

UNIT

2

CHAPTER 5

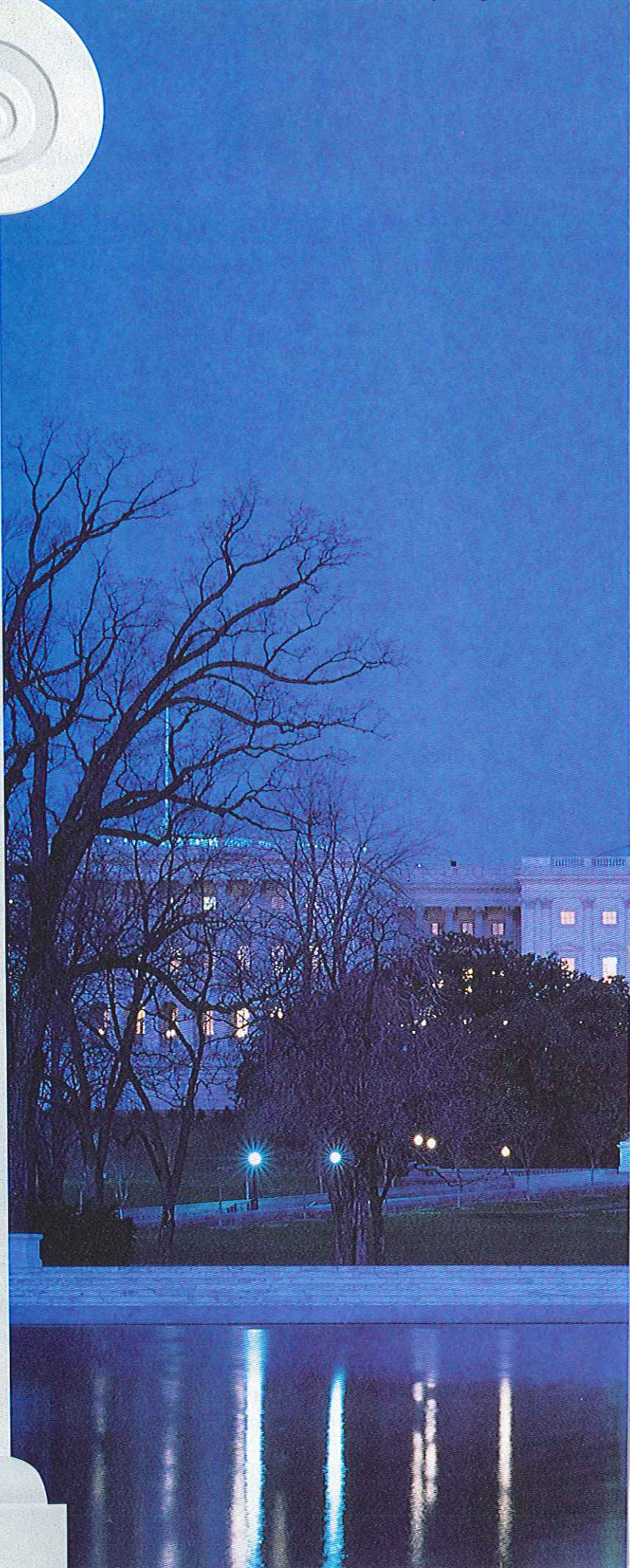
ROLE AND POWERS OF CONGRESS

CHAPTER 6

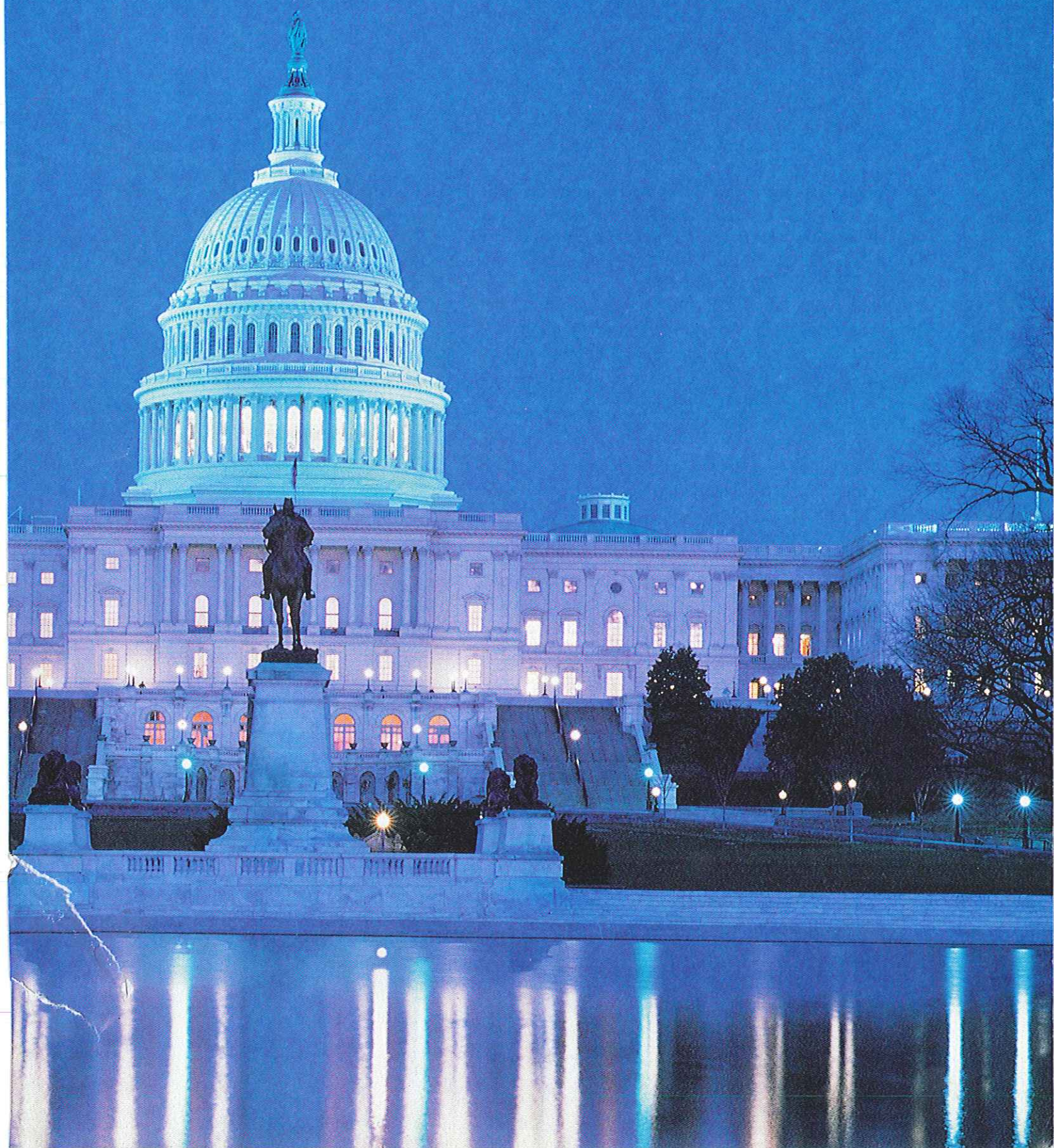
CONGRESS AT WORK

PUBLIC POLICY LAB

Should you be able to vote at age 18 or not until age 21? Find out by reading this unit and taking the Public Policy Lab challenge on pages 136–39.



THE LEGISLATIVE BRANCH



CHAPTER 5

ROLE AND POWERS OF CONGRESS

Unlike the capitals of Europe—which had grown as important cities for hundreds of years before becoming centers of government—Washington, D.C., was a planned city. It was designed in 1791 by French architect Pierre-Charles L'Enfant, with the help of Benjamin Banneker and other surveyors, under the direction of the leaders of the new American nation.

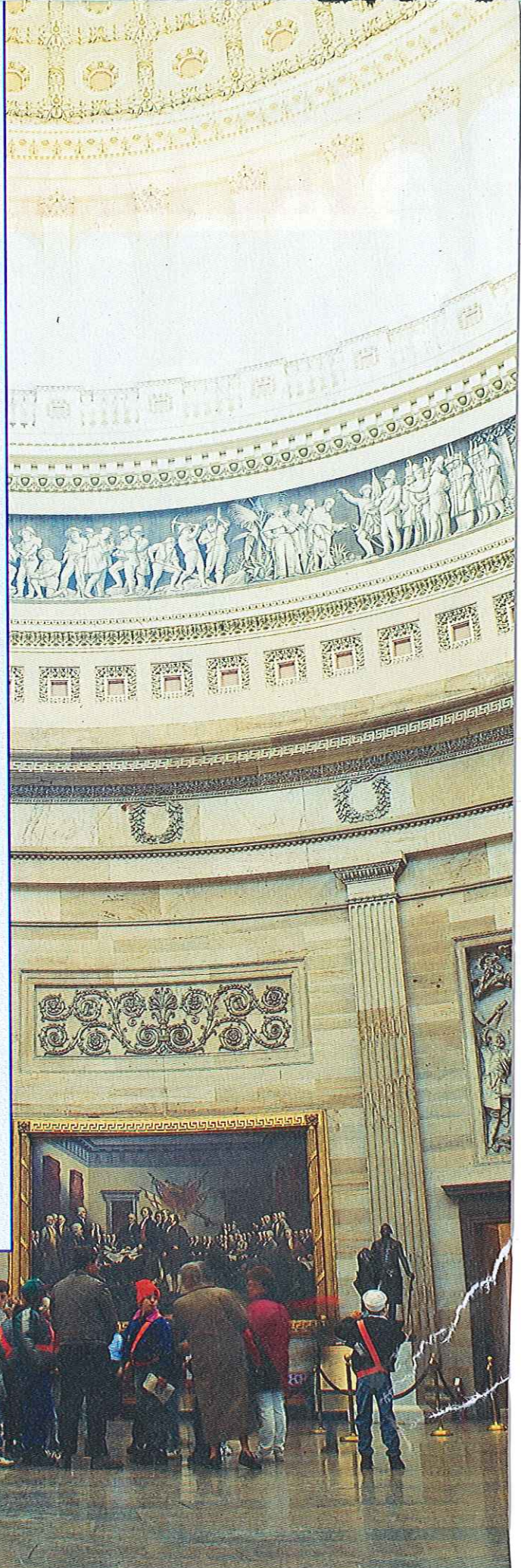
The city was located on an area of flat and marshy land carved from Maryland. When writing about his plan, L'Enfant described a hill in the area as a “pedestal waiting for a monument.” On that pedestal, he placed the home of neither the president nor the Supreme Court, but that of Congress. This was a deliberate statement about the importance that the framers gave to the national legislature, which—the framers believed—would be closest to the people.

Although it has changed greatly since L'Enfant chose its location, Congress remains a vital part of the federal government. This chapter looks at the roles, houses, members, and powers of this important legislative body.



Government Notebook

In your Government Notebook, describe what characteristics and qualifications you think members of Congress should have in order to carry out their work.



SECTION 1

ROLE OF CONGRESS

Political Dictionary



constituent
interest group
political action committee
oversight

Objectives

- ★ What influences how members of Congress vote?
- ★ What purpose do congressional investigations serve?
- ★ Why is it important for members of Congress to serve their constituents?

Congress—the legislative branch of the federal government—was so important to the framers of the Constitution that it was the first branch of government they discussed in the Constitution. In addition, Congress's structure and powers are outlined in much more detail than are those of the executive and judicial branches.

Congress has three key roles. Its main role is to legislate, or to make laws. However, it also oversees the performance of government agencies and provides services to the people its members represent.

Making Laws

Congress is responsible for making the nation's laws. How do members of Congress make these policy decisions? What influences how they vote?

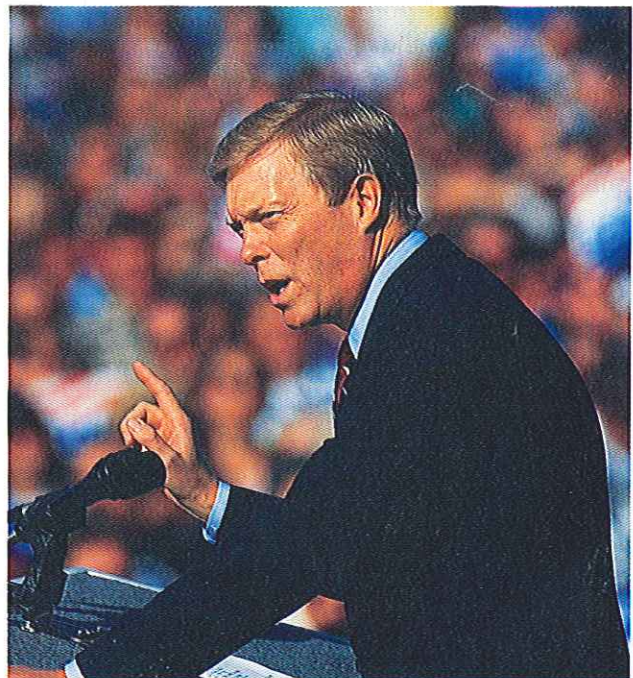
Some of the choices that members of Congress face are easy to make. For example, suppose that a member votes for increasing Social Security benefits for older people. This decision reflects the member's personal beliefs. The member's district also has a large number of retirees that support such a policy. Interest groups representing

older people have contributed a lot of money to the member's campaign fund. The leadership of the member's political party supports the legislation. Thus, the decision to support increases in Social Security benefits is easy.

Many times, however, the decisions facing members of Congress are not so easy because the forces influencing a member's vote can conflict. How do members make decisions in these more difficult situations? They must weigh the conflicting influences—in particular, their personal beliefs, constituents' interests, interest groups' concerns, and political party loyalty. The power of these influences varies from issue to issue and from member to member.

Personal Beliefs Studies show that a congressperson's personal beliefs about what promotes the public good significantly influence his or her voting decisions. Members sometimes follow their personal beliefs even when those beliefs go against the wishes of voters back home.

In 1990 many members of Congress voted against a constitutional amendment that would have banned flag burning, even though the proposed amendment had a high level of support in



PUBLIC GOOD Representative Richard Gephardt of Missouri addresses a crowd. Do you think members of Congress should support local interests over general national interests?

their districts. Some of these members believed that such an amendment would limit citizens' right of free speech. Others thought that the matter could be handled in a standard piece of legislation rather than in a constitutional amendment. In this case, the members' own views about what best serves the public outweighed any concerns about going against the wishes of voters in their district.

Constituents' Interests Congressmembers' voting decisions also are influenced by the wishes of the people they represent. Members of Congress are elected to serve as representatives of the people. Unlike the president, who is elected by all voting U.S. citizens, members of Congress are elected by people who live in one locality (a district or a state). This means that even though Congress makes laws for the whole country, members answer only to the people of their locality.

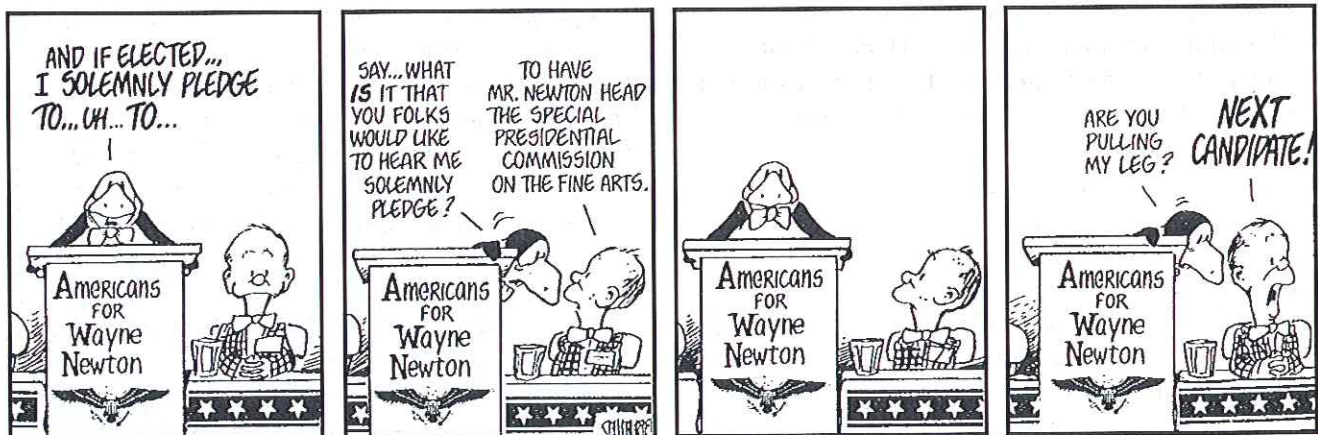
A grasp of this situation is crucial to understanding how members of Congress behave in making laws. A member represents his or her **constituents**—the residents of his or her district or state—and must consider how policy decisions will affect them, not just the country as a whole. For example, when members from farming areas debate new agricultural policies, they must consider the effects of those policies on farmers in their districts.

The public is divided over whether members of Congress should support local interests (their district or state) over general national interests (the public good). Polls do show that most people think

members should consider the public good over local interests, and many people will even criticize members for not doing so. Polls also show, however, that most people expect their congressmembers to take care of their local interests.

Interest Groups A third force influencing congressional voting is **interest groups**—people acting together to achieve shared political goals. Interest groups provide information on issues, suggest legislation to congressmembers, and promote legislation that is favorable to their groups. They also contribute to members' campaigns through **political action committees** (PACs)—separate political branches of interest groups that are formed for the purpose of participating in politics and giving money to candidates. (The role of interest groups in the political system is more fully explained in Chapters 6 and 17.)

How do such contributions influence members' voting behavior? Some evidence shows that congressmembers who vote for a bill favored by a certain interest group have received on average far larger campaign contributions from that group than have members voting against the bill. This finding may be misleading, however. No conflict might exist between the members' personal views and those of the interest group. Besides, interest groups often contribute to a campaign to help elect someone who already is sympathetic to their goal, not because they are trying to sway that person to their point of view.



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PRINCIPLES OF DEMOCRACY *Interest groups are sometimes criticized for using campaign contributions to try to influence congressional candidates and get them to see their group's point of view. Do you think that interest groups have the power to influence how a member of Congress votes on a bill?*

Careers in Government



Congressmember

Investigative hearings and debates on the floors of the House and Senate are familiar images of Congress. Much of a congressman's work, however, takes place behind the scenes, away from the news media. Members of Congress have unpredictable schedules full of meetings and appointments. A congressman usually works around 60 hours a week, and he or she is constantly on call for emergency meetings on pressing matters.

Members of Congress spend an average of three hours a day in the office. The rest of their time is spent meeting with constituents and interest groups, attending committee meetings, traveling to and from their home districts, and presenting, preparing, and voting on bills. An effective congressman must have excellent communication skills, an awareness of his or her constituents' interests, and plenty of energy to maintain a fast-paced, hectic schedule.

Two of a congressman's most important jobs, the researching and writing of bills, take place through committee meetings. The committee system allows work to be divided among members and adds to Congress's efficiency. Representatives are assigned to serve on at least one committee, and senators sit on at least two. (The committee system is discussed in Chapter 6.)

Statistically, the typical member of Congress is a college-educated, white male around 52 years old. Anyone, however, can be elected to Congress, regardless of color, sex, profession, or economic status. In 1917, for example, Jeannette Rankin defied statistics to become the first congresswoman. Then in 1969, Shirley Chisholm became the first African American woman in Congress.



Members of Congress, such as Senator Olympia Snowe of Maine, work long hours attending meetings, working on legislation, and traveling to their home districts.

Many members of Congress are experienced state and local politicians. Congress, however, is made up of people from all walks of life and a diversity of experience and training. For example, Representative Steve Largent was a professional football player, and Representative Lynn Woolsey ran a consulting business for 12 years.

How do you become a member of Congress? Learning about the political process is the first step. One way to do that is by entering a congressional internship program offered through a university. Internships provide an opportunity to get an inside look at Congress in action.

Political Party Loyalty Party loyalty also affects how members of Congress vote. In fact, party loyalty on key votes in Congress has increased over the past 20 years. In 1994, for example, nearly every Republican running for the House of Representatives signed the Contract with America, a set of proposed legislative reforms. Then, in early

1995, almost every House Republican voted for most of the Contract's provisions.

Reasons for increased party loyalty include strong party leadership in Congress and in congressional election campaigns. In addition, members of the same party have increasingly shared more of the same political beliefs and values.



PRINCIPLES OF DEMOCRACY *Senator Barbara Boxer speaks to constituents at a luncheon. Why do you think that more people do not request help from members of Congress?*

Overseeing Agencies

Congress also is responsible for overseeing the performance of government agencies. It does this through congressional **oversight**, which involves conducting investigations of agency actions and programs.

Congress oversees every aspect of agency behavior and investigates such matters as why an agency has been slow in regulating the use of a toxic chemical, if discrimination has taken place in an agency, or why an agency's new computer system is not working. Many congressional investigations involve discovering how an agency operates from day to day. Often, though, such investigations focus on abuses and scandals in government programs.

Traditionally, Congress had put little energy into congressional oversight, inspiring political scientists to label it Congress's "neglected function." Many said that members of Congress conducted so few investigations because passing new programs was more dramatic than finding out how well existing ones were working.

In the past 25 years, however, congressional investigations have increased greatly. One reason for this is that tight budgets have reduced the amount of money available for new programs, leading to greater scrutiny of both old and new

programs. In addition, past scandals and abuses have led many citizens to become dissatisfied with the government. The public, therefore, usually supports investigations that uncover shortcomings in government agencies. Members of Congress, in turn, find that there are political incentives, such as favorable publicity, for being involved in such investigations.

Helping Constituents

Members of Congress receive more than 200 million pieces of mail each year. Much of this mail involves specific constituent requests, which can range from birthday greetings

for a relative to major policy changes. Responding to such requests is an important part of a congressman's job and is one way that members represent their constituents' interests.

One survey has revealed that roughly 17 percent of Americans report that they, or a member of their family, have at some time requested help from a member of Congress.

Individual Requests Most constituent mail involves issues such as obtaining information or expressing views about legislation, requesting help with finding a government job, or asking for assistance with government services, such as Social Security. Some mail, however, deals with more unusual, personal requests. As you can imagine, some of these requests cannot be fulfilled. For example, congressional offices have received requests to change a student's grade in a course at a state university. One constituent even requested assistance from a congressman in moving a train track that he felt was too close to the fence in his backyard. As one observer says, there is often a

“Monday morning ritual wherein the congressman returns to the Washington office from a visit to the district and empties his pockets of dozens of scraps of paper, each of which contains the name and address of

a constituent along with hastily scribbled notes about some difficulty the person is experiencing with a federal agency.”

Detecting Patterns Constituent service does more than merely help individual citizens. Congressional staffs look for changes and patterns in constituent requests. Such patterns may signal a problem with a government program or a change in constituents' general attitudes. For example, an increase in complaints about student loan applications being denied might send a signal to a congressional office that some change in the law is having an unwanted effect on students who are seeking loans. Members of Congress can use this information to change the system.

Handling Requests The majority of constituent service involves ordinary citizens with ordinary requests. These requests usually are handled by congressional staffs.

Occasionally, however, a constituent that the congressman particularly values—a close friend, generous campaign contributor, or large employer in the locality—has a problem with a government agency. After receiving this person's request for personal assistance, the member might approach the government agency directly. Of course, government agencies respond with greater urgency to requests by members of Congress than they do to similar requests from

office staff. For this reason, members of Congress must avoid using the power of their office unethically to influence agencies on behalf of a particularly valued constituent.



CONSTITUTIONAL GOVERNMENT Congresswoman Constance Morella meets with staff in her office. What types of constituent requests might a congressional staff member handle?

SECTION 1

REVIEW

1. Define the following terms: constituent, interest group, political action committee, oversight.
2. How do constituents, interest groups, and political parties influence how members of Congress vote on legislation? What role do members' personal beliefs play?
3. On what types of issues do congressional investigations tend to focus? Why has the number of such investigations risen in recent years?
4. How do constituents' requests help members of Congress perform their jobs?

5. Thinking and Writing Critically

Think about a law or regulation that affects you and that you might like to see changed, such as the length of the school year, requirements for a driver's license, or teen curfews. Compose a brief letter asking for your congressperson's assistance in dealing with this issue.

6. Applying **CONSTITUTIONAL GOVERNMENT**

Congressmembers must divide their time among three key roles: making laws, overseeing the performance of government agencies, and helping constituents. If you were a member of Congress, which role would be your first priority? Why?

SECTION 2

HOUSES AND MEMBERS OF CONGRESS

Political Dictionary



census
apportion
gerrymandering
franking privilege
immunity

Objectives

- ★ How do the houses of Congress differ in their structure and membership?
- ★ How are congressional districts drawn?
- ★ What is the typical profile of a U.S. congressman?

The House of Representatives and the Senate share many responsibilities. The two houses, however, are quite different in their structures and membership.

House of Representatives

The Constitution's framers intended the House to be closer to the people than would be the Senate. Their expectation was that the House would attract ordinary citizens serving for a brief period.

Size The size of the House of Representatives is set by Congress itself, not by the Constitution. The Constitution simply states that all House seats, whatever their number, must be distributed among the states according to their population. A national **census**, or official population count, is taken every 10 years and serves as the basis for determining this distribution.

For its first meeting in 1789, the House had just 65 members. As the nation's population grew, the House added more members to represent the

greater number of citizens. After the 1910 census the number of seats was raised to the current number of 435. To prevent the House from growing too large and unmanageable, this number was set as the limit. (Since 1900, four nonvoting delegates have been added to the House from the District of Columbia, Guam, the U.S. Virgin Islands, and American Samoa. In addition, Puerto Rico is represented by a resident commissioner in the House.)

Although the number of seats has ceased to grow, the nation's population has not. This means that as

Comparing

Governments

Legislatures Come in All Sizes

There is no magic number when it comes to deciding the size of a country's legislature. The actual number of legislators is determined by each country's constitution, laws, or customs.

Consider the United Kingdom and Thailand, for example. Although both countries have a population of around 59 million, their legislatures vary greatly. In 1997, U.K. voters elected 651 representatives to the House of Commons, the elected chamber of the legislature. That same year, Thai voters elected 360 people to their House of Representatives. This means that there was one U.K. representative for every 91,000 people living in the United Kingdom and one Thai representative for every 164,000 Thais.

The table below compares various countries' populations and their number of elected representatives.

Country	Population	Representatives	Persons per Representative
India	952 million	545	1.7 million
South Korea	46 million	299	152,000
Venezuela	22 million	201	109,000
United Kingdom	59 million	651	91,000
Thailand	59 million	360	164,000

Source: *The World Almanac: 1997*



PRINCIPLES OF DEMOCRACY *Members of the 105th Congress gather in the House chamber for a joint session. Why is it impractical for the number of seats in Congress to grow as the size of the population increases?*

time passes and the population grows, members of Congress represent an increasing number of citizens. For example, the population of all the states in 1910 was roughly 91 million, so each of the 435 House members represented an average of 209,000 people. In comparison, the population of all the states in 1990 was roughly 248 million, so each member represented an average of 570,000 people.

Terms Representatives serve two-year terms. If a representative dies or resigns before the end of a term, the governor of the representative's state must call a special election to fill the seat.

Congressional Districts As noted in Chapter 2, the framers of the Constitution agreed in the Great Compromise that representation in the House would be determined by population. The larger a state's population, the greater its representation in the House. After each census, Congress uses the new population count to **apportion**, or distribute, the 435 seats among the states.

States with significant population growth may acquire seats from those that lose residents or grow less rapidly. Every state, however, is entitled to at least one representative, no matter how small its population. Over the past 20 years, the western and southern regions of the country have gained seats, largely because of the population growth of states such as California, Florida, and Texas. At the same time, the northeastern and midwestern regions have lost seats as population has decreased or growth has slowed in states such as New York and Illinois.

Once the House seats are apportioned, each state legislature usually determines the boundaries of the congressional districts in its state. Thus, the legislature of a state that holds nine seats in the House must divide the state into nine congressional districts. How such divisions are drawn has been a source of controversy since the nation's beginnings.

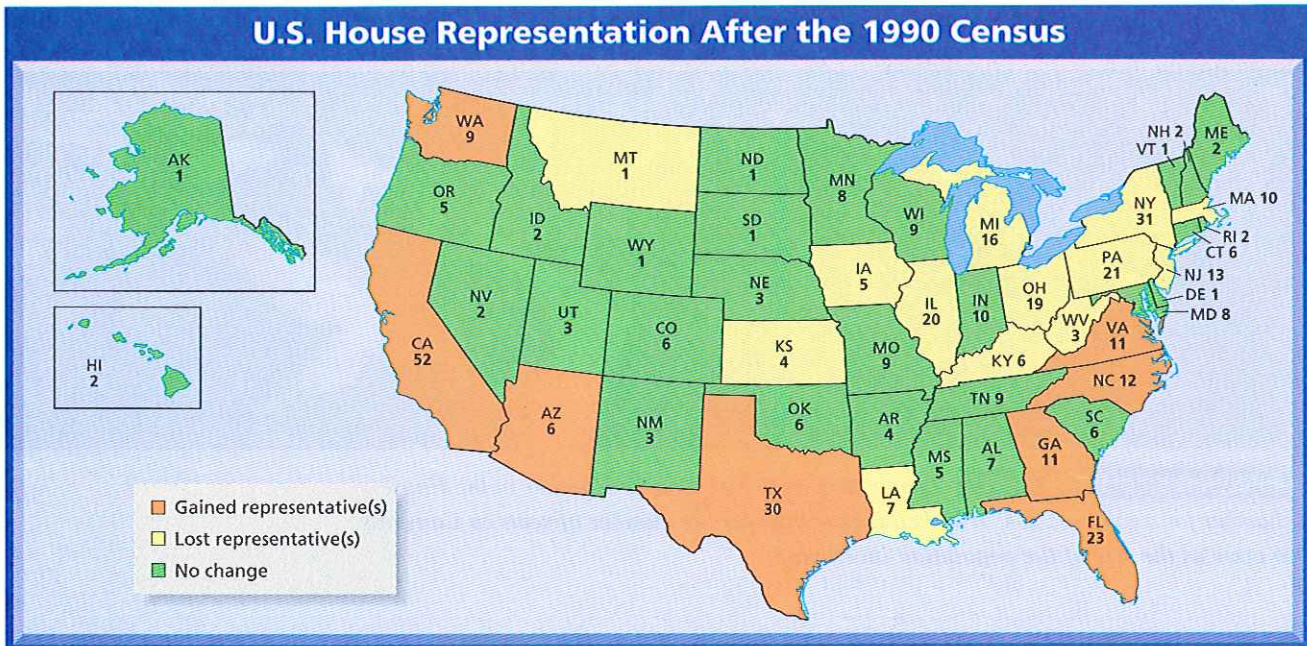
One Person, One Vote In the past, critics charged that the system of determining boundaries for congressional districts was unfair because districts within a state varied in population size. Because of this variation, citizens living in smaller districts had greater representation in the House than did those living in larger districts.

Residents of a district with 200,000 people, for example, would have much greater representation in the House than would residents of a district with 600,000 people. At one time, some congressional districts had eight times as many residents as other districts in the same state.

The Supreme Court addressed this issue in the 1964 case *Wesberry v. Sanders*. In its decision the Court established the "one-person, one-vote" principle by banning districts that had grossly unequal populations. The ruling means that each person's "vote," or representation in the House, should be equal to every other person's. This decision led to the redrawing of many districts. Although there always will be differences in population among districts, the huge variations of the past no longer exist.

Some critics still charge, however, that the system of apportioning seats *among* the states is unfair. For example, the state of Wyoming, which

U.S. House Representation After the 1990 Census



CONSTITUTIONAL GOVERNMENT After each census, the seats in Congress are re-apportioned among the States. Why do some people say that the system of apportioning seats among the states is unfair?

has a population of around 480,000, has one representative. Montana, which has a population of 870,000, also has one representative. Because every state is entitled to at least one representative, regardless of population, Wyoming has the same representation in Congress as Montana. Many people say that this is unfair because Montana's member of the House is representing almost twice as many people as is Wyoming's.

Gerrymandering Another criticism of the apportionment process is that districts sometimes are drawn for political reasons. The practice of establishing district lines that favor one political party over another is called **gerrymandering**. The term dates to 1811, when Massachusetts governor Elbridge Gerry carved a district specifically to benefit the Democratic Party. Some observers noted that the oddly shaped new district looked like a salamander. Soon it became known as a "gerrymander."

Gerrymandering by political parties takes place in one of two ways. Parties may draw district lines that concentrate their strength in a number of districts. This builds a solid base for the party and ensures it will win a certain number of seats. Parties also may draw district lines that weaken the opposition party's support by splitting

it across several districts. In the 1986 case *Davis v. Bandemer*, the Supreme Court issued a decision against extreme cases of political gerrymandering, saying that if the practice existed for a long time and was truly harmful to a political minority, it violated the Constitution.

C A S E S T U D Y

Racial Gerrymandering

PRINCIPLES OF DEMOCRACY In recent years, race often has been a central issue in debates about apportionment. Over the years, many critics have charged that some district lines were drawn to purposely keep minority candidates from winning elections. This type of discrimination was condemned in 1982 by amendments to the Voting Rights Act of 1965. The amendment forbids various unfair election practices, including gerrymandering, that discriminate against minorities. Moreover, in the 1986 case *Thornburg v. Gingles*, the Supreme Court ruled that it is illegal to divide areas into several districts in order to weaken the political strength of minority groups living in those areas.

In response to this decision, a number of states tried to make up for past discrimination by redrawing congressional district lines. By concentrating as many minority voters into one district as possible, these new lines made it easier for members of minority groups to be elected. The result was a number of districts that were as strangely shaped as those they replaced. These districts were challenged in court for using “racial gerrymandering” to help minorities win congressional elections. Critics charged that this was a form of discrimination against nonminority candidates.

In response, the Supreme Court ruled that there would be strict examination of any district boundaries drawn with race as a leading factor. The Court did not rule out the use of race as one consideration, however. Some House districts today continue to be challenged based on charges of racial gerrymandering, and the boundaries of some districts have been redrawn as a result of court rulings.

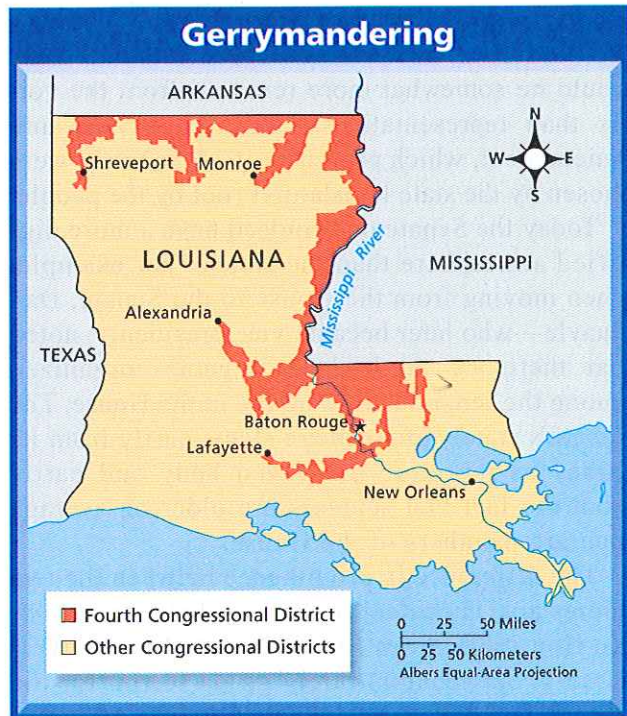
Qualifications The Constitution establishes certain requirements for members of the House of Representatives. Members must be

- ★ at least 25 years old,
- ★ U.S. citizens for at least seven years, and
- ★ legal residents of the state they represent.

By custom, representatives also live in the district they represent, but this is not required by the Constitution.

Salary and Benefits Representatives receive an annual salary of \$133,600—an amount determined by Congress itself. Concern over the possible abuse of Congress’s power to set its own compensation led to the passage of the Twenty-seventh Amendment. Ratified in 1992, this amendment states that congressional pay increases cannot take effect until after the next congressional election. As a result, a congressman would only get the pay increase if he or she were re-elected.

Members receive many other benefits in addition to their salaries. They are provided with office space in congressional buildings near the Capitol. They receive allowances to hire office staff, to



POLITICAL PROCESSES During redistricting in the early 1990s, Louisiana’s Fourth Congressional District was drawn so that African Americans made up a majority of the district’s population. What major city is not within the district’s boundaries?

travel to and maintain offices in their home districts, and for stationery, newsletters, and other necessary supplies. They also have the **franking privilege**, which allows them to send official mail for free. In addition, members can take advantage of generous pensions, life insurance, special tax deductions, medical services, free parking, free health club memberships, library research facilities, and many other programs and services.

The Constitution also gives members of Congress a form of **immunity**, or legal protection. To protect their freedom of speech, members cannot be sued for anything they say while performing congressional business. They also cannot be arrested in or on their way to or from a meeting in Congress unless they are accused of a serious crime. These laws ensure that congressmembers are not unnecessarily prevented from performing their duties.

Senate

The framers of the Constitution intended for the Senate to differ from the House. They thought that the Senate should attract an older, more experienced

group of people who would serve longer terms as the nation's senior leaders. These senior leaders would be somewhat more removed from the voters than representatives. Until the Seventeenth Amendment, which passed in 1913, senators were chosen by the state legislatures, not by the people.

Today the Senate does indeed have a more dignified atmosphere than the House. For example, when moving from the House to the Senate, Dan Quayle—who later became vice president—noted that there are no basketball games organized among the senators, as there are in the House. The Senate's stately atmosphere stems partly from its legacy as the more privileged body and partly from the fact that senators are older on average than are members of the House.

The difference in prominence between the two bodies also is evident in the fact that members of the House often run for the Senate later in their careers, but senators rarely go on to run for the House. Senators also are generally better known. As one congressman said, "You'd be someone who

was 34 years in the House and call somebody downtown and they would say, 'What was your name, again?' . . . But when you were a senator, it was a whole different ball game."

Size The Constitution sets the Senate's size at two members from each state. The first Senate had 26 members representing the 13 original states. Today the Senate has 100 members representing the 50 states. Each senator represents his or her entire state.

Terms Senators serve six-year terms. Senatorial elections, however, are held every two years. This rotating system means that only one third of the Senate's members are up for election at one time and ensures that the Senate has continuity and experience in its membership. If a senator dies or resigns before the end of a term, the governor of the senator's state may appoint someone to fill the seat until a special election or the next regular election is held.

The Congress of the United States

HOUSE OF REPRESENTATIVES		SENATE	
435 Representatives (Based on state populations)		100 Senators (2 from each state)	
REPRESENTATIVES	SENATORS	LENGTH OF TERM	WHEN ELECTED
2 years	6 years	Entire House elected every 2 years	One third of Senate elected every 2 years
At least 25 years old	At least 30 years old	U.S. citizen at least 7 years	U.S. citizen at least 9 years
Resident of the state where elected	Resident of the state where elected	\$ 133,600	\$133,600
		SALARY	

As you can see in this chart, the requirements for membership in the House of Representatives differ from those for membership in the Senate. What is the salary of members of the House and the Senate?

Government and History

The Roman Senate

In writing the U.S. Constitution, the framers looked to the experiences and ideas of various peoples throughout history. The government of the ancient Roman Republic, for example, influenced how the framers structured the new U.S. government. To help keep its leaders from gaining too much power, the republic had divided authority among different members and parts of the government. Similarly, the U.S. framers assigned independent powers to three distinct branches of government.

The framers also recalled the composition of the Roman Senate. This body was composed mainly of experienced, older leaders who had held high-level government positions. In fact, the word *senate* comes from the Latin *senex*, meaning “old, old man.” The framers hoped that the U.S. Senate also would be composed of older, wiser leaders.

The Roman Senate was partly an advisory body, but it also controlled public finances and set foreign policy. The Senate grew in authority throughout the years of the republic and remained a part of Roman government even after the founding of the Roman Empire.

In support of the U.S. Constitution, James Madison argued that the Senate was an important part of Roman government. Of course, Madison



The Curia Julia was the main meeting place of the Senate during the years of the Roman Empire. The Curia was built during the dictatorship of Julius Caesar (100 B.C.–44 B.C.).

recognized that the Roman Republic was not a true democracy. But he saw in the Roman Senate an example of the value of mature, experienced leadership. “History informs us of no long-lived republic which had not a senate,” Madison wrote.

There were, of course, differences between the Senate of ancient Rome and the Senate created by the U.S. framers. For example, Roman senators served for life. U.S. senators, on the other hand, serve only six-year terms. They can, however, be re-elected.

In addition, although there is an age requirement for the U.S. Senate, there was not for the Roman Senate. There were age requirements, however, for many other positions in Roman government. Because Romans could not be appointed to the Senate without first having held a government position, they generally were not eligible for the Senate until sometime in their thirties.

The ranks of the Roman Senate were dominated by wealthy, established families. Citizens holding jobs that the Romans considered beneath the dignity of the office—for example, gladiators and actors—were not eligible for appointment. In addition, citizens whose private businesses might have distracted them from their senatorial duties also were ineligible. Over time, however, citizens of nonestablished families were appointed to the Senate.

The number of U.S. Senate seats is 100, while during most years of the Republic, the Roman Senate had about 300 seats. The actual number varied, depending on political conditions at the time. During times of civil war or other crises, for example, many seats in the Senate might become vacant. Some Roman leaders, particularly during the empire, expanded the size of the Senate so they could appoint more of their supporters. The number of senators rose to about 2,000 in the late stages of the Roman Empire, in the A.D. 300s.

What Do You Think?



1. Should candidates running for the U.S. Senate be required to have previous government experience? Why or why not?
2. In what ways can running a private business help or hurt a government official in the performance of his or her duties?

Qualifications The Constitution also establishes certain requirements for senators. They must be

- ★ at least 30 years old,
- ★ U.S. citizens for at least nine years, and
- ★ legal residents of the state they represent.

Salary and Benefits Like representatives, senators receive an annual salary of \$133,600. They also receive the same benefits and legal protections as House members.

Members of Congress

Who are the members of Congress? Most are businesspeople or lawyers. Almost every member of Congress has a college degree, and most have advanced degrees. Most members also are white, male, and more than 40 years old. Minority groups and women generally are not represented in Congress in proportion to their numbers in the U.S. population. For example, some 12 percent of the U.S. population was African American in 1990. In 1997, however, only 7 percent of congressmembers were African American. In addition, more than half of the population is female, and only 11 percent of all seats in Congress were held by women in 1997.

Although these groups, as well as Asian Americans and Hispanic Americans, are still underrepresented according to their numbers in the population, the disproportionately low representation of minority groups and women in Congress is gradually changing. The 1992 elections produced



PRINCIPLES OF DEMOCRACY In 1997 Senator Ben Nighthorse Campbell was the only American Indian in Congress. Does the membership of Congress represent the diversity of the U.S. population?

increases in African Americans, Hispanic Americans, and particularly in women in Congress. For example, in 1992 the number of female senators increased from two to six. One of those women was Carol Moseley-Braun, the only African American serving in the Senate. The number of women in the House increased from 28 to 47.

In addition, Ben Nighthorse Campbell was elected to the Senate in 1992—the first American Indian to serve in the Senate in 60 years. By 1997 the number of women in the House had risen to 51, and the number of women in the Senate had risen to nine. There were 21 Hispanic American and 5 Asian American representatives in Congress, and two Asian Americans, but no Hispanic Americans, in the Senate.

SECTION 2

REVIEW

1. Define the following terms: census, apportion, gerrymandering, franking privilege, immunity.
2. Compare the House and the Senate, making sure to consider size, terms, and requirements for and benefits of membership.
3. Describe how congressional seats—in the House and in the Senate—are distributed among the states.
4. Describe the background of members of Congress. What changes in membership have occurred in recent years?

5. Thinking and Writing Critically

Do you think the makeup of Congress—for example, age, race, sex, background—influences congressional decisions? Do you agree with the framers' vision for the makeup of the Senate? Explain your answers.

6. Applying **PRINCIPLES OF DEMOCRACY**

Is the current system of apportionment fair? How *should* congressional districts be drawn? Be sure to consider the principles established by Supreme Court rulings on the drawing of Congressional district boundaries.

SECTION 3

POWERS OF CONGRESS

Political Dictionary

impeach
ex post facto law
bill of attainder
writ of *habeas corpus*



Objectives

- ★ To what main areas of governing do Congress's expressed powers apply?
- ★ What special powers does Congress hold?
- ★ What are the implied powers of Congress?
- ★ What constitutional limits exist on congressional powers?

Most of the powers assumed by Congress are specifically listed in the Constitution. As you will learn, Congress has also assumed some powers that are *not* mentioned in the Constitution. The Constitution does, however, outline several specific limits on what actions Congress may take.

Expressed Powers

As noted in Chapter 4, the powers specifically granted to the federal government are called expressed powers because they are specifically expressed, or listed, in the Constitution. Expressed powers give Congress the right to make laws in five main areas: government finance, regulation of commerce, national defense, law enforcement, and national sovereignty.

The majority of these powers can be found in Article 1, Section 8, of the Constitution—for example, the power to raise and collect taxes, regulate foreign and interstate commerce, coin and print money, and provide and maintain military forces. (See the chart on this page.) Other articles within the Constitution list additional powers.

For example, Section 3 of Article 4 gives Congress the power to admit new states into the Union. Article 3, Section 3, gives it the right to determine the punishment for treason.

Special Powers

In addition to the expressed powers, the Constitution gives Congress several special powers. Some of these are held by the Senate, some by the House, and some by both.

Expressed Powers of Congress

- To lay and collect taxes, to pay the nation's debts, and to provide for the common defense and general welfare of the United States
- To borrow money
- To regulate foreign and interstate commerce
- To establish uniform rules for becoming a citizen
- To coin money and set a uniform standard of weights and measures
- To punish counterfeiters
- To establish post offices and post roads
- To make copyright and patent laws
- To establish a system of national courts
- To punish piracy and other offenses against the law of nations
- To declare war
- To raise and maintain armies
- To raise and maintain a navy
- To establish military laws
- To call up a national militia
- To organize, arm, and discipline the militia
- To govern the District of Columbia
- To make all laws that shall be necessary and proper for carrying into execution previously mentioned powers

The chart above lists some of the powers specifically granted to Congress in the Constitution. Which expressed powers give Congress the right to make laws concerning government finances?

Impeaching Officials Congress holds the power to formally accuse and bring federal officials to trial. The most important officials in the government, including the president, vice president, and federal judges, may be removed from office if they are found guilty of serious crimes against the nation.

The charges against an accused official must be drawn up in the House of Representatives. If a majority of representatives votes to pursue the charges, the official is **impeached**, or formally accused. The procedure of drawing up and passing the charges against the accused in the House is called impeachment.

Trials on impeachment charges are held in the Senate, with the vice president usually acting as the judge. If it is the president being impeached, however, the chief justice of the United States presides instead. In this case the vice president cannot preside because of a conflict of interest—if the president were found guilty, the vice president would become president. The members of the Senate act as the jury. If two thirds of the Senate find the official guilty, he or she can be dismissed from office.

The impeachment process has been used rarely, with only 13 federal officials having been impeached. Only one was a president—Andrew Johnson. At his impeachment trial in 1868, President Johnson was found not guilty of the charges against him by one vote. In 1974 the threat of impeachment caused President Richard M. Nixon to resign from office.

Ratifying Treaties The Senate has the power to reject any treaty, or written agreement, between the United States and other countries. A treaty that is not approved by a two-thirds vote in the Senate does not become law. This congressional right can be a powerful tool in foreign policy. Several treaties signed by U.S. presidents have never been enacted because the Senate refused to approve them.

Approving Appointments The Senate also has the right to reject all major appointments made by the president, including Supreme Court justices, ambassadors, and cabinet members. Appointments require a majority vote for approval.

Deciding Elections Congress holds the power to decide presidential elections under certain circumstances. If no candidate for president



CONSTITUTIONAL GOVERNMENT *Secretary of Health and Human Services Donna Shalala testifies before Congress. What major appointments by the president does Congress approve?*

receives a majority of electoral votes—ballots cast by members of the Electoral College—the House of Representatives must choose the winner from among the three candidates receiving the most votes. (The Electoral College is more fully explained in Chapter 7.) The representatives of each state collectively have one vote to cast, for a total of 50 votes. The candidate who receives a majority of the total House votes (at least 26) becomes president.

Similarly, if no candidate for vice president were to receive a majority of electoral votes, the Senate would choose the vice president. In this case, however, each senator has one vote, for a total of 100. Again, the candidate who receives a majority of the Senate votes (51) is elected.

The House has used its electoral power twice. It chose Thomas Jefferson as president in 1801 and John Quincy Adams in 1825. The Senate has used its electoral power only once—to choose Richard M. Johnson as vice president in 1837.

Implied Powers

As noted in the Expressed Powers of Congress chart on page 105, the last power listed is the most general and far-reaching. The Constitution states that Congress has the power “to make all laws which shall be necessary and proper for carrying into execution the foregoing [previously mentioned] powers” specifically granted to it. As noted in Chapter 4, the additional powers implied by this Necessary and Proper, or Elastic, Clause have allowed Congress to stretch its expressed powers. Congress has thus been able to create legislation addressing situations that have arisen long after the Constitution was written.

The debate over the Elastic Clause and Congress’s implied powers has gone on almost as long as the Constitution has existed. One of the key disputes regarding this issue arose in 1819 in the Supreme Court case *McCulloch v. Maryland*.

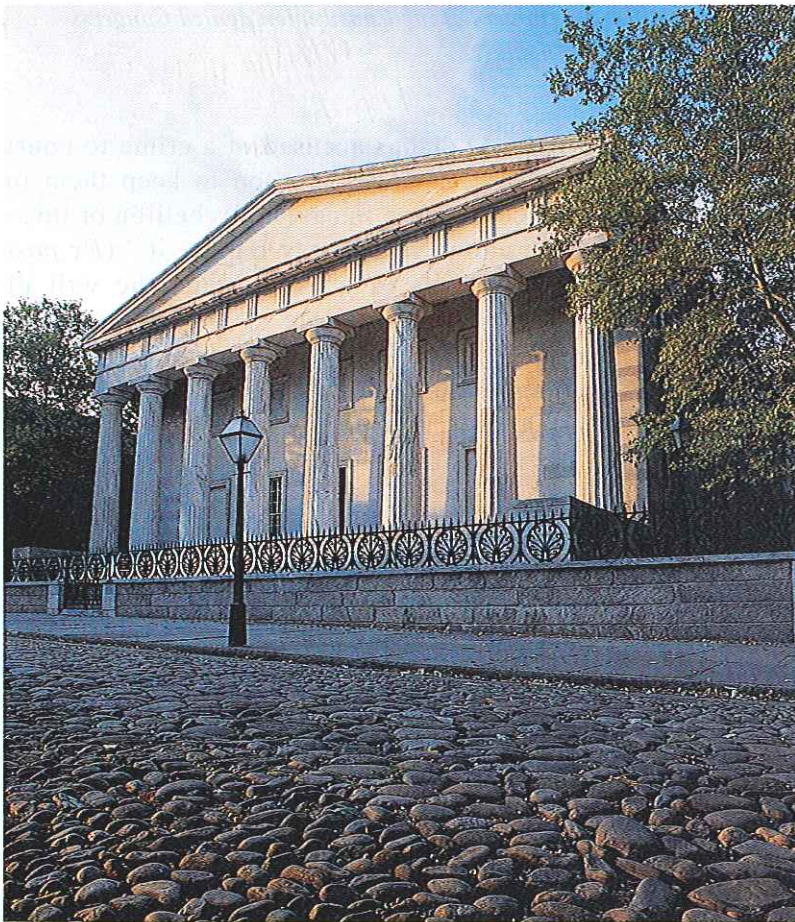
The subject of the case, as noted in Chapter 4, was the Bank of the United States.

The Bank of the United States was originally established in 1791. The bank’s charter ended in 1811, and a bill to establish a new charter met with opposition and was vetoed by President Madison in 1816. Eventually, however, a new charter passed, and a Second Bank of the United States began operation in 1817. The bank had been a source of controversy since the time of its creation. Many people, including Thomas Jefferson, had stated that the Constitution did not give Congress the right to set up a national bank and that its creation was a violation of states’ rights. Indeed, this argument was the basis of the state of Maryland’s case in *McCulloch v. Maryland*.

The Supreme Court, however, decided the case in Congress’s favor. In a unanimous decision, the Court declared that Congress had the right to determine what was “necessary and proper” to fulfill its constitutional duties. Creating a national bank fell into this category.

Another of Congress’s implied powers involves its establishment of the nation’s military academies. Although not specifically given the power to do so in the Constitution, Congress set up military academies to train army, navy, air force, coast guard, and merchant marine officers. Congress justified its actions by saying that the academies are “necessary and proper” for it to carry out its constitutional right to raise and maintain an army and a navy. Thus, the Elastic Clause implies, or suggests, that Congress has the right to establish military academies.

The Elastic Clause has allowed Congress to expand its powers significantly. In fact, Congress has used this clause to justify much of the federal law passed during the 1900s. The clause aroused very little debate at the Constitutional Convention, however. The framers probably did not anticipate that Congress would use its implied powers so extensively, for the clause does not seem to grant any authority beyond that already contained in Section 8 of Article 1.



CONSTITUTIONAL GOVERNMENT *The Second Bank of the United States stands in Independence National Park in Philadelphia, Pennsylvania. Why was the bank a source of controversy?*

Limits on Powers

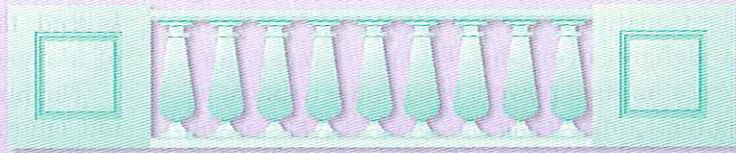
The powers of Congress are limited in several important ways. As noted in Chapter 3, the Supreme Court can use the power of judicial review to determine when Congress has reached beyond the powers granted to it by the Constitution. Any law that the Court rules unconstitutional has no force.

Another limit on Congress's powers is the Tenth Amendment to the Constitution. It declares that the states or the people shall keep all the powers not specifically granted to the national government. These powers, as noted in Chapter 4, are the reserved powers.

Article 1, Section 9, of the Constitution further restricts the powers of Congress. For example, it keeps Congress from taxing exports and from favoring the trade of a particular state. It also prevents Congress from passing an **ex post facto law**—a law that applies to an action that took place before the law was passed—or a **bill of attainder**—a law that punishes a person who has not been convicted in a court of law. In addition, Congress cannot suspend the **writ of habeas corpus**—a court order requiring police

Powers Denied to Congress

- To pass *ex post facto* laws
- To pass bills of attainder
- To suspend the writ of *habeas corpus*
- To tax exports
- To pass laws violating the Constitution
- To pass laws giving a state or group of states an unfair trade advantage
- To grant titles of nobility
- To engage in spending that has not been authorized by legislation



The chart above lists the powers denied to Congress in the Constitution. Why do you think that the framers of the Constitution denied Congress the power to grant titles of nobility?

to bring all persons accused of a crime to court and to show sufficient reason to keep them in jail—except “when in cases of rebellion or invasion the public safety may require it.” (*Ex post facto* laws, bills of attainder, and the writ of *habeas corpus* are more fully explained in Chapter 14.) See the chart on this page for additional restrictions that Article 1, Section 9 places on Congress.

SECTION 3

REVIEW

1. Define the following terms: impeach, *ex post facto* law, bill of attainder, writ of *habeas corpus*.
2. Explain the difference between Congress's expressed powers and implied powers, and give at least two examples of each type of power. Why are implied powers important?
3. Describe the limits that the Constitution places on Congress's power, and give some examples of these limitations.

4. Thinking and Writing Critically



Choose at least three powers that are denied to Congress by the Constitution, and explain in your own words what the framers intended to guard against by imposing these limits.

5. Applying CONSTITUTIONAL GOVERNMENT

Imagine that you have been asked to assist in writing a new constitution for a foreign country. What limitations would you suggest placing on the country's legislative branch of government? Explain your answer.

SECTION 1

Congress has three key roles. Its main role is to legislate, or to make laws. To decide how to vote on laws, members of Congress consider four factors: their own personal beliefs, their constituents' interests, interest groups' concerns, and political party loyalty.

Congress also oversees the performance of government agencies by conducting investigations through congressional oversight. This involves closely examining agency actions and programs. Traditionally, Congress put little energy into oversight, perhaps because passing new programs is more dramatic. Over the past 25 years, however, congressional investigations have increased greatly. The public supports such investigations because they uncover shortcomings in government agencies.

Finally, Congress provides services to its constituents. In providing these services, congressmembers and their staffs consider constituents' individual requests. They also detect patterns in requests and use them to propose corrective laws.

SECTION 2

Members of the House of Representatives and the Senate differ in their numbers, required qualifications, and terms. The House has 435 members, and the seats are distributed among the states according to population. Representatives serve two-year terms, must be at least 25 years old, U.S. citizens for at least seven years, and legal residents of the state they represent.

There are 100 senators—two from each state. Senators serve six-year terms, must be at least 30 years old, must have been U.S. citizens for at least nine years, and must be legal residents of the state they represent.

Senators and representatives receive the same benefits and protections of the law, however. House seats are apportioned among the states every 10 years according to population

figures provided by the national census. State legislatures usually then set congressional district boundaries within their states.

Today's members of Congress are mostly businesspeople or lawyers. Most also are white, male, and more than 40 years old. This, however, is slowly changing, as more women and minorities are elected to Congress.

SECTION 3

Congress holds both expressed and implied powers. Its expressed powers are those specifically listed in the Constitution. Among these are those powers listed in Article 1, Section 8, such as the power to raise and collect taxes, regulate foreign and interstate commerce, coin and print money, and provide and maintain military forces.

Congress's implied powers stem from the last power listed in Article 1, Section 8—the Elastic Clause, which allows Congress to make laws that are “necessary and proper” to carry out its duties. An example of Congress's implied powers is the power to establish a national bank.

To protect the rights of citizens, the Constitution limits what actions Congress may take. For example, Congress may not pass *ex post facto* laws or bills of attainder, and it may not suspend the writ of *habeas corpus*.

**Government Notebook**

Review what you wrote in your Government Notebook at the beginning of this chapter about what you think are the qualifications and characteristics of a good congressperson. Now that you have studied the chapter, how would you revise your answer? Should the qualifications for congresspeople be expanded? Record your answer in your Notebook.

REVIEW

REVIEWING CONCEPTS

1. What qualifications does the Constitution set for senators and representatives?
2. What types of powers does Congress hold?
3. What powers are denied to Congress by the Constitution?
4. What are Congress's three main roles?
5. What benefits do members of Congress receive?
6. How are House congressional districts determined?

THINKING AND WRITING CRITICALLY



1. **CONSTITUTIONAL GOVERNMENT** Should members of Congress be allowed to set their own salary? Given the fact that many members serve more than one term, does the Twenty-seventh Amendment adequately prevent possible abuse of this power? Explain your answer.
2. **PRINCIPLES OF DEMOCRACY** The Constitution establishes few qualifications for members of Congress. Should there be additional qualifications, such as a set number of years of experience in state government? Write a paragraph that states and supports your opinion on this issue. Be sure to consider the need for balancing experience in governing and for maintaining a political process that is open to as many citizens as possible.
3. **CONSTITUTIONAL GOVERNMENT** Do members of Congress receive too many special benefits, or do they deserve such benefits to help compensate them for the long hours they work? Explain your answer.

4. **PUBLIC GOOD** How is the public good promoted by having congressional powers defined in the Constitution? What might happen if there were no limitations on Congress's power?

CITIZENSHIP IN YOUR COMMUNITY



Write a profile on one of your state's senators or your district's representative in Congress. Include background information, such as place of birth, education, and previous occupation, as well as information on the person's political experience: offices held, length of service in Congress, political party membership, and positions on key issues. If possible, include a photograph of your subject and any other visuals that might help complete the profile.

COOPERATIVE PORTFOLIO PROJECT



With a group, create a Serving in Congress handbook for potential congressional candidates. Your guide should inform candidates of the benefits of serving in Congress, the goals a person might fulfill by holding public office, and the terms of office and constitutional qualifications for members of both the House and Senate. Your handbook should be clearly written, well designed, and easy to follow. You might use photographs and drawings to illustrate a congressional career.

PRACTICING SKILLS: CONDUCTING RESEARCH



Research the current makeup of Congress, and create a table comparing characteristics of members of the House and the Senate. Choose

at least three categories of comparison, such as sex, ethnicity, education, previous profession, and years of experience. Write an extended caption describing the table's contents.

THE INTERNET: LEARNING ONLINE



Conduct an Internet search to find information about a member of the congressional delegation from your state. For example, try to find e-mail and postal addresses, the committees on which the congressperson serves, and the location of his or her congressional district. You might want to start by searching for a page on the World Wide Web that lists members of Congress. Try using search words such as *Congress*, *U.S. House of Representatives*, and *U.S. Senate*. List the sources of information you find on the Web. Then write a short paragraph about the congressperson you chose.

ANALYZING PRIMARY SOURCES



WESBERRY V. SANDERS

As you have read, the Supreme Court established the "one-person, one-vote" principle in the 1964 case of *Wesberry v. Sanders* by banning congressional districts with grossly unequal populations. Read the excerpt from the Court's majority opinion, which was written by Justice Hugo L. Black, and answer the questions that follow.

“We agree . . . that the 1931 Georgia apportionment grossly discriminates against voters in the Fifth Congressional District. A single Congressman represents from two to three times as many Fifth District voters as are represented by each of the congressmen from the other Georgia congressional districts. The apportionment statute thus contracts the value of some votes and expands that of others. If the Federal Constitution intends that when qualified voters elect members of Congress each vote be given as much weight as any other vote, then this statute cannot stand.

We hold that, construed [interpreted] in its historical context, the command of Article I, Section 2, that Representatives be chosen “by the People of the several States” means that as nearly as is practicable one man’s vote in a congressional election is to be worth as much as another’s. . . .

To say that a vote is worth more in one district than in another would not only run counter to [contradict] our fundamental ideas of democratic government, it would cast aside the principle of a House of Representatives elected “by the People,” a principle tenaciously [vigorously] fought for and established at the Constitutional Convention. . . .

It would defeat the principle solemnly embodied [represented] in the Great Compromise—equal representation in the House for equal numbers of people—for us to hold that, within the States, legislatures may draw the lines of congressional districts in such a way as to give some voters a greater voice in choosing a Congressman than others. . . .

No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory [unreal] if the right to vote is undermined [weakened]. . . . While it may not be possible to draw congressional districts with mathematical precision, that is no excuse for ignoring our Constitution’s plain objective of making equal representation for equal numbers of people the fundamental goal for the House of Representatives. That is the high standard of justice and common sense which the founders set for us.”

1. For what reason was the apportionment system under challenge in the case?
2. On what constitutional principles did Justice Black base the Court's ruling?
3. Do you think that the Supreme Court was justified in forcing the Georgia state legislature to change its apportionment system?