments to support your position.

## Citizenship Activities

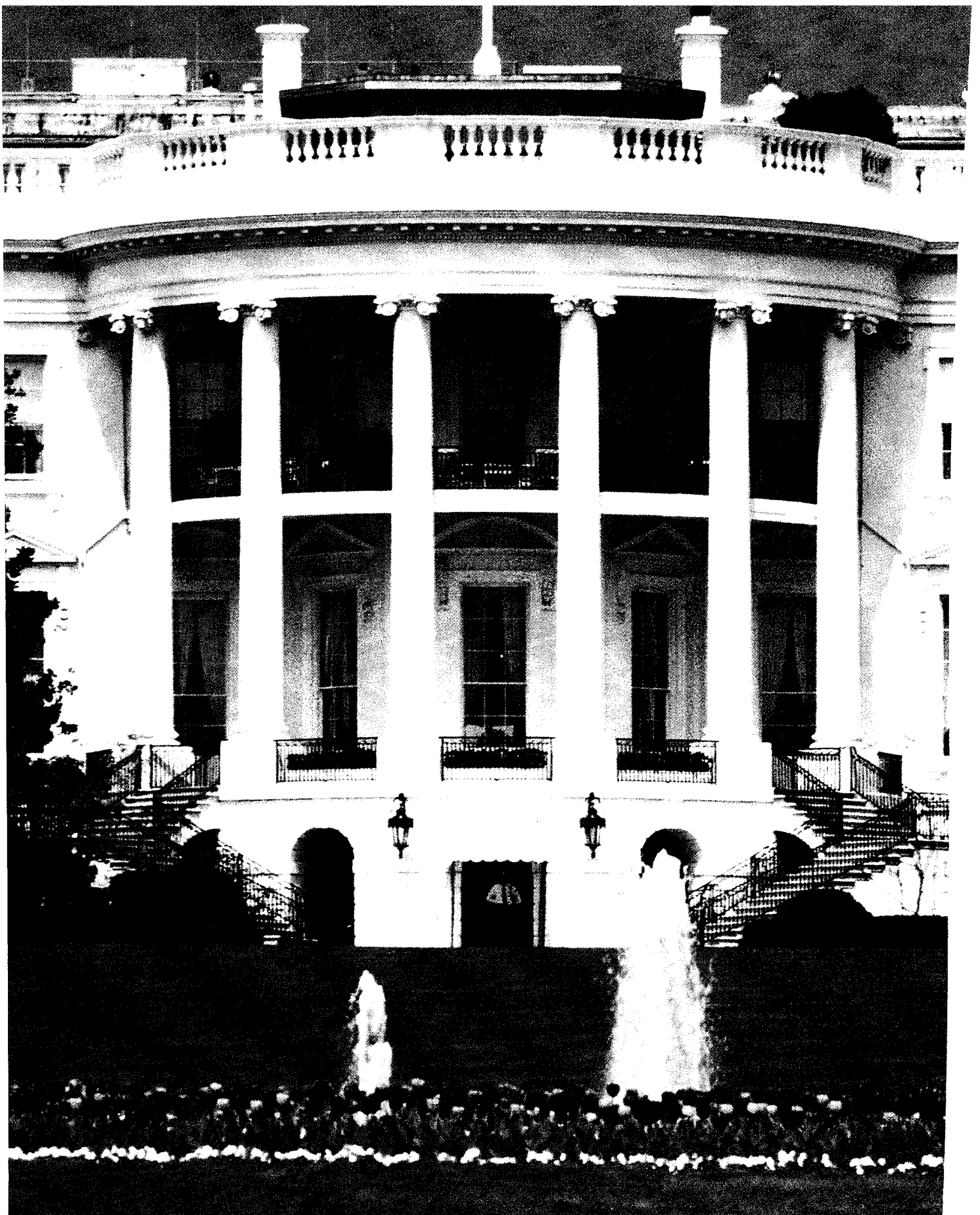
12. **Your Local Community** Do some research on your representatives in Congress. You might look in your local newspaper, contact your representatives, or check the Internet—the House of Representatives' Web site is [www.house.gov](http://www.house.gov); the Senate's is [www.senate.gov](http://www.senate.gov). Find out their positions on a current issue. Present your findings to the class. Share your position.



## Take It to the NET

Access the **Civics: Participating in Government** Internet site at **[www.phschool.com](http://www.phschool.com)** for the specific URLs to complete the activity.

Select a current piece of legislation. Follow links to find out more about the legislation. What is the purpose of the bill? Who is its sponsor? Prepare a letter or e-mail to your congressional representative expressing your opinion about the proposed legislation.



## CHAPTER 9

# The Executive Branch

### Citizenship and You

Have you ever wondered what it would be like to be President of the United States? Here is what several Presidents have said about the job.

*Though I occupy a very high position, I am the hardest working man in the country.* —James K. Polk (President, 1845–1849)

*I have thoroughly enjoyed being President. But I believe I can also say that I am thoroughly alive to the tremendous responsibilities of my position.* —Theodore Roosevelt (1901–1909)

*The position is not a place to be enjoyed by a sensitive man.* —William H. Taft (1909–1913)

*Being a President is like riding a tiger. A man has to keep on riding or be swallowed.* —Harry S. Truman (1945–1953)

*No easy problems ever come to the President of the United States. If they are easy to solve, somebody else has solved them.* —Dwight D. Eisenhower (1953–1961)

*There is no experience you can get that can possibly prepare you adequately for the presidency.* —John F. Kennedy (1961–1963)

### What's Ahead in Chapter 9

In this chapter you will read about the duties of the President. You will also see how the executive branch is organized to help fulfill those duties. Finally, you will explore some of the ways in which Presidents have used their powers.

#### Section 1 The Roles of the President

#### Section 2 The Organization of the Executive Branch

#### Section 3 Presidents and Power



### Keep It Current

Items marked with this logo are periodically updated on the Internet. To keep up-to-date, go to [www.phschool.com](http://www.phschool.com)

### Citizen's Journal

When discussing their time in the White House, Presidents have often described the presidency as an extremely difficult job. Why do you think the presidency is such a demanding position? Write a paragraph explaining your opinion on this question.

## SECTION 1

# The Roles of the President

### SECTION PREVIEW

#### Objectives

- Explain how the Constitution limits the power of the President.
- Describe the President's role as head of the executive branch.
- Summarize the President's role in military affairs and foreign policy.
- Explain how the President influences the legislative and judicial branches.
- Identify presidential roles created by tradition.

#### Building Civics Vocabulary

- The **executive branch** is responsible for executing, or carrying out, the law.
- The President can issue **executive orders**, which are rules or regulations that executive branch employees must follow.
- **Foreign policy** is the set of plans that guides our nation's relationship with other countries.
- **Treaties** are formal agreements with other countries.
- **Ambassadors** are official representatives to foreign governments.
- **Executive agreements** are agreements with other countries that do not need Senate approval.
- The President helps set **domestic policy**, plans for dealing with national problems.



#### Focus

Who is the leader of the United States? To most of us the answer seems clear: the President. As our highest elected official, the President represents all Americans, not just citizens of one state or congressional district. It is the President who usually meets with leaders of other nations and whose daily activities are closely followed by the television networks, newspapers, and news magazines.

Just about everyone knows who the President of the United States is.

How many Americans, though, have a clear picture of what the President does? The President is the head of the **executive branch**, the branch of government responsible for executing, or carrying out, the laws. However, carrying out laws passed by Congress is only part of the President's job. The most important duty is to set goals for the nation and to develop policies, which are methods for reaching those goals. In spite of having many advisors, the President alone is responsible for making the final decisions about many important issues facing the nation.

This heavy responsibility goes with an office that many think is the most powerful in the world. The office of President also has limits, though, which are set by the Constitution. To understand the powers and responsibilities of the presidency, as well as its limits, you need to look first at how the office was created.

## Creating the Office of President

In creating the presidency, the framers did not want a leader with unlimited powers. The

## Facts & Quotes

### American Presidents

Of the 43 Presidents in the history of our nation:

- 42 were Protestant
- 36 were at least 50 years old when they took office
- 33 were college-educated
- 27 were lawyers
- 14 had previously served as Vice President
- 18 were Republicans
- 15 were Democrats

memory of the tyranny of the English king was fresh in the minds of many Americans. To calm the people's fears, the framers gave very few specific powers to the President. They also included ways to prevent abuse of power.

**Term of Office** One limit on the President's power is the term of office. The President is elected for a term of four years and must run for re-election in order to serve a second term. The Twenty-second Amendment says that no President may hold office for more than two terms.

**Limited Power** Another protection is the separation of powers among the three branches of government. The President may only carry out the laws. It is Congress that makes the laws. The Supreme Court has the power to decide if a law is constitutional.

The system of checks and balances also limits the President's power. Many presidential decisions must be approved by Congress. In cases of serious wrongdoing, Congress may remove the President from office. Furthermore, the Supreme Court can decide whether actions taken by the President are allowed by the Constitution.

**Qualifications and Salary** To be President, a person must be at least 35 years old and a natural-born citizen of the United States. He or she must have lived in the United States for at least 14 years. The President's yearly salary is set by Congress, rather than by the Constitution.

**A Leader with Many Roles** The framers knew that the nation needed a leader who could both carry out laws and represent the nation in meetings with leaders of other countries. However, the office of President was new in a world of nations led by monarchs.

Therefore, the framers did not describe exactly how the President should fulfill the duties of this new office. Expecting that



Acting as the nation's chief diplomat, President Reagan signed a weapons reduction treaty with Soviet leader Mikhail Gorbachev in 1987.

George Washington would be elected as the nation's first leader, they trusted that he would become a model of what a President should be. As Washington himself noted:

*“I walk on untrodden ground. There is scarcely any part of my conduct which may not hereafter be drawn into precedent [made an example of].”*

Through the examples of Washington and the Presidents who followed him, the roles of the President have become more clearly defined over the years.

## The President as Chief Executive

The President serves as chief executive, or head of the executive branch. The Constitution states that the President must “take care that the laws be faithfully executed.” To execute laws means to make sure that they are carried out. Although Congress makes the laws, it is



up to executive branch officials to decide just how to carry out laws and other policies.

As leader of the executive branch, the President usually makes only the broadest decisions, leaving the details to other officials. One way in which the President gives direction is through **executive orders**, which are rules or regulations that government officials must follow. In 1948, for example, President Harry Truman gave an executive order to end segregation in the armed forces. After that, people of all races served together instead of in separate units.

The power to make executive orders, however, is limited. The President's orders may not violate the Constitution or laws passed by Congress.

As chief executive, the President also has the power to appoint about 4,000 executive branch officials. As a check on that power, Congress must confirm, or approve, many top appointments.

## **The President as Commander in Chief**

The Constitution says that "the President shall be commander in chief of the army and navy of the United States." This statement points to the President's important role as leader of the armed forces. When the nation is at war, the President makes the most important decisions.

To protect American interests, the President may send troops to a foreign country even if Congress has not declared war. However, the War Powers Resolution, passed after the Vietnam War, says that such troops may not remain for more than 60 days without the approval of Congress.

## **The President as Chief Diplomat**

The President is also our chief diplomat, the most important representative of the United States in relations with other nations. The

President leads in making **foreign policy**, plans for guiding our nation's relationships with other countries. In general, foreign policy involves deciding how to support or oppose actions of other nations. Although they usually seek advice on foreign policy, Presidents must make the final decisions. President Truman made that point when he said, "I make foreign policy."

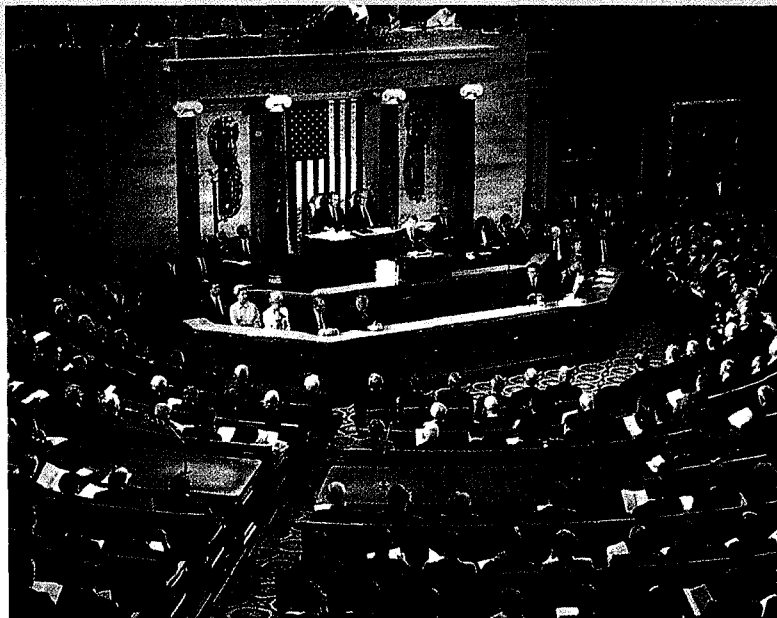
Foreign policy is clearly the President's "territory," but Congress may set limits. For instance, the President may make **treaties**, or formal agreements with other countries, but the Senate may reject any treaty. The President's appointments of **ambassadors**, the official representatives to foreign governments, must also be approved by the Senate.

The President does have freedom, though, to make **executive agreements**, agreements with other countries, which do not need Senate approval. Executive agreements may have a wide range of purposes. They may set goals for trade or make promises to give aid to other countries.

## **The President as Legislative Leader**

You have read many times that Congress makes our nation's laws. The President, however, has a good deal of power to influence what those laws will be. The Constitution states that the President may recommend to Congress "such measures as he shall judge necessary and expedient." This means that Congress is expected to consider the President's ideas rather than act alone in making laws.

Early each year, the President gives a speech to both houses of Congress. In this State of the Union message, the President sets forth ideas about what America's foreign policy should be. The President also talks about problems at home, such as taxes, day care, and pollution. By describing these problems and giving ideas for solving them, the



Officials of all three branches of government gather to hear the President set forth his policies in his yearly State of the Union address to Congress.

President helps to set domestic policy, plans for dealing with national problems.

How does a President get Congress to turn foreign and domestic policy into laws? One way is by getting individual members of Congress to write bills. Another is by calling and meeting with members of Congress, urging them to support the President's program. Speeches to interest groups and to the public also help gain support for bills the President wants passed.

A powerful tool for influencing Congress is the veto. Often just the threat of a veto is enough to get Congress to change a bill to make it more to the President's liking. Congress has overridden about 4 percent of the more than 2,500 vetoes in our nation's history.

Another way in which the President acts as legislative leader is in making the budget. To put policy ideas into action costs money. Every year the President prepares a budget, a plan for how to raise and spend money to carry out the President's programs.

Of course, Congress does not pass all the laws the President asks for, and it almost

always makes changes in the President's budget. However, Congress cannot ignore the President's power as legislative leader.

Finally, the President has the power to call special sessions of Congress if problems arise when Congress is not meeting. Today, however, Congress meets for almost the whole year, and the power is not much used.

## The President's Judicial Powers

As part of the system of checks and balances, the President has several powers that affect the judicial branch. Most importantly, the President chooses Supreme Court justices and other federal judges. Of course, the President's power is balanced by the Senate which must confirm these appointments.

The President may limit the power of the judicial branch by putting off or reducing the punishment of someone convicted of a crime in federal courts. The President may even do away with the punishment by granting a pardon.



As chief diplomat, President Bill Clinton hosted the signing of a peace treaty between Israel and the Palestine Liberation Organization in 1993.

## Roles Created by Tradition

Over the years, the President has taken on two other roles: party leader and chief of state. Neither role is mentioned in the Constitution, yet both are natural results of the President's position and power.

The President is a member of a political party, typically either the Democratic party or the Republican party. As our highest elected official, the President is seen as the leader of that party. The President's power and prestige can be used to support party goals or candidates.

As chief of state, though, the President speaks for the whole nation, expressing the values and goals of the American people. In this role, the President carries out many ceremonial duties, such as greeting visiting leaders and giving medals to citizens. As chief of

state, the President stands for a national unity that overshadows differences between the political parties.

## Section 1 Assessment

1. **Define** executive branch, executive orders, foreign policy, treaties, ambassadors, executive agreements, domestic policy
2. In creating the office of President, how did the framers guard against abuse of power?
3. Briefly describe four of the President's roles.
4. **Evaluate** Which of the President's roles do you think is the most difficult? Explain your answer.

## SECTION 2

# The Organization of the Executive Branch

### SECTION PREVIEW

#### Objectives

- Define the role of the Executive Office.
- Explain the importance of executive departments.
- Describe some of the major independent agencies.
- Explain the need for the civil service system.
- Explore the process of carrying out the law.

#### Building Civics Vocabulary

- A **bureaucracy** is an organization of government departments, agencies, and offices.
- An **administration** is the team of executive branch officials appointed by the President.
- The **Cabinet** is an important group of policy advisors to the President.



#### Focus

As our nation has grown, the President's duties have grown, too. Each year hundreds of laws must be carried out. Decisions must be made on a wide range of foreign and domestic policy issues. To fulfill their many duties, Presidents have needed more and more help. The executive branch has grown from a few hundred officials in George Washington's time to about 3 million employees today. It is now the largest branch of government.

As it has grown, the executive branch has become a huge bureaucracy. A **bureaucracy** (byoo RAH kruh see) is an organization of government departments, agencies, and offices. Most people who work in the bureaucracy are not chosen to work just for one President. They are hired as permanent employees.

To help direct the bureaucracy, the President appoints an **administration**, a team

of executive branch officials. The nearly 2,000 members of the administration lead the three main parts of the executive branch: (1) the Executive Office of the President, (2) the executive departments, and (3) the independent agencies.

## The Executive Office of the President

The Executive Office of the President is largely made up of people the President chooses to help make foreign and domestic policy. Unlike the other parts of the executive branch, the main job of the Executive Office is not to carry out laws directly, but to advise the President on important matters relating to the many presidential roles.

**The White House Staff** At the center of an administration is the White House staff. It includes the President's inner circle of trusted advisors and assistants. Some of these people see the President every day. They give advice and information about national security, the economy, and other subjects. The White House staff also helps guide the bureaucracy toward meeting the President's goals. Some Presidents like having several staff people report directly to them on issues relating to the executive departments and independent agencies. Other Presidents have depended on one powerful chief of staff to whom other staff members report.

The staff includes a chief of staff and other key advisors, press secretaries, legal experts, speechwriters, office workers, and researchers. The White House staff may truly be called "the President's people" because all of its members are appointed or hired by the President and do not need Senate approval.

**The Vice President** The Constitution gives the Vice President no duties aside from presiding over the Senate. It is the President who decides what the Vice President will do. Some Presidents ask the Vice President to

## Madeleine Albright

**F**rom 1997 to 2001, Madeleine Albright was the first woman to serve as Secretary of State, the President's chief advisor on foreign affairs. "I believe," she says, "it is the responsibility of every free person to do what he or she can to advance the freedom of others."

Albright was born in 1936 in Czechoslovakia, the daughter of a diplomat. Her family fled its homeland when the German army invaded in the late 1930s. They lived in France and Yugoslavia before spending the remaining years of World War II in England.

After the war, Albright's family returned to Czechoslovakia, where her father resumed his diplomatic career. However, the family was soon on the move again after the Communists seized power in 1948. This time, the family moved to the United States.

By the time she was a teenager, Albright spoke five languages—French, Czech, Russian, Polish, and English. Interest in world affairs was a part of family life. "In my parent's home," she says, "we talked about international relations all the time, the way some families talk about sports...around the dinner table."

Albright says her own experiences as a refugee helped shape her views on how the United States

should respond to conflicts such as those that led to mass killings and ethnic cleansing in Bosnia and Kosovo in the late 1990s. "In today's world of deadly and mobile dangers," she says, "gross violations of human rights are everyone's business."

Speaking about women in the field of international relations, she said: "It is sad but still true that there are not enough women holding jobs in foreign affairs. Correcting this is not simply about fairness. Today's world needs the skills and experience that women bring to diplomacy."



### Recognizing Viewpoints

How do you think Madeleine Albright's childhood experiences influenced her beliefs as Secretary of State?

play an active role, heading special commissions, making trips to other countries, and working with Congress. More often, the Vice President has been almost invisible. Fearing this fate, some leaders have refused to run for Vice President. In 1848, Daniel

Webster declared, "I do not propose to be buried until I am dead."

If the President dies, though, the Vice President may become President. Our nation's first Vice President, John Adams is reported to have said, "In this I am nothing,

but I may be everything.” Eight times in our nation’s history the Vice President has risen to the highest office in the land because of the death of the President. The Vice President may also be asked to serve as “acting President” if the President falls seriously ill.

Since the Vice President may become President, the qualifications for the two offices are the same.

**Special Advisory Groups** The Executive Office of the President also includes several special groups that help the President make decisions on domestic and foreign policy. The three most important groups are the Office of Management and Budget (OMB), the National Security Council (NSC), and the Office of Homeland Security.

The OMB decides how much the President’s policy goals will cost. The President may change the goals in light of the price tags provided by the OMB. Then the OMB prepares the budget that is sent to Congress.

The National Security Council plays a major role in helping the President make foreign policy. The NSC includes top military officers and advisors from other government agencies and departments concerned with foreign affairs and national defense.

The Office of Homeland Security was created in 2001 by President George W. Bush in response to the terrorist attacks on the World Trade Center and Pentagon on September 11, 2001. The Office is headed by a director who has Cabinet rank. The duty of the Office is to “lead, oversee, and coordinate a comprehensive national strategy to safeguard our country from terrorism.” In this role, the Office must coordinate the anti-terrorist activities of many federal agencies, including the CIA, the FBI, the Coast Guard, and the Federal Aviation Administration.

## The Executive Departments

Over the years, the number of executive departments has grown. Today they form the

largest part of the executive branch. As the chart on page 204 shows, they do much of the work connected with carrying out the nation’s laws and running government programs.

Each executive department helps fulfill one or more of the President’s duties. The Department of State, for example, handles relations with other countries. It helps put the President’s foreign policy decisions into action. The Department of Defense helps the President fulfill the duty of commander in chief by running the armed forces.

**Executive Department Leadership** The President appoints the head of each executive department. As a check on presidential power, each appointment must be approved by the Senate. The head of the Department of Justice is called the Attorney General. The other department heads are called secretaries, such as the Secretary of State and the Secretary of the Treasury. The department secretaries and the Attorney General form the core of the Cabinet, an important group of policy advisors to the President.

## The Independent Agencies

The executive departments do not carry out all the duties of today’s executive branch. Many tasks, from making rules about nuclear energy to providing farm loans, are carried out by approximately 60 independent agencies. There are three types of agencies: executive agencies, regulatory commissions, and government corporations.

**Executive Agencies** Executive agencies are under the direct control of the President, who can choose or remove their directors. Among the most important agencies are the National Aeronautics and Space Administration (NASA) and the Environmental Protection Agency (EPA).

**Regulatory Commissions** Congress has formed 12 regulatory commissions. Each one makes and carries out rules for a certain

**EXECUTIVE DEPARTMENTS** Much of the work of running government is done by the executive departments. **Government** Which executive department is in charge of managing our national parks?



**Department of State (1789)**

Carries out foreign policy.  
Supervises ambassadors and other U.S. diplomats.  
Represents the U.S. at the United Nations.



**Department of Treasury (1789)**

Collects federal taxes through the Internal Revenue Service (IRS).  
Prints money and postage stamps; makes coins.  
Protects the President and Vice President through the Secret Service.



**Department of Defense  
(1789, reorganized in 1947)**

Maintains the Army, Navy, Marine Corps, and Air Force.  
Does research on military weapons.  
Builds and maintains military bases.



**Department of Interior (1849)**

Manages national parks and other federal lands.  
Protects fish, wildlife, and other natural resources.



**Department of Justice (1870)**

Investigates and prosecutes violations of federal laws.  
Operates federal prisons.  
Runs the Federal Bureau of Investigation (FBI).  
Represents the federal government in lawsuits.



**Department of Agriculture (1862)**

Provides assistance to farmers.  
Inspects food processing plants.  
Runs the food stamp and school lunch programs.  
Works to control animal and plant diseases.



**Department of Commerce (1903)**

Provides assistance to American businesses.  
Conducts the national census.  
Issues patents and trademarks for inventions.  
Maintains official weights and measures.



**Department of Labor (1903)**

Enforces laws on minimum wage, job discrimination, and working conditions.  
Helps run job training and unemployment programs.  
Provides statistics on changes in prices and levels of employment.



**Department of Health & Human  
Services (1953)**

Directs Medicare program.  
Runs the Food and Drug Administration (FDA).  
Runs the Public Health Service.  
Runs the Family Support Administration.



**Department of Housing & Urban  
Development (1965)**

Helps provide housing for low-income citizens.  
Assists state and local governments in financing community development and housing projects.



**Department of Transportation  
(1966)**

Helps state and local governments maintain highways.  
Enforces transportation safety standards.  
Operates the United States Coast Guard.



**Department of Energy (1977)**

Conducts research on sources of energy.  
Promotes the conservation of fuel and electricity, and directs programs to deal with possible shortages.



**Department of Education (1953)**

Provides assistance to elementary, high school, and college education programs.  
Conducts research and provides statistics on education.  
Promotes equal access to educational opportunities.

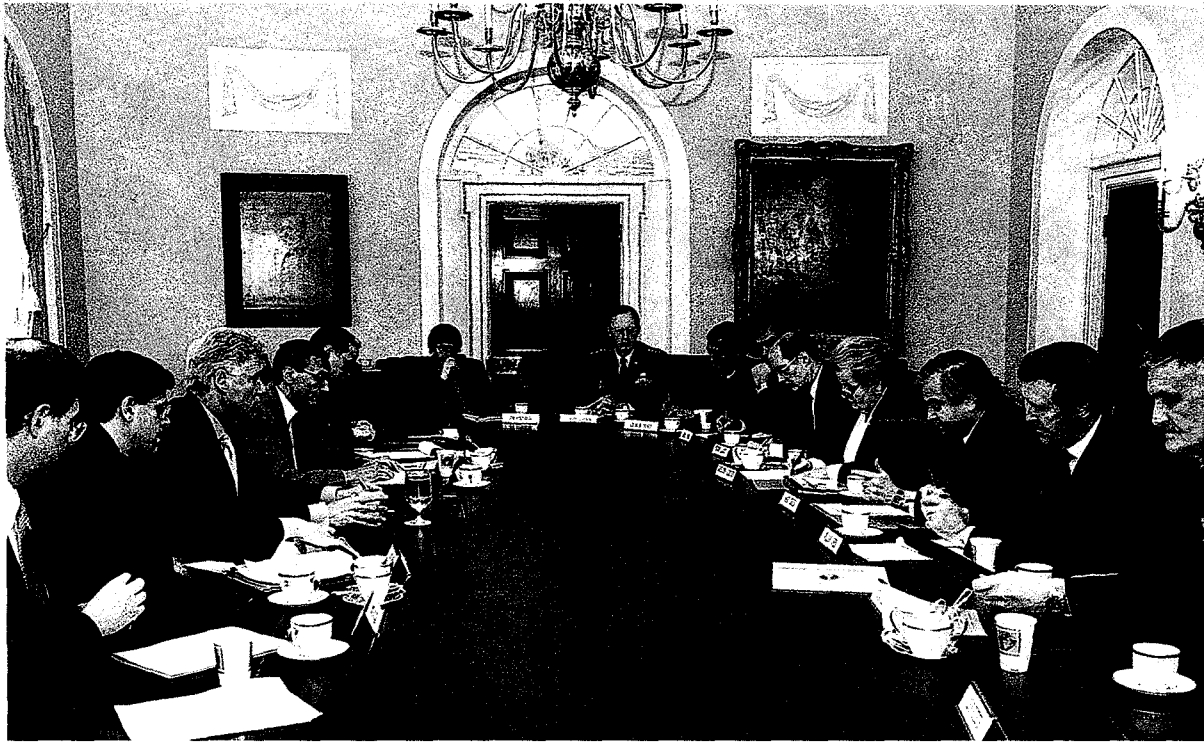


**Department of Veterans' Affairs  
(1989)**

Gives medical, educational, and financial help to people who have served in the armed forces.

Source: U.S. Office of Personnel Management





President Clinton met often with his foreign policy team during the war in Kosovo in 1999.

business or economic activity. The Federal Communications Commission (FCC), for instance, makes rules for radio and television stations. The Consumer Product Safety Commission (CPSC) sets safety standards for products you might find around the house. The regulatory commissions also settle disputes between businesses they regulate.

The regulatory commissions are meant to be fairly free from political influences. The President chooses members of the boards which run the commissions. Each member has a long term so that no single President can choose all of a board's members.

**Government Corporations** Government corporations are like private businesses in that they try to make a profit. However, most of them provide public services that may be too risky or expensive for a private

business to undertake. The United States Postal Service is one example of a government corporation.

**Political Battlegrounds** Although the heads of the executive departments and many of the independent agencies are chosen by the President, these government bodies are not simply tools for putting presidential powers into action. Congress has an important say in how executive departments and agencies are run.

When members of Congress disagree with the President, executive departments and independent agencies can become settings for political battles. During President Clinton's second term, for example, Republican leaders in Congress proposed a bill that would eliminate two independent agencies—the Arms Control and Disarmament Agency and



the United States Information Agency. The bill would also move a third independent agency—the United States Agency for International Development—under the authority of the State Department. Led by Senator Jesse Helms of North Carolina, this move was designed to streamline government bureaucracy.

At first, President Clinton opposed this measure. After Congress passed the bill, however, Clinton agreed to sign it, hoping to gain

Republican support for foreign policy goals of his own. A conflict like this shows that the President must take into account the strength of Congress when making policy decisions.

## The Civil Service System

As you might imagine, the executive branch includes a wide variety of employees, from budget experts at the OMB to rocket engineers at NASA. The President chooses less than



**INDEPENDENT AGENCIES** The executive branch includes about 60 independent agencies. **Government** What is the purpose of the Federal Trade Commission?

### Selected Executive Agencies

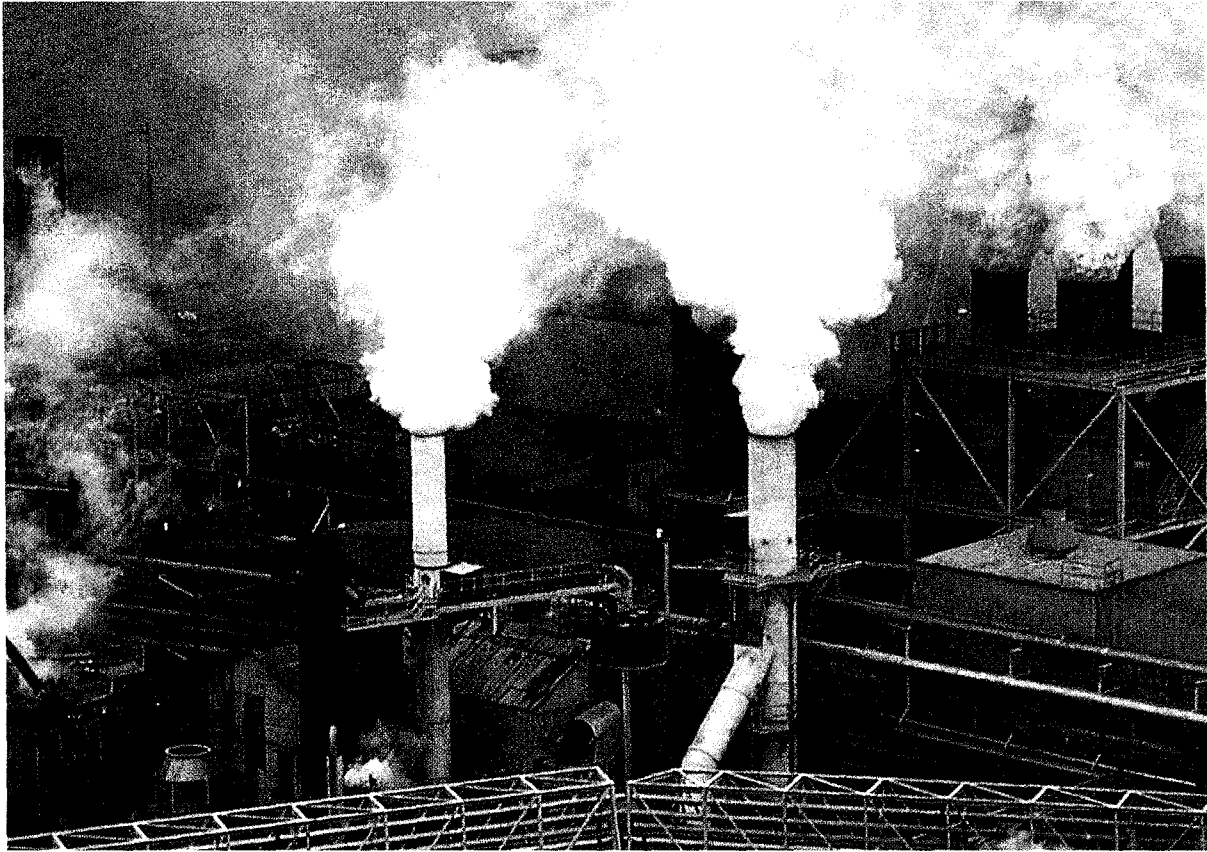
Central Intelligence Agency (CIA) (1947)	Gathers information on matters of national security, both abroad and in the U.S.
Environmental Protection Agency (EPA) (1970)	Protects human health and the natural environment.
National Aeronautics and Space Administration (NASA) (1958)	Operates the space program; conducts research on flight both within and beyond the earth's atmosphere.
Federal Election Commission (FEC) (1971)	Enforces rules on campaigns for federal offices.

### Selected Regulatory Commissions

Federal Reserve System (FRS) (1913)	Directs the nation's banking system by managing the money supply.
Federal Trade Commission (FTC) (1914)	Protects consumers from unfair or misleading business practices.
National Labor Relations Board (NLRB) (1935)	Works to correct or prevent unfair labor practices by either employers or unions.
Equal Employment Opportunity Commission (EEOC) (1964)	Enforces laws against job discrimination based on race, color, religion, sex, national origin, age, or disability.

### Selected Government Corporations

Federal Deposit Insurance Corporation (FDIC) (1933)	Insures deposits at banks that are members of the Federal Reserve System and at non-member banks that meet certain standards.
Tennessee Valley Authority (TVA) (1933)	Develops the natural resources of the Tennessee Valley by controlling flooding and creating electric power.
United States Postal Service (1971)	Provides mail service.



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The Environmental Protection Agency is responsible for carrying out environmental laws such as the Clean Air Act.

1 percent of the workers in the executive branch. How do all the others get their jobs?

For many years, government jobs were likely to go to friends and supporters of the President. Loyalty to the President was more important than knowing how to do the job.

In 1883, however, Congress set up the civil service system. Under this system most government workers, called civil servants, are hired on the basis of merit. There are tests for most kinds of jobs, and workers are hired from among those with the highest scores. The civil service system provides for a group of trained workers who stay on the job from administration to administration.

## **The Executive Branch in Action**

As you have seen, carrying out laws is a big, complex job. The following example helps show how the executive branch works with legislators and the public to carry out laws.

When Congress passed the Clear Air Act in 1970, the Environmental Protection Agency (EPA), an executive agency, was put in charge of carrying out this law. Since then, part of the EPA's ongoing responsibility has been to create rules that meet the goals of the Clear Air Act.

In October 1998, the EPA proposed new rules designed to reduce several specific types of hazardous air pollution. Before these rules went into effect, however, the EPA consulted with members of Congress, administration officials, industry leaders, interest groups, and the public. Public hearings were held at which interested parties presented their views on the proposed rules. The EPA also studied how much it would cost for industries to meet the new pollution guidelines.

Finally, in May 1999, after this process of study and public participation, the new air pollution rules went into effect. This example gives you an idea of the work that goes into carrying out a single law. Of course, there are hundreds of other laws that the executive branch must carry out. It must also make many important decisions about domestic and foreign policy. This helps explain why the executive branch has become such a huge bureaucracy.

## Section 2 Assessment

1. **Define** **bureaucracy, administration, Cabinet**
2. Describe the role of the National Security Council.
3. How does Congress exercise influence over executive departments?
4. How do government corporations differ from private businesses?
5. Why did Congress set up the civil service system?
6. **Evaluate** What do you think are the advantages and disadvantages of having a large executive branch bureaucracy?

## SECTION 3

# Presidents and Power

## SECTION PREVIEW

### Objectives

- Describe some ways in which Presidents are able to act on their own.
- Summarize advantages and disadvantages of the power of Presidents to act on their own.
- Analyze some examples of the use of presidential power.

### Building Civics Vocabulary

- **Executive privilege** gives the President the right to keep some information secret from Congress and the courts.



### Focus

As our first President, George Washington was the leader of a small nation of about 4 million people. Today, the President's actions affect our nation of about 281 million people. They also affect nations and peoples around the world.

In setting up the office of President, the framers could not have known how much the power and duties of the office would grow. Today, many people fear that too much power is in the hands of one leader. How much power should a President have? How free should a President be from checks and balances by Congress and the judicial branch?

## Freedom to Take Action

In fact, the President has a good deal of freedom to take action to meet goals. For example, the President and presidential advisors do not need permission from Congress to hold talks with representatives of other

countries. Many talks result in executive agreements, which do not need Senate approval. Other talks lead to treaties. Even though the Senate has the power to reject any treaty, once the President has committed the United States to a treaty, it is hard for the Senate to say no.

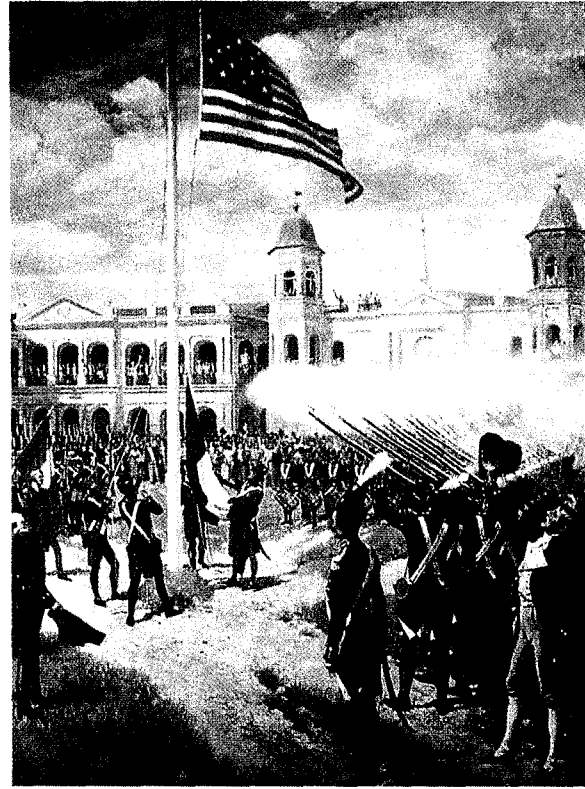
Another way the President can take independent action is by **executive privilege**, the right to keep some information secret from Congress and the courts. Executive privilege is based on the idea of separation of powers. It helps keep the other branches from interfering with the President's job. Sometimes, too, the nation's safety depends on secrecy. If the President has to tell Congress, the information is more likely to leak out and ruin the plan.

## Seeking a Balance

Given the fact that the President has a good deal of freedom, an important question to ask is, "When should the President's powers be limited?" The answer depends on the situation and on the President's goals in that situation. In any situation, the possible advantages of the President acting independently have to be weighed against the possible disadvantages.

What are some reasons the President should be able to take action without talking with the other branches of government? One is that the President can act quickly in a crisis or take an opportunity that might be lost while waiting for approval by Congress. Furthermore, in some situations Congress may be seriously divided and not able to arrive at a decision.

Suppose, however, that a President often made important decisions without asking Congress or thinking about whether the actions were constitutional. How could we be sure that the President was acting in the best interests of the nation? Clearly, the need for



The American flag is raised over the Louisiana Territory, purchased from France by President Thomas Jefferson in 1803.

strong presidential leadership must be balanced against the need to protect ourselves against abuse of power.

## Using Presidential Power

The following examples show how three Presidents have used their powers at certain times. As you read, think about the effects of each President's action. Was the President right to take that action?

### Jefferson and the Louisiana Purchase

In 1803, President Thomas Jefferson had a great opportunity. Napoleon, the ruler of France, had offered to sell the huge Louisiana Territory for \$15 million. By



Faced with possible impeachment, President Nixon resigned. Here he and his family bid farewell to Vice President Gerald Ford, who replaced him.

buying Louisiana, Jefferson could double the size of the United States.

Although Jefferson thought that the purchase would be good for the young nation, he was troubled because the Constitution did not say that the President or Congress could buy territory. Jefferson thought that a constitutional amendment might solve the problem, but time was short. Napoleon was showing signs of changing his mind.

Knowing that he had to act quickly, Jefferson turned to his advisors, especially James Madison, who was then Secretary of State. Madison believed that the President's power to make treaties gave Jefferson the right to buy Louisiana. After carefully think-

ing about Madison's advice, Jefferson accepted Napoleon's offer. The Senate ratified the treaty, and Congress agreed to pay France for the territory.

**Truman and the Steel Mills** In 1952, during the Korean War, President Harry Truman faced a problem. The steelworkers said they would not work unless certain demands were met. The steel-mill owners would not agree to their demands.

President Truman knew that steel was needed to make weapons for the soldiers in Korea. He gave an executive order placing the Secretary of Commerce in control of the mills for the time being. The steel companies said that the President had no right to take control of private property. Truman said that he was acting as commander in chief to protect American troops.

The case came before the Supreme Court. The Court ruled that the President had no power to take private property, even in a national emergency. His duty, the Court said, was to carry out laws passed by Congress, not to use executive orders to make his own laws.

**Nixon and Watergate** On August 9, 1974, President Richard Nixon left office as a result of the Watergate scandal. Nixon and members of his staff were accused of covering up White House involvement in a break-in at the Democratic National Committee Headquarters in the Watergate office building in Washington, D.C. The aim of the break-in was to help get Nixon re-elected by finding out about the Democrats' campaign plans.

After the burglars were caught in the act, newspaper reporters discovered that members of the White House staff had helped plan the burglary and later tried to cover up the crime. First a special Senate committee and later the House Judiciary Committee began an investigation of the President.

Investigators found that the President had taped all of his White House conversations.

When they asked to examine the tapes, however, Nixon refused to release them, claiming executive privilege. In July 1974, the Supreme Court ordered Nixon to turn over the tapes, saying that executive privilege is not an unlimited power, particularly if used to hide possible criminal actions. Based on the tapes and other facts, the House Judiciary Committee recommended that Nixon be impeached. Nixon resigned before the full House could vote.

## Sharing the Power

The stories you have just read show that the President does not govern alone. Instead, power is shared among the three branches of government—the “three horse team” as President Franklin D. Roosevelt described them. The system of checks and balances helps to make sure that the government acts

in the best interests of the people. In this way the “three horse team” works together for the good of the nation.

### Section 3 Assessment

1. **Define executive privilege**
2. Describe three ways in which Presidents can take action on their own without consulting the other branches of government.
3. What are some advantages and disadvantages of the power of Presidents to take action on their own?
4. Why did President Jefferson hesitate before making the Louisiana Purchase?
5. **Evaluate** Do you think our system of government places too much power in the hands of the President? Support your opinion with reasons and examples.

## Extending the Chapter

### Global Views

**A**s you know, ours is not the only nation with a representative government that includes both a legislature and a leader. However, just as there are differences between Congress and many other legislatures, there are also differences between the presidency and the role played by leaders of many other nations.

One difference lies in the fact that the President is both our chief of state and the leader of the government. In a number of other nations, each of these roles is filled by a different person. For instance, in Great Britain the head of state is the king or queen, who represents the nation at ceremonies but holds little political power. It is the British prime minister

who leads the government, making decisions on foreign and domestic policy.

Another difference is in the way the leaders are chosen. In some parliamentary governments, such as Japan, the leader of the government is chosen by the legislature, not elected directly by the people. Such leaders usually stay in power only as long as their party has a majority in the legislature. They may be voted out of office at any time. Our Presidents, on the other hand, stay in office for a fixed term during which they may be removed from office only if convicted of crimes. Therefore, in our government the chief executive is more independent of the legislature.

## How to DISTINGUISH FACT FROM OPINION

“Today Carol made a speech about school spirit in her campaign for student body president. It was a great speech.”

Suppose you were trying to decide whom to vote for in a school election, and you overheard a comment like the one above. That information might influence your decision, but you would probably want to check it out first.

You could find out whether Carol really talked about school spirit by asking students who heard the speech. The statement that the candidate talked about school spirit is a *statement of fact*, a statement that can be either proved or disproved to everyone’s satisfaction. In this case, the statement is true. However, suppose you were to say to someone, “Hi, my name is Mickey Mouse. I am over 60 years old.” These statements of fact could easily be proved false.

The statement that the candidate’s speech was “great,” however, is a statement that is neither true nor false. Instead, it is an *opinion*, a personal belief that cannot be either proved or disproved. If you asked other students whether the speech was great, you would get different answers because people have different ideas about what is “great.” There will always be disagreement about opinions.

Being able to tell the difference between statements of fact and opinions helps you judge the information you use in making decisions. When making a decision, you should have good reasons for trusting the information you use, whether that information is fact, opinion, or a combination of both.

Suppose you have an assignment to rate the Presidents of the United States, deciding which ones were good, average, and below average. In order to make your decision, you have gathered information on the Presidents.

Among the pieces of information are the following:

Thomas Jefferson’s most important accomplishment was the purchase of the Louisiana Territory.

Andrew Johnson and Bill Clinton are the only Presidents who were ever impeached.

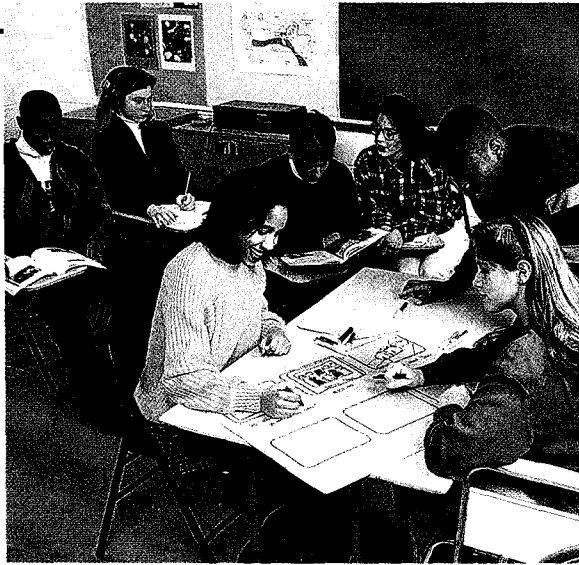
How might you decide what is a statement of fact and what is opinion?

### Explain the Skill

One way to separate statements of fact from opinions is to follow these steps. Notice how the steps apply to the information that you just read.

- 1. Recall the definitions of a fact and an opinion, as described above.**
- 2. Apply definitions of fact and opinion to each piece of information.** When in doubt about whether a piece of information is a fact or an opinion, ask yourself, “Could it be proved or disproved to any reasonable person?” [Jefferson’s purchase and the impeachment of Johnson and Clinton are statements of fact that can be checked in history books. However, saying that the purchase was “most important” is an opinion because there will always be disagreement about what is “important.”]
- 3. Determine the extent to which each piece of information fits the definition of fact or opinion.** Does it contain only fact, only opinion, or a combination of both? [The information about Jefferson is a combination of fact and opinion. The information about Johnson and Clinton is a statement of fact.]





## Analyze the Skill

Examine the following information in order to identify statements of fact and opinions.

- A.** Woodrow Wilson was the most well-educated President.
- B.** During President Wilson's illness, his wife took on some of his duties as President.
- C.** William Howard Taft was the only person to hold the offices of President of the United States and Chief Justice of the Supreme Court.
- D.** After women were given the right to vote, Warren G. Harding was elected President because he was more handsome than his opponent.
- E.** Andrew Johnson was the only President who never spent a single day in a school-room.
- F.** Abraham Lincoln is the only President who actively took on the role of commander in chief.
- G.** President Lyndon Johnson selflessly gave up his political career in the interest of the nation's welfare by not running for re-election in 1968.
- H.** Richard Nixon would have been impeached if he had not resigned first.
- I.** John Tyler was the first Vice President to become President through the death of a President.
- J.** Approving the purchase of the Alaska Territory was the most important action that Andrew Johnson took as President.
- K.** When Ronald Reagan was re-elected to a second term, he was the oldest person to serve as President of the United States.

## Skill Assessment

After you have identified the statements of fact and the opinions, answer the following questions.

- 1.** Pick one of the statements that includes an opinion and rewrite it so that it only states facts.
- 2.** Which of the following pairs of sentences includes only statements of fact? Explain your answer. **(a)** B and E **(b)** A and D **(c)** F and G
- 3.** Which of the following sentences includes only opinion? Explain your answer. **(a)** D **(b)** I **(c)** A.
- 4.** Which of the following sentences includes both statements of fact and opinion? Explain your answer. **(a)** D **(b)** A **(c)** C
- 5.** What is the difference between a statement of fact and an opinion?
- 6.** How does identifying facts and opinions help you in making good decisions?
- 7.** Identify two times when it would be helpful for you to identify statements of fact and opinions. Explain why.



# SOCIAL STUDIES SKILLS

## How to USE AN ALMANAC

In this chapter, you studied the powers and duties of the President of the United States. Suppose you wanted to find out more about our Presidents. For instance, who was the first President to take the Oath of Office in Washington, D.C.? How many Presidents have been assassinated? Information almanacs provide a quick and easy source of answers to questions such as these.

### Explain the Skill

Information almanacs are books that are published each year. The original purpose of an almanac was to record and predict events in the natural world, such as the rising and setting of the sun and moon, weather patterns, and the movement of tides. Traditionally, farmers relied on almanacs to help them plan their farming operations. One almanac that was popular in colonial times was *Poor Richard's Almanac*, which Benjamin Franklin began publishing in 1733.

Today's information almanacs cover a much wider range of subjects. These books are filled with information on topics ranging from Academy Awards and Africa to zip codes and zoos.

### Analyze the Skill

Almanacs are organized by topic. When you are searching for information in an almanac, begin with the table of contents. Here, you will find a list of topics along with the page numbers on which the topics are covered.

Here are some topics that might be listed in the table of contents of an almanac under the subject of United States Presidents.

#### Presidents, U.S.

- Ages, 495
- Assassinations and attempts, 517, 521
- Biographies, 516–34
- Birth, death dates, and sites, 495
- Burial sites, 555
- Cabinets, 203–5
- Constitutional powers, 533
- Families, 551
- Internet addresses, 566
- Portraits on currency, 387
- Qualifications, 599
- Salary, 176
- Succession law, 538, 541
- Veto, 95

### Skill Assessment

On which page or pages of this almanac would you look to find answers to the following questions?

1. Which Presidents are pictured on our money?
2. Which Presidents, if any, were born in your home state? Buried in your state?
3. How much is a President paid?
4. How many children did President Lincoln have?
5. Who served as Secretary of State during President Carter's administration?
6. How old was George Washington when he became President?
7. Who was the first President to be assassinated?
8. How old do you have to be in order to be elected President?

# CHAPTER 9 ASSESSMENT

## Building Civics Vocabulary

The vocabulary terms in each pair listed below are related to each other. For each pair, explain how the two terms are related.

Example: *President* is related to *executive order* because it is the President who has the power to make an executive order.

1. *bureaucracy* and *executive branch*
2. *executive agreements* and *treaties*
3. *Cabinet* and *administration*

## Reviewing Main Ideas and Skills

4. Describe three of the President's roles, and explain how the duties of each role require the President to work with Congress.
5. According to James Madison, what presidential power gave President Jefferson the right to purchase Louisiana?
6. **How to Distinguish Facts from Opinions** Which of the following are statements of fact? Which are opinions? (a) John F. Kennedy was the greatest President since World War II. (b) Under the Constitution, the President may be either a man or a woman. (c) George W. Bush was elected President in 2000.
7. **How to Use an Almanac** Look back at the list of topics on page 214. On what page would you find out about the qualifications for becoming President?

## Critical Thinking

8. **Defending a Position** Some people argue that our federal government interferes too much with the lives of citizens by enforcing so many laws and regulations. Do you agree or disagree? Support your opinion.

9. **Linking Past and Present** How have the duties of the President grown since the time of President Washington?

## Writing About Civics

10. **Writing an Essay** Look at the chart of executive departments on page 204. Choose one department and write an essay describing how the actions of this department affect your life.

## Citizenship Activities

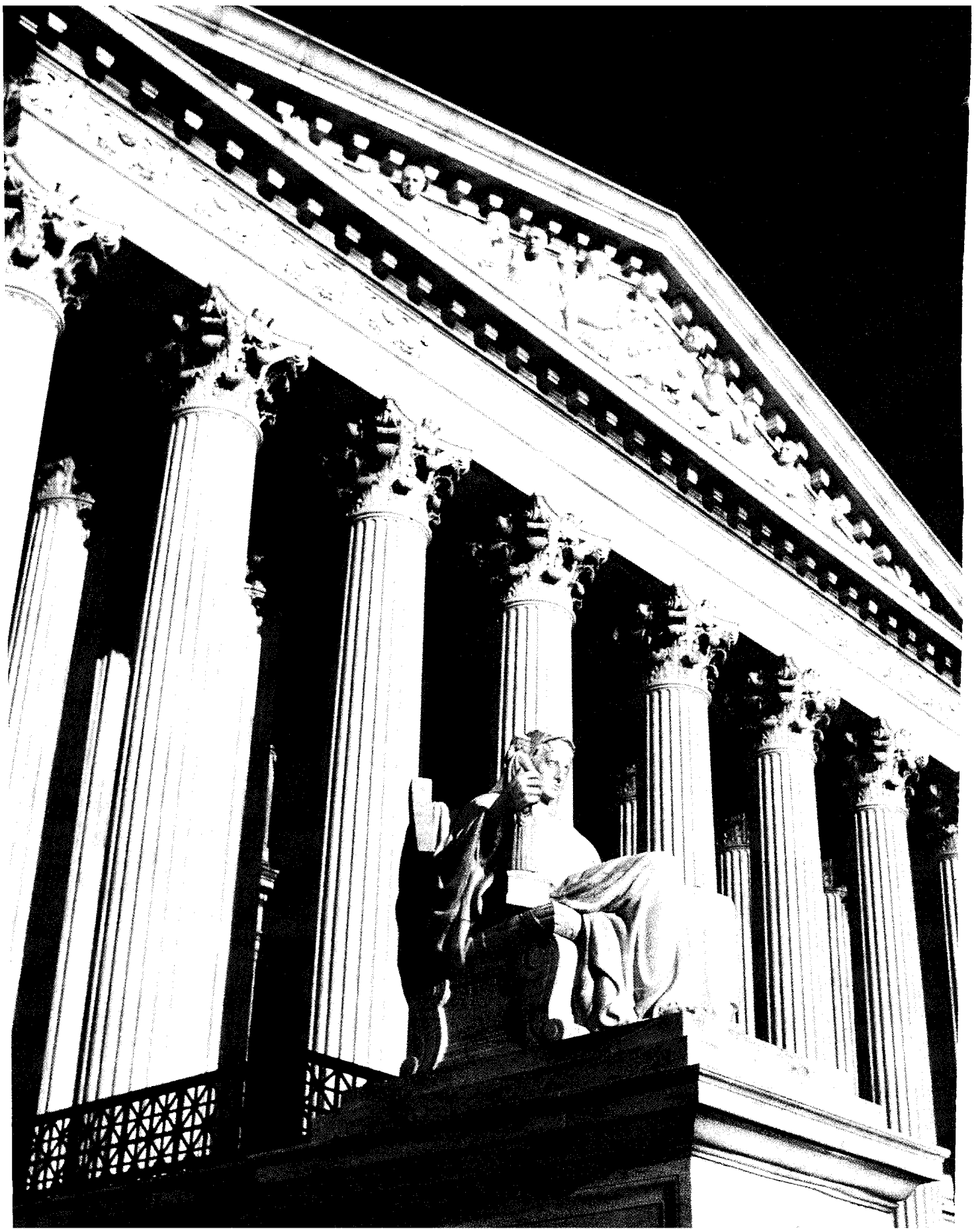
11. **Working in Groups** Working in small groups, create your own trivia game on Presidents of the United States. Write questions on small index cards and write the answers on the backs of the cards. Each group should come up with at least 10 questions. Some sources of interesting facts are almanacs, encyclopedias, and the Internet. Share your questions with your classmates and see if they can answer them.



## Take It to the NET

Access the **Civics: Participating in Government** Internet site at **[www.phschool.com](http://www.phschool.com)** for the specific URLs to complete the activity.

Use online information to research a current Cabinet department. What purpose does the department serve? Who is the department's leader? What part does the department play in current events? Use the information that you and your classmates have found to create a bulletin board display about the President's Cabinet.



## CHAPTER 10

# The Judicial Branch

### Citizenship and You

You are visiting the Supreme Court building in Washington, D.C. As you sit facing a long bench with nine dark leather chairs behind it, a clerk suddenly pounds a gavel and declares:

*The Honorable, the Chief Justice and the Associate Justices of the Supreme Court of the United States!...*

Everyone in the courtroom stands as the nine justices in black robes enter and take their seats behind the bench. You sit down quietly along with the rest of the audience.

A lawyer steps forward and begins arguing the first case of the day. Her client has been found guilty of first degree murder by a state court and sentenced to death. When he committed the crime, however, he was under the age of eighteen. The lawyer argues that a law allowing the death penalty for a person who has not yet reached adulthood is cruel and unusual punishment and therefore unconstitutional.

Next, the lawyer for the state presents his argument, justifying the state's law. The justices ask the lawyers many questions. Then the justices leave the courtroom to discuss their ruling privately. You wonder how the justices will decide this important case.

### What's Ahead in Chapter 10

In this chapter you will read about the judicial branch of the federal government. Led by the Supreme Court, the judicial branch judges federal laws and interprets the Constitution. In doing so, it helps protect the rights of American citizens.

#### Section 1 The Role of the Federal Courts

#### Section 2 The Organization of the Federal Courts

#### Section 3 The Supreme Court



### Keep It Current

Items marked with this logo are periodically updated on the Internet. To keep up-to-date, go to [www.phschool.com](http://www.phschool.com)

### *Citizen's Journal*

Suppose you were a Supreme Court justice. In one paragraph, describe the beliefs and principles that would guide your decisions. Keep your answer in mind as you read this chapter.

## SECTION 1

# The Role of the Federal Courts

### SECTION PREVIEW

#### Objectives

- Explain the need for laws and a legal system.
- Describe the role of courts in our legal system.
- Compare the roles of state and federal courts.

#### Building Civics Vocabulary

- The **plaintiff** is an individual or a group of people who bring a complaint against another party to court.
- The party who defends against a complaint is the **defendant**.
- A government body called the **prosecution** brings a criminal charge against a defendant.
- Court decisions can establish a **precedent**, or guideline for how similar cases should be decided in the future.
- The court to which a legal case first goes has **original jurisdiction**, or the authority to hear a case first.
- Plaintiffs or defendants have the right to **appeal**, or ask a higher court to review their case.
- Courts with **appellate jurisdiction** have the authority to hear an appeal.

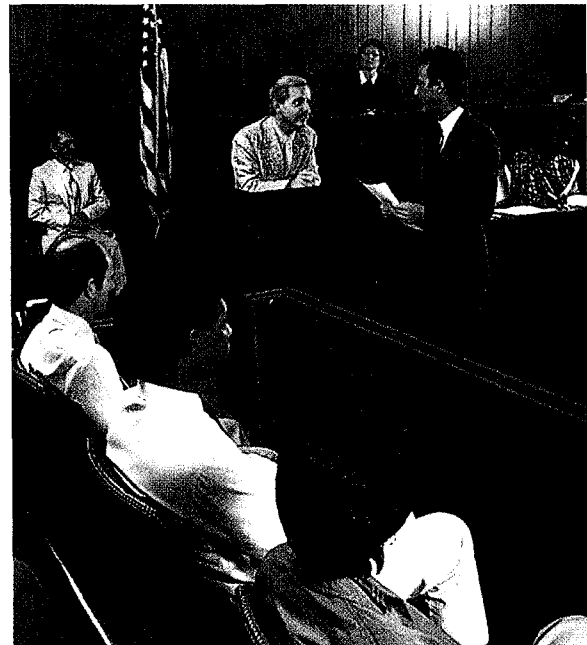


#### Focus

The judicial branch of the federal government is made up of the Supreme Court and over 100 other federal courts. The most important members of the judicial branch are judges. Although they work quietly, away from the hubbub of politics that surrounds the President and members of Congress, the judges of the judicial branch have a very important role in our government.

## Laws and Courts

In our society, disputes involving laws are resolved in the legal system. To understand the need for a legal system, consider the following example. A legislative body makes a law prohibiting one person from purposely damaging another's property. If a junior high student is then accused of throwing a baseball through someone else's window, several issues may have to be decided. Was the ball thrown on purpose? Has the law been broken? Is the accused person innocent or guilty? How shall the person who threw the baseball repay the person whose window was broken? These questions may be decided by the people involved in the incident, but if the matter is serious enough, it may have to be decided within the legal system.



The federal courts are part of a legal system that includes all the courts and laws in the United States. In this picture a trial is in progress.

## What Courts Do

Legal conflicts in our country are resolved by courts of law. All courts perform the same basic function: to apply the law to an actual situation.

Courts in our legal system resolve two kinds of legal conflicts. In a criminal case, a court determines whether a person accused of breaking a law is innocent or guilty. If the person is found guilty, the court also decides what the punishment will be.

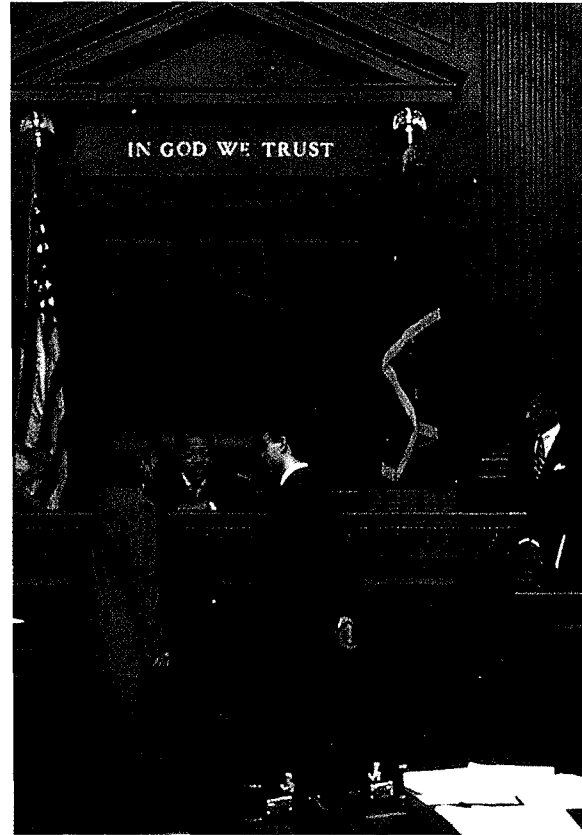
In a civil case, a court settles a disagreement. The disagreement can arise over such issues as who caused an auto accident or broke a contract, over a divorce, or over possible violations of constitutional rights. The federal courts hear both civil and criminal cases, and both kinds of cases can find their way to the Supreme Court.

**The Parties in the Conflict** Every court case involves two opposing sides, or parties. Who these parties are depends on whether the case is civil or criminal.

The typical civil case is brought to court by a party called the **plaintiff**, an individual or a group of people who bring a complaint against another party. The party who answers a complaint and defends against it is called the **defendant**. The defendant may be an individual, a group, or a government body.

Imagine that Mabel Edwards brought the Techno Corporation to court, claiming that the company had denied her a job because of her race. She would be the plaintiff in this civil case, and the company would be the defendant. The case would be called *Edwards v. The Techno Corporation*.

In contrast, a criminal case is always brought to court by the **prosecution**, a government body that brings a criminal charge against a defendant who is accused of breaking one of its laws. The prosecution is referred to as “The People” and is represented by a government lawyer known as a prosecutor.



Usually each party in a court case is represented by a lawyer. Here, two lawyers discuss their case with the judge.

What if Arlo Ashley was accused of robbing a convenience store in Lima, Ohio? The state of Ohio would bring him to court on charges of theft. In a criminal case, called *The People of the State of Ohio v. Ashley*, Arlo Ashley would be the defendant.

**The Members of the Court** In a court the job of a judge is to apply the law to the conflict between the plaintiff or prosecution and the defendant. This means determining which side’s argument is most in keeping with the law. The judge directs the proceedings but must remain neutral and not take sides in the conflict.

Many legal cases also involve a jury, which decides the facts of a case—such as

what happened and who did it. You may remember that a trial by jury is one of the rights guaranteed by the Constitution to a person accused of a crime.

**Interpreting the Law** In the process of hearing a case, a court may have to decide what the law in question means. For example, does a law banning “motor vehicles” in a park also ban radio-controlled model cars? A court may also have to decide if the law is allowed by the Constitution. This process of interpretation is an important job of the courts.

Although the legal system deals with individual cases, a court’s decision in a case can have very broad effects. This is because a court’s decision can establish a precedent, a guideline for how all similar cases should be decided in the future. A **precedent** makes the meaning of a law or the Constitution clearer. It also determines how the law should be applied, both inside and outside the legal system. For example, the Court’s decision in *Brown v. Board of Education* established a precedent that made any law segregating blacks and whites unconstitutional.

## State Courts and Federal Courts

Our legal system is made up of two separate but interconnected court systems—those of the states and that of the federal government. Although decisions that establish the broadest precedents are made in the highest federal courts, most legal cases begin in a lower court, often at the level of state government. To understand the federal court system, it helps to know about the state court system.

Each state has courts at different levels of government and courts for different purposes, such as traffic courts and juvenile courts. All of these courts are considered part of the state court system. Since most of the laws that govern our everyday actions are state and local laws, most legal disputes and violations of the law are decided in state courts.

**Jurisdiction** The court to which a legal case first goes has **original jurisdiction**, the authority to hear a case first. A court with original jurisdiction determines the facts in a case. Often this occurs during a trial conducted with a jury, but in certain cases a judge hears the case alone. Because they hold trials to resolve cases, courts with original jurisdiction are also called trial courts.

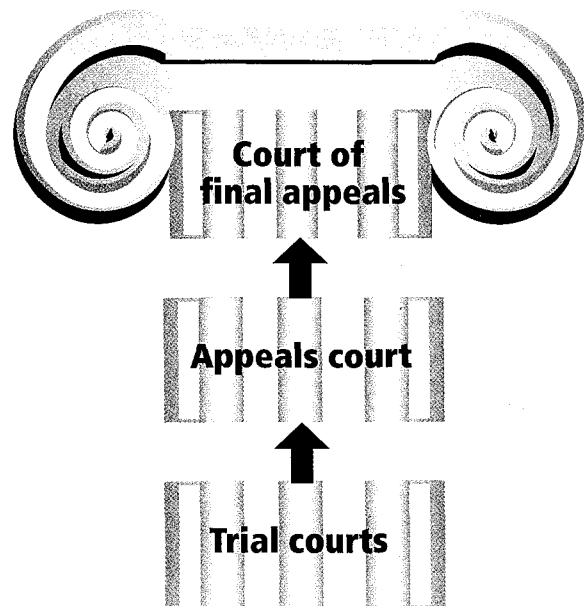
What happens if the court of original jurisdiction makes a decision that the plaintiff or defendant in the case believes is unjust? Then he or she has the right to **appeal**, to ask a higher court to review the decision and determine if justice was done. In each state, there are appeals courts set up just for the purpose of hearing cases appealed from lower state courts. These courts have **appellate jurisdiction**, the authority to hear an appeal.

An appeals court does not hold a trial, nor does it determine the facts in a case. Its



### A TYPICAL COURT SYSTEM

Most court systems have three levels. **Government Define** the three levels of a typical court system.





## CASES HEARD BY FEDERAL COURTS

The federal courts have jurisdiction over a wide range of cases. **Government** What kinds of federal law cases are heard by federal courts?

### Cases Heard by Federal Courts

Cases that raise constitutional questions

Cases involving federal laws, such as treason and tax evasion

Cases in which the federal government is the defendant

Disagreements between states

Disagreements between people from different states when more than \$75,000 is in dispute

Cases involving a foreign government and a state

Cases involving treaties signed by the United States

Cases involving American ships at sea

Cases involving ambassadors and other foreign representatives

Source: Administrative Office of the U.S. Courts

purpose is to review the legal issues involved, to determine if the law was applied fairly and if due process of law was followed.

An appeals court may decide to affirm, or let stand, the lower court's decision. However, if it decides that the trial was unfair for some reason, it may reverse the lower court's decision. When that happens, the appeals court may order another trial, which is held in the court of original jurisdiction. When a plaintiff is declared innocent, however, the prosecution may not appeal because the Constitution prohibits double jeopardy—being tried again for the same crime after being declared innocent.

The appeals process may go beyond the first appeals court. In most states, the final

court of appeals is the state supreme court. Although state court systems differ, most have three levels: trial courts, appeals courts, and a court of final appeals. You will learn how state courts work in Chapter 11.

**Cases Heard by Federal Courts** If state courts have original jurisdiction over most legal disputes that occur in the United States, then what is the purpose of federal courts?

Federal courts hear two kinds of cases:

- ★ *Cases involving federal laws and issues beyond the authority of individual states.* In these cases, the federal courts have original jurisdiction. See the chart on this page for a list of these kinds of cases.
- ★ *Cases appealed from state supreme courts.* These cases must involve a federal law or a constitutional issue. They are heard only by the Supreme Court.

The authority to hear cases appealed from the state court systems gives the United States Supreme Court and the federal judicial branch the leadership role in our legal system. In this role, the Supreme Court sees that all 50 state court systems interpret the Constitution in the same way and that the rights of all Americans are protected.

## Section 1 Assessment

1. **Define** plaintiff, defendant, prosecution, precedent, original jurisdiction, appeal, appellate jurisdiction
2. What is the purpose of our legal system?
3. What two kinds of cases are heard by the federal courts?
4. Describe the levels of a typical state court system.
5. **Analyze** Explain how a court's decision about an individual case can affect our society as a whole.



## SECTION 2

# The Organization of the Federal Courts

### SECTION PREVIEW

#### Objectives

- Describe the relationship between district courts and courts of appeals.
- Explain the role of the Supreme Court.
- Recognize the roles of special federal courts.
- Summarize the responsibilities of federal judges.



The Constitution creates the framework for the federal court system in Article III:

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

As you can see, the Constitution did not spell out how the inferior, or lower, courts would be set up. One of the first acts passed by the First Congress in 1789 was the Judiciary Act, which created the district courts and courts of appeals. Although many of the details of the Judiciary Act have since been changed, the federal court system it created is much the same more than 200 years later.

## The District Courts

The workhorses of the federal court system are the 94 district courts scattered across the United States. Each state has at least one district court, and some larger states have as many as four. The number of judges in one district court ranges from 1 to 28, depending on the size of the district and its workload.

As courts of original jurisdiction, the district courts are the first to hear cases such as

those involving kidnapping or a city's failure to obey federal air pollution standards.

Like a state trial court, witnesses are called, a jury normally decides the facts in the case, and one judge directs the proceedings and applies the law.

## The Courts of Appeals

At the next highest level of the federal court system are the 12 United States courts of appeals, which handle appeals from the federal district courts. Each court of appeals takes cases from a group of district courts within a particular geographic area called a circuit. In fact, the courts of appeals are often called circuit courts. A thirteenth court of appeals has appellate jurisdiction over cases appealed from certain special federal courts and agencies of the executive branch. It is called the Court of Appeals for the Federal Circuit.

A court of appeals has no jury, calls no witnesses, and does not examine any evidence. Instead, lawyers for the defendant and the plaintiff or prosecution make arguments in front of a panel of three judges. The judges decide either to affirm the lower court's decision or to reverse it. Like state appeals courts, the courts of appeals are not concerned with guilt or innocence—only with whether the original trial was fair and whether the law was interpreted correctly.

## The Supreme Court

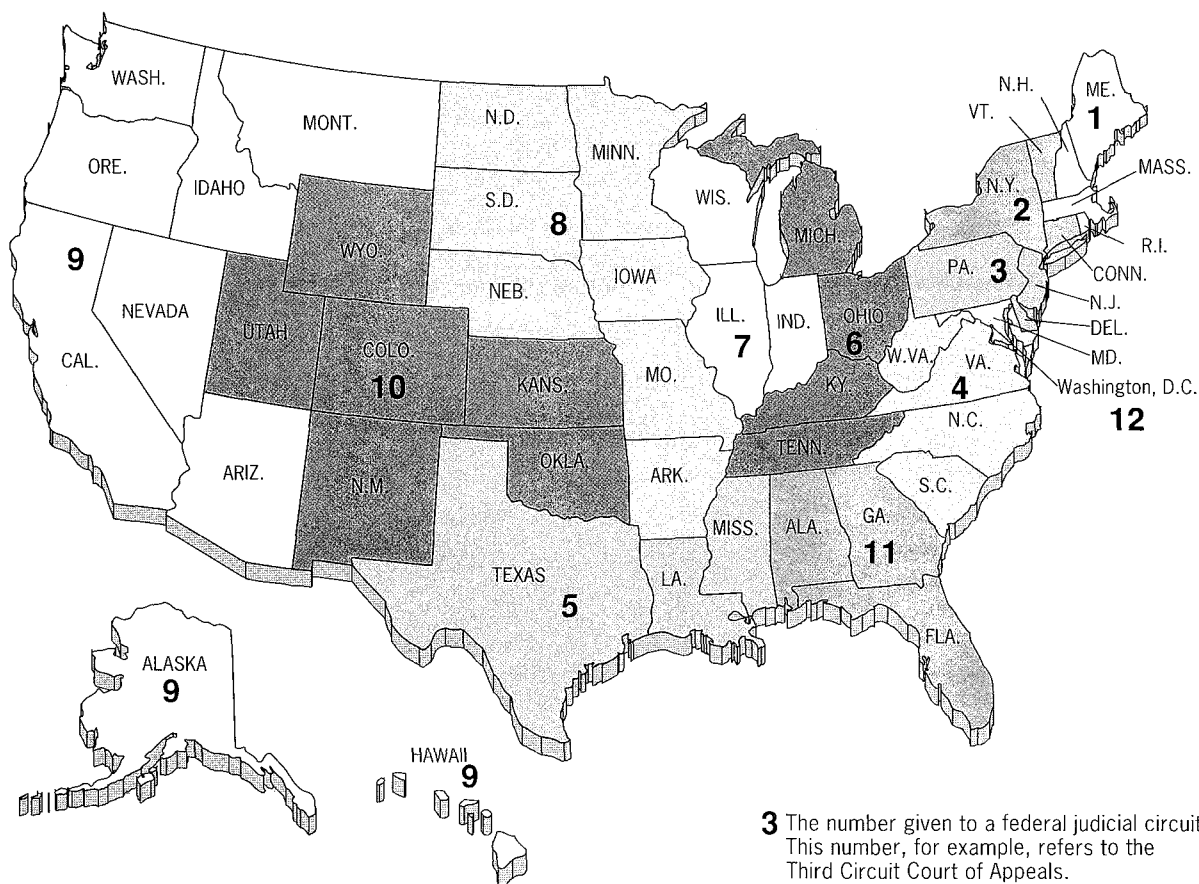
The Supreme Court is the highest court in the federal court system. The major purpose of the Supreme Court is to serve as the final court of appeals for both the state and federal court systems.

The Supreme Court, however, does have original jurisdiction over a few special kinds of cases, including those involving representatives of foreign governments and disputes between state governments. The role of the Supreme Court in the legal system and in the federal government is so important that it will be discussed again in this chapter.



## FEDERAL COURT CIRCUITS

The 50 states are divided into 12 regional circuits.  
Regions In which circuit is the state of Ohio?



**3** The number given to a federal judicial circuit. This number, for example, refers to the Third Circuit Court of Appeals.

## Special Federal Courts

The chart on the next page shows additional federal courts. These special courts include the Court of Claims, the Court of Customs and Patent Appeals, and the Tax Court. Each of these courts was established by Congress for a special purpose. Appeals from some of these courts are sent directly to the Supreme Court; others must first pass through a court of appeals or a higher special court.

## Federal Court Judges

Just as members of Congress do the work of the legislative branch, federal judges do the

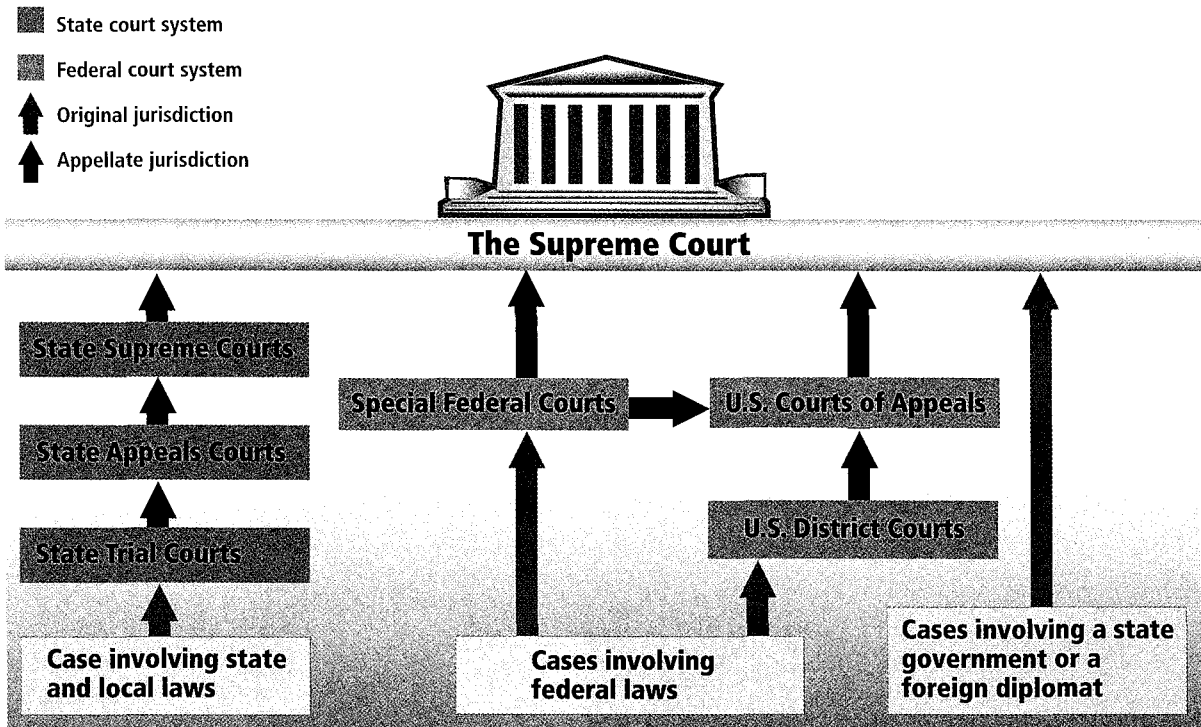
work of the judicial branch. A judge's role in government, however, is very different from that of a legislator.

A legislator is open to the influence of citizens, interest groups, other legislators, and the President. A judge, in contrast, must be impartial, favoring neither one party nor the other. A legislator seeks to solve broad problems by making laws, whereas a judge can only settle individual cases. By applying the law to specific cases, however, judges help define and clarify the work of legislators.

In part because judges' jobs are different from those of legislators, judges are selected

## THE STATE AND FEDERAL COURT SYSTEMS

Cases can reach the Supreme Court in several ways. **Government** Over which types of cases does the Supreme Court have original jurisdiction?



in a very different way. All federal judges in the district courts, courts of appeals, and Supreme Court are appointed by the President and confirmed by the Senate. They serve life terms and can be removed from office only by the impeachment process.

Federal judges shoulder great responsibility. They must balance the rights of individuals with the interests of the nation as a whole. Often they are forced to make decisions which seem fair to one side but unfair to the other.

Of all federal judges, the nine Supreme Court justices have the most responsibility. From time to time the entire nation waits in anticipation for them to make a decision. Although they are only deciding a specific

case, perhaps involving just one or two people, their decision may have very important consequences for the nation.

### Section 2 Assessment

1. What kind of jurisdiction does a federal district court have? A federal court of appeals?
2. What is the major purpose of the Supreme Court?
3. Describe two major differences between a federal judge and a member of Congress.
4. **Analyze** Why are federal judges appointed instead of being elected?

## SECTION 3

# The Supreme Court

### SECTION PREVIEW

#### Objectives

- Analyze the importance of judicial review.
- Summarize the Supreme Court's process of decision making.
- Examine the factors that can influence justices.
- Explain how and why the Court has changed throughout its history.
- Describe how the court's power is checked by the other branches of government.

#### Building Civics Vocabulary

- **Judicial review** is the power of the Supreme Court to overturn laws.
- **Judicial activism** is an effort by judges to play an active role in making policy.
- An effort by judges to avoid overturning laws is called **judicial restraint**.



“*The Constitution is what the judges say it is.*”

—Chief Justice Charles Evans Hughes

What are the rights of people accused of crimes? What kinds of punishment are “cruel and unusual”? What activities are protected by the right of free speech? When the Supreme Court is asked to decide cases that raise such constitutional questions, Americans can see the importance of the Court's role in our federal government.

Lower state and federal courts make rulings in cases that involve constitutional issues, but their rulings are not necessarily final. Only the Supreme Court has the final say about what the Constitution means and what laws it will allow. A Supreme Court decision establishes the broadest and longest-lasting kind of precedent in our legal system.

### Judicial Review

One of the most important powers of the Supreme Court is judicial review, the power to overturn any law which the Court decides is in conflict with the Constitution. Judicial review gives the judicial branch final say over the validity of any law. Judicial review, however, is not spelled out in the Constitution. The Supreme Court asserted this power for itself early in its history.

As you have learned, every court of law is limited to dealing with individual cases. A court can interpret law only as it relates to the specific case it is hearing. The Supreme Court could not simply declare one day that it had the power of judicial review. It had to do so in relation to a particular case.

**Marbury v. Madison** In 1803, William Marbury sued James Madison, then serving as Secretary of State. Marbury demanded that Madison grant him a government job he had been promised by the previous President, John Adams. Marbury brought his case directly to the Supreme Court because the Judiciary Act of 1789 gave the Court original jurisdiction in such matters. Rather than decide whether Marbury should be given the job, the Supreme Court instead focused its attention on the law that had allowed Marbury to bring his case before the Court in the first place.

The problem, said the Court, was that Congress, in the Judiciary Act, had given the Court original jurisdiction in cases involving government officials. The Constitution,

however, clearly gave the Supreme Court only appellate jurisdiction in such cases. Therefore, the Court decided, the part of the Judiciary Act that gave the Court original jurisdiction in *Marbury's* case was unconstitutional.

Chief Justice John Marshall wrote the Court's opinion on this decision. He argued that because the Supreme Court had a sworn duty to uphold the Constitution, it also had a responsibility to declare unconstitutional any law that violated the Constitution.

The Court's decision in *Marbury v. Madison* established a precedent that gave the Supreme Court one of its most important powers. Judicial review was extended in later cases to cover acts of the executive branch and of the states. Since 1803, over



John Marshall, Chief Justice for 34 years, helped to shape the Supreme Court we know today. He wrote the opinion in *Marbury v. Madison*.

1,000 state and local laws and over 100 federal laws have been overturned as a result of the Supreme Court's use of judicial review.

## The Justices

If the justices of the Supreme Court are to use the power of judicial review in a way that defends the Constitution and promotes the common good, they must have the highest moral standards. They must also have a thorough knowledge of the law, the Constitution, and American history.

Although the Constitution lists no qualifications for the position of Supreme Court justice, the way justices are selected helps ensure that they will be qualified for the job. The President chooses a justice from among the most respected judges, lawyers, and legal scholars in the country. Then the Senate must approve the President's appointment.

Of the 108 justices who have served on the Court, all but four have been white men. Two of the exceptions are Thurgood Marshall and Clarence Thomas, African American men appointed in 1967 and 1991. The other two are Sandra Day O'Connor and Ruth Bader Ginsburg, white women appointed in 1981 and 1994. The Chief Justice earns \$186,300 a year, and associate justices \$178,300.

## The Work of the Supreme Court

The decisions of the nine justices of the Supreme Court can affect the lives of millions of people. How do the justices make sure their decisions are carefully reasoned and fair?

**Selecting Cases** Each year, the Court chooses which cases to hear. By law, it must hear certain kinds of appeals from federal and state courts that involve the federal government or federal laws. It must also hear the few cases over which it has original



The Supreme Court justices in a recent portrait: (standing, left to right) Ruth Bader Ginsburg, David Souter, Clarence Thomas, Stephen Breyer; (sitting, left to right) Antonin Scalia, John Paul Stevens, Chief Justice William Rehnquist, Sandra Day O'Connor, Anthony Kennedy.

jurisdiction. The remainder of the cases it hears each year are chosen from among the more than 7,000 requests for appeal it receives from lower courts in both the state and federal court systems. The cases the Court chooses are generally those that raise the most important constitutional issues.

**Hearing Arguments** When a case is put on the Court's calendar, each side in the case submits briefs, or written arguments. The justices study the briefs and other records of the case carefully. Then attorneys for each side present oral arguments before the Court. There are strict time limits on these arguments: each attorney is given half an hour. The justices usually ask many questions of the attorneys to challenge and clarify their arguments.

**Making a Decision** After hearing oral arguments for a case, the Court meets in conference to discuss that case and vote on it. Only the justices are allowed to attend. The Chief Justice leads the discussion of each case, summarizing it and offering an opinion. Then each justice has an opportunity to comment. Finally, the Chief Justice calls for a vote. A simple majority decides the case, although justices may change their votes during the opinion-writing.

**Writing Opinions** Most Supreme Court decisions are accompanied by an opinion, a written statement explaining the reasons for the decision. A Supreme Court opinion shows exactly how the law must be applied, or how the Constitution must be interpreted in a specific situation.

The Court's opinion in a case, called the majority opinion, is written by one of the justices in the majority—the winning side of the vote. A draft of the opinion is circulated among the justices and often modified to keep the support of the other justices in the majority.

A justice who agrees with the majority opinion but has different reasons for supporting it may write a concurring opinion. A justice who does not agree with the majority's decision may write a dissenting opinion.

After all opinions have been written and finalized, the justices announce their final decision. Then copies of the opinions are distributed to news reporters.

## Influences on Judicial Decision Making

What factors can influence how the justices vote when they decide a case? Like any judge, a justice is most concerned with the law and

how it has been applied up to that point. The justices firmly believe that laws and the Constitution reflect the will of the people.

The justices, therefore, carefully review the laws involved in each case. They must consider all related precedents that have been established by any court. Precedent is always a factor in a justice's decision because a basic principle of the American legal system is to respect past judicial decisions. In this way we develop a consistent body of law.

The justices also try to determine the intentions of lawmakers at the time they made a particular law. For a constitutional question, for example, the justices may read historical documents such as *The Federalist* to try to determine the intent of the framers.

The issues the Court must decide—such as abortion, discrimination, and prayer in the schools—tend to be those about which people feel strongly. Although Supreme Court justices try to be impartial and to respect precedent, it can be difficult for them

to put aside their personal views completely. The justices, after all, are only human.

Knowing that the personal views of Supreme Court justices can affect their decisions, Presidents will naturally try to appoint to the Court people who agree with their political views. A President hopes that if the appointee becomes a justice, he or she will favor the President's position on important issues.

## A Changing Court

Throughout its history, the Supreme Court has gone through important changes in how it views its role in government and how it interprets the Constitution. These changes have been the result of shifts in public opinion and in the justices' own personal beliefs.

In Chapter 7 you read about cases that showed how the Supreme Court's decisions have changed over time. The Court's view of citizenship and voting rights, for example, has changed greatly in the past 150 years.

Since the 1950s, the Court has seemed to have had three different "personalities," each reflecting the views of the Chief Justice at the time. From 1953 to 1969, the Supreme Court was called the "Warren Court" after its Chief Justice, Earl Warren. The Warren Court was known for its active defense of the rights of people accused of crimes.

One of the Warren Court's noted decisions was in the case of *Miranda v. Arizona*. In this case, the Court ruled that when a person is arrested, police must inform him or her of the constitutional rights to remain silent and to have the advice of a lawyer. The decisions of the Warren Court are examples of what is called **judicial activism**, an effort by judges to take an active role in policy making by overturning laws relatively often.

From 1969 to 1986, Warren Burger was Chief Justice. The decisions of the "Burger Court" differed from those of the Warren

## Facts & Quotes

### The Conference Handshake

Before the justices meet to hear a case or to discuss a decision, each justice shakes hands with the other eight. This traditional practice, called the "conference handshake," was begun by Chief Justice Melville Fuller in the late 1800s. Its purpose is to remind the justices that differences of opinion do not mean that the Court cannot carry out its mission to promote "equal justice under law."

## Louis Brandeis

**R**arely has a Supreme Court justice been as outspoken an advocate of poor people and workers as was Justice Louis Brandeis. During his 22 years on the Supreme Court, Brandeis worked for social and economic reform, often dissenting from the majority vote to stand up for what he saw as being morally and legally correct.

Louis Dembitz Brandeis was born in 1856 in Louisville, Kentucky, the son of Jewish immigrants from what is now the Czech Republic. A brilliant student, Brandeis entered Harvard Law School when he was 18. He graduated in 1877 with the highest average in the law school's history.

With a friend, Brandeis began a successful law prac-

tice in Boston, which soon made him wealthy.

However, Brandeis chose to protect the rights of the average American, often arguing cases without charging fees for his services. He supported public causes so actively that he soon became known throughout the nation as the "people's attorney."

In 1916, President Woodrow Wilson nominated Brandeis to the Supreme Court. Brandeis



became the first Jewish Supreme Court justice in the nation's history.

As a justice, Brandeis's commitment to protecting the rights of working people was reflected in his decisions on cases. Brandeis supported unions and small business, and he argued for a balance of economic power between owners and employees.

Above all, Brandeis was committed to promoting individual liberty. He believed that liberty is "the secret of happiness, and courage [is]...the secret of liberty."

### Recognizing Viewpoints

What principles guided Brandeis during his years as a Supreme Court justice?

Court in that they were often characterized by **judicial restraint**, an effort by judges to avoid overturning laws and to leave policy-making up to the other two branches of government. The Burger Court, however, made one of the most controversial decisions of the twentieth century in the case of *Roe v. Wade*. In this case the Supreme Court said

that no state could make a law that forbids a woman to have an abortion.

The Court today is often called the "Rehnquist Court," after Chief Justice William Rehnquist. The Rehnquist Court has made a number of important decisions limiting the federal government's authority over the states.



## The Court and the Other Branches of Government

Judicial review gives the Supreme Court an important check on the power of the legislative and the executive branches. Although some people argue that appointed judges should not have what amounts to veto power over laws passed by elected legislators, nearly everyone agrees that the overall system of checks and balances prevents even the most active Court from abusing its power.

**The President's Power** One of the checks on the Supreme Court is the President's power to appoint justices. This extremely important power, however, can be exercised only when a justice dies or retires, creating an opening on the Court. President Carter, for example, was not able to appoint a single Supreme Court justice. President Reagan, in contrast, appointed three justices—Sandra Day O'Connor, Antonin Scalia, and Anthony Kennedy. President George H. W. Bush appointed David Souter and Clarence Thomas; President Clinton appointed Ruth Bader Ginsburg and Stephen Breyer.

**The Power of Congress** The Senate can check the power of both the President and the Supreme Court by refusing to confirm presidential appointments to the Supreme Court. In this way, Congress can weed out appointees who, it believes, are unsuited for the job, or who have beliefs contrary to those of the majority of Americans.

Public opinion can play an important role in the Senate's confirmation process because senators must be responsive to their constituents. Out of the 148 people who have been nominated by a President to be a Supreme Court justice, 30 have not been confirmed.



The Senate rejected Robert Bork's nomination as Supreme Court justice. He is shown during confirmation hearings in the Senate.

Occasionally, a Supreme Court appointee becomes the focus of a political battle between the other two branches of government. Such a battle occurred in 1987 when President Reagan appointed Robert Bork. After four months of hearings, the Senate refused to confirm Bork. His opponents convinced many Americans and a majority of senators that his views were outside of the mainstream.

In 1991 Clarence Thomas, appointed by President George H. W. Bush, also faced intense questioning by the Senate Judiciary Committee. Thomas, however, was confirmed in a close vote.

Another important way that Congress can check the power of the Court is to begin the process that could result in a constitutional amendment. If ratified by the states, an amendment proposed by Congress can nullify, or cancel out, a Supreme Court decision. When the Fourteenth Amendment was ratified in 1868, for example, it nullified the Supreme Court's decision in the Dred Scott case.

**Citizen Participation** Because of the system of checks and balances, no branch of government has final, or ultimate, power over another. Citizens, therefore, always have at least one avenue through which they can try to influence policies. If the Supreme Court, for example, makes a decision that goes against the wishes of a majority of Americans, citizens can always turn to Congress and the amendment process, or they can elect a President who promises to appoint justices whose ideas they like. If citizens wish to make such changes happen, however, they must do more than hold a view—they must participate in government.

## Section 3 Assessment

1. Define **judicial review**, **judicial activism**, **judicial restraint**
2. How did the case *Marbury v. Madison* allow the Supreme Court to assert the power of judicial review?
3. When will a justice write a dissenting opinion?
4. For what was the Warren Court known?
5. What two checks does Congress have on the Supreme Court?
6. **Synthesize** Why is the Supreme Court called the “highest court in the land”?

## Extending the Chapter

### Global Views

**T**he government of every nation in the world makes use of some kind of judicial system to apply and interpret its laws. Not every nation, however, has given its highest national court the kind of power exercised by the Supreme Court of the United States.

One hundred and fifty years ago, the Supreme Court was the only court of its kind in the world. It was then that the French writer Alexis de Tocqueville traveled to the United States to observe how our government worked. Later he wrote about the Supreme Court he had studied in America:

*I am not aware that any nation of the globe has heretofore [up to now] organized a judicial power in the same manner as the*

*Americans...A more imposing judicial power was never constituted by any people.*

Since de Tocqueville's time, many nations have used our Supreme Court as a model for creating their own national high court. Today, a number of nations, including Japan and Australia, have high courts with the power of judicial review—the authority to overturn laws made by legislatures.

In the remainder of the world's countries, in contrast, the final authority for deciding the validity of laws belongs to the legislature that creates the laws. This is true in Great Britain and many of the world's other democracies. Courts in these countries apply the laws and interpret them, but they cannot declare a law invalid.

## Jerry Gault and Juvenile Rights

**O**n June 15, 1964, fifteen-year-old Gerald Gault, called Jerry, was sentenced to six years of confinement in the Arizona Industrial School for juvenile delinquents. If Jerry had been over eighteen, his punishment would have been no greater than a fifty dollar fine or two months in jail.

Jerry's experience with the legal system had begun earlier that month. Jerry's neighbor, Mrs. Cook, reported to the police that Jerry and a friend had made "lewd and indecent" remarks to her over the telephone. Jerry was arrested, and after two hearings a juvenile court judge decided that Jerry had violated an Arizona law. The law prohibited anyone from using "vulgar, abusive, or obscene language" in the hearing of a woman or a child.

Neither Jerry nor his parents, however, had received official notice of the two hearings at which Jerry's guilt and punishment were determined. Mrs. Cook was not present at either hearing and was never questioned. Jerry confessed at his hearings that he was involved in the incident, but no lawyer

was present to plead Jerry's case before the judge.

Mr. and Mrs. Gault filed a petition with the Arizona State Supreme Court asking that Jerry be released. They argued that their son had been denied the due process

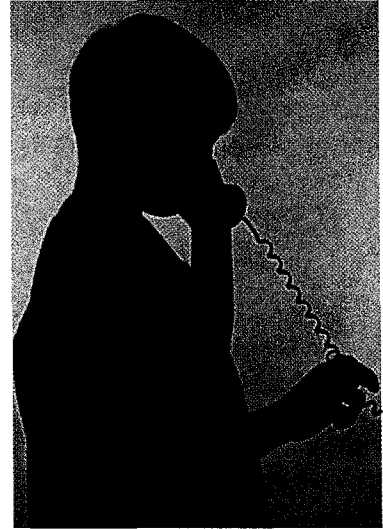
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***Mrs. Cook was not present at either hearing and was never questioned about the incident.***

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of law guaranteed by the Constitution. Jerry had not been told of his right to remain silent, said the Gaults, nor had he been properly informed of the charges against him. He was also denied both the right to question the person who accused him and the right to have the help of a lawyer.

The Arizona Supreme Court, however, denied the Gaults' request for Jerry's release. The court believed that ever since special courts for juveniles were estab-



lished, "wide differences have been tolerated—indeed insisted upon—between the...rights [given] to adults and those of juveniles."

What the court was referring to was an established policy of treating juveniles in the criminal justice system differently from adults. This policy had developed out of a concern in the late 1800s that youths were being given long prison terms and mixed in jails with hardened adult criminals. Legal reformers had called for special juvenile courts and procedures to protect youngsters from such treatment. Concluding that the existence of a special juvenile justice system allowed

youths to be treated differently, the court ruled that Jerry had not been denied his constitutional rights to due process.

Still convinced that their son had been treated unfairly, the Gaults appealed the Arizona court's decision to the United States Supreme Court. After reviewing the record, the Supreme Court reversed the Arizona court's decision. It said that Jerry had indeed been deprived of his constitutional rights in the juvenile court hearings. The Court stated that "neither man nor child can be allowed to stand condemned by methods that flout [ignore] constitutional requirements of due process."

The Court first of all rejected the state court's decision that proper notice, as required by the Sixth Amendment, had been given to the Gaults. The Court declared that due process "does not allow a hearing to be held in which a youth's freedom and his parents' right to custody are at stake" without official notice of all charges being given in advance.

The Court also concluded that Jerry had been deprived

of his Fifth Amendment right to remain silent when questioned by authorities. The Court said that "it would indeed be surprising if the privilege against self-incrimination were available to hardened criminals but not to children." Because Jerry had not been informed of this right to remain silent, any confession he may have made could not be used as evidence against him, said the Court.

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***"neither man  
nor child can be  
allowed to stand  
condemned by  
methods that  
flout [ignore]  
constitutional  
requirements of  
due process."***

---

In addition, the Court ruled that Jerry had been denied his Sixth Amendment right to face and cross-examine all witnesses. In this case, Mrs. Cook, who had made the accusations, was not even present at either of

Jerry's hearings in juvenile court. Due process, said the Court, requires that the right to cross-examine be given to juveniles as well as to adults.

Finally, the Supreme Court ruled that Jerry had been deprived of his Sixth Amendment right to have a lawyer assist him in his defense. The Court concluded that where freedom is in question, "the child requires the guiding hand of counsel at every step of the proceedings against him."

### **Analyzing the Case**

1. According to the Supreme Court decision, which due process rights was Jerry denied?
2. Which two lower courts had their decisions reversed by the decision of the United States Supreme Court?
3. In your opinion, if Jerry had been given all of his due process rights but still had been found guilty of violating the law, should he have been given a six-year sentence? In general, do you think juveniles should be treated differently from adults?

## How to ANALYZE NEWSPAPER EDITORIALS

As you learned in this chapter, the Supreme Court often hears cases about controversial issues. When such a case is before the Court, newspaper editors often print editorials about the case. In editorials, newspaper editors express their opinion on issues in the news.

### Explain the Skill

On this page, you will read parts of two editorials, one from *The Los Angeles Times* and one from *The New York Times*. Both editorials deal with a series of 1999 Supreme Court cases in which the Court was asked to interpret the Americans with Disabilities Act (ADA). Though the cases were complex, the question before the Court was straightforward: Should people with treatable conditions such as high blood pressure be considered “disabled” and thus be entitled to special protection under the law?

### Analyze the Skill

*The Los Angeles Times* printed an editorial on this issue on April 26, 1999.

The Americans with Disabilities Act has made streets, offices, mass transportation and most public and private facilities accessible to countless numbers of people in wheelchairs....Now, the U.S. Supreme Court, in a series of cases slated for argument in the next two weeks, is invited to broaden the definition of “disabilities” to include common treatable impairments suffered by tens of millions, among them nearsightedness and high blood pressure. The court should decline the invitation....

A part of the nation’s civil rights legislation, the ADA was conceived as a weapon

against prejudice and discrimination. It was not designed to create remedies for aggrieved [offended] employees or allow every form of common impairment to be treated as a protected disability. Going beyond the legislation’s goal would serve nobody.

On April 20, the editors of *The New York Times* expressed their opinion on this issue.

Nearly a decade after it was enthusiastically signed into law by President George H. W. Bush, the Americans with Disabilities Act faces a major review by the Supreme Court. Over the next two weeks, the justices are to hear four cases that will help define the true dimensions of the law. The Court’s role should be to reaffirm the nation’s commitment to fair treatment of people with some kind of physical or mental impairment....

It may seem absurd to find that nearsightedness and hypertension [high blood pressure] are “disabilities” entitled to anti-discrimination protection. But the legislation calls for an expansive [broad] interpretation, and for a very good reason. What would be truly unfair would be for the Court to rule that people with corrected impairments are too disabled to hold a particular job but not disabled enough to bring suit under the Disabilities Act to show that they were improperly rejected.

### Skill Assessment

1. Summarize the opinion presented in *The Los Angeles Times* editorial.
2. Summarize the opinion presented in *The New York Times* editorial.
3. How do the arguments presented in these editorials differ? Which do you agree with, and why?

# CHAPTER 10 ASSESSMENT

## Building Civics Vocabulary

The vocabulary terms in each pair listed below are related to each other. For each pair, explain how the two terms are related.

Example: The *plaintiff* and the *prosecution* both bring cases to court—the plaintiff to civil court and the prosecution to criminal court.

1. *original jurisdiction* and *appellate jurisdiction*
2. *plaintiff* and *defendant*
3. *prosecution* and *defendant*
4. *precedent* and *judicial restraint*

## Reviewing Main Ideas and Skills

5. How are the state and federal court systems connected?
6. Describe the job of an appeals court.
7. Explain the power of judicial review. In which Supreme Court case was it established as a precedent?
8. What check does the President have on the power of the Supreme Court? What check does Congress have on the power of the Court?
9. **How to Analyze Newspaper Editorials** Select an editorial from your local newspaper. Summarize the issue being discussed and the opinion of the newspaper editors. State whether you agree or disagree with the editorial and give your reasons.

## Critical Thinking

10. **Analyzing Ideas** What advantages would there be to electing Supreme Court justices instead of having Presidents appoint them? What would the disadvantages be?

11. **Linking Past and Present** Think about the Supreme Court cases discussed in this chapter and in previous chapters. Select one and describe how it impacts life in the United States today.

## Writing About Civics

12. **Writing an Essay** Write a short essay describing the difference between judicial activism and judicial restraint. If you were a Supreme Court justice, which of these philosophies would you follow? Why?

## Citizenship Activities

13. **Working in Groups** Working in groups of two or three, research a law that was declared unconstitutional by the Supreme Court. Good sources include the Internet, encyclopedias, and books on the Court. Prepare a presentation. Tell your classmates what the law was and why the Court declared it unconstitutional.



## Take It to the NET

Access the **Civics: Participating in Government** Internet site at **[www.phschool.com](http://www.phschool.com)** for the specific URLs to complete the activity.

Select a Supreme Court justice to research. Write a short biography of the justice you have selected. Share your biography with your classmates, then organize a class discussion comparing the justices' backgrounds and viewpoints.

## A Congresswoman and Her Constituents

*Representative Constance A. Morella, a Republican from Maryland, was elected to the House of Representatives in 1986. Her congressional district includes the Maryland suburbs of Washington, D.C. Morella taught college students for fifteen years, and proposed legislation to give students college scholarships in exchange for service in the Peace Corps. In addition to her interest in education, she has focused on such issues as technology around the world and benefits for federal workers.*

*Before you read the selection, find the meaning of this word in a dictionary: constituent.*

I feel very fortunate to represent the very diverse eighth district of Maryland. The 654,000 people in my congressional district reflect a wide range of interests, with concerns that span every issue affected by the federal government....

Every member of Congress has at least two offices and two personal residences—one in the Washington, D.C., area and one in his or her congressional district. Most members of Congress use Fridays and the weekends to fly back to their home districts and meet with constituents....



Because I live only a half hour away from the Capitol, I drive back to my own district every evening. Every day, I try to participate in community functions, attend breakfast meetings, and meet those who visit my office....

Between my two offices, I receive several hundred letters and almost 1,000 phone calls a week—about twice the number of other representatives. I take my phone messages and mail very seriously. Unlike vague data from polls, personal and written contact gives me direct, reliable information on my constituents' opinions. Every piece of correspondence is answered in either Washington or the district office....

When I ran for Congress in 1986,...I found that getting

elected is difficult, but that the true challenge is doing the very best job possible of representing constituents....

I hope each of you will register to vote when you turn eighteen and then exercise that right regularly. I also expect many of you to consider running for office, either on local, state, or federal levels. Who knows, maybe someday you will be a member of Congress. It's the greatest honor any citizen could have.

*Source: Perspectives: Readings on Contemporary American Government (Alexandria, Va.: Close Up Foundation, 1993), pages 56–58.*

### Analyzing Primary Sources

1. In what ways does Representative Morella keep in touch with her constituents?
2. In Representative Morella's opinion, what are some things citizens can do to be active politically?

# UNIT 3 ASSESSMENT

## Reviewing Main Ideas

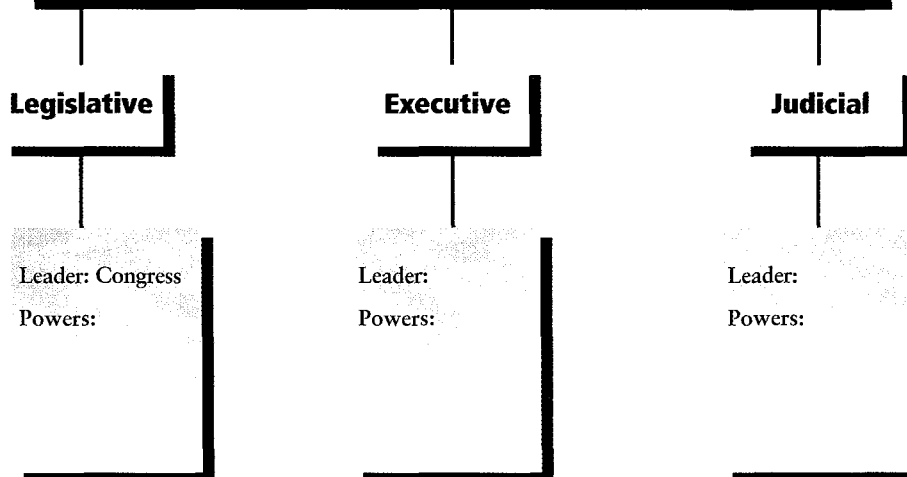
1. The following are events in the life of a law. Write them in the correct time order.
  - (a) The President signs the bill into law.
  - (b) The citizen appeals the court decision to a federal court of appeals.
  - (c) Both houses of Congress pass the bill.
  - (d) A senator writes the proposed law as a bill.
  - (e) The President proposes the law.
  - (f) A federal district court finds a citizen guilty of violating the law.
  - (g) The President gives an executive department authority to enforce the law.
2. For each of the following events, tell which branches of the federal government play an *active* role.
  - (a) A Supreme Court justice is appointed and confirmed.
  - (b) A law is declared unconstitutional.
  - (c) A treaty is signed and approved.
  - (d) War has not been declared, but troops are sent to a foreign country for two weeks.
3. Choose two of the three branches of the federal government. Describe the checks each branch has on the power of the other. What is the importance of each of these checks?

## Summarizing the Unit

The tree map below will help you organize the main ideas of Unit 3. Copy it onto a separate sheet of paper. Review the unit and complete the tree map by naming the leader of each branch of government

(the first one is done for you) and listing some of the powers granted to each branch. Then write a short essay describing why the framers chose to divide power between three branches of government.

### The Three Branches of American Government





# TOWN HALL

## UNIT 4

TOWN OFFICES

