Understanding the Constitution

If YOU were there...

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

Which committee would you ask to serve on?

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

The Federal System

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

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

Sometimes, Congress has had to stretch its delegated powers to deal with new or unexpected issues. A clause in the Constitution states that Congress may “make all Laws which shall be necessary and proper” for carrying out its duties. This clause, called the elastic clause—because it can be stretched (like elastic)—provides flexibility for the government. The federal government has used this clause to provide public services such as funding for the arts and humanities.

<table>
<thead>
<tr>
<th>Key Terms and People</th>
</tr>
</thead>
<tbody>
<tr>
<td>federal system, p. 182</td>
</tr>
<tr>
<td>impeach, p. 184</td>
</tr>
<tr>
<td>veto, p. 184</td>
</tr>
<tr>
<td>executive orders, p. 185</td>
</tr>
<tr>
<td>pardons, p. 185</td>
</tr>
<tr>
<td>Thurgood Marshall, p. 186</td>
</tr>
<tr>
<td>Sandra Day O’Connor, p. 186</td>
</tr>
</tbody>
</table>

Use the graphic organizer online to take notes on the structure of each of the branches of government.
Legislative Branch

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

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

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

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

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

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

Reading Check Comparing and Contrasting
What are the similarities in requirements for members of the House of Representatives and the Senate? What are the differences?
Checks and Balances

Executive Branch (President)

Checks on:
Legislative Branch
- May adjourn Congress in certain situations
- May veto bills
Judicial Branch
- Appoints judges

Legislative Branch (Congress)

Checks on:
Executive Branch
- May reject appointments
- May reject treaties
- May withhold funding for presidential initiatives
- May impeach president
- May override a veto
Judicial Branch
- May propose constitutional amendments to overrule judicial decisions
- May impeach Supreme Court justices

Judicial Branch (Supreme Court)

Checks on:
Executive Branch
- May declare executive actions unconstitutional
Legislative Branch
- May declare laws unconstitutional

Executive Branch

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

President and Vice President

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

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

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

Working with Congress

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

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

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

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

District Courts

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

The Office of Homeland Security was established in 2002 to address the increased threat of terrorism following September 11, 2001. In 2003, the office became the Department of Homeland Security, the newest executive department.

Circuit Riding

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

The justices complained bitterly about the inconvenience of travel, which was often over unpaved roads and in bad weather. This system was not just inconvenient to the justices, however. Some people worried about the fairness of a system that required justices who had heard cases at trial to rule on them again on appeal. Other people, however, thought that the practice helped keep the justices in touch with the needs and feelings of the average citizen. Eventually, circuit riding interfered so much with the increased amount of business of the Supreme Court that Congress passed a law ending the practice in the late 1800s.

Path to the Supreme Court

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

Background of the Court

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

The first Supreme Court met in 1790 at the Royal Exchange in New York City. The ground floor of this building was an open-air market. When the national government moved to Philadelphia, the Court met in basement rooms in Independence Hall. Once in Washington, the Court heard cases in the Capitol building until the present Supreme Court building was completed in 1932. 
Courts of Appeals
If someone convicted of a crime believes the trial was unfair, he or she may take the case to the court of appeals. There are 13 courts of appeals. Each has a panel of judges to decide if cases heard in the lower courts were tried appropriately. If the judges uphold, or accept, the original decision, the original outcome stands. Otherwise, the case may be retried in the lower court.

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

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

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

**Summary and Preview** In this section you learned about the balance between the different branches of the federal government. In the next section you will learn about the Bill of Rights.

---

**Section 1 Assessment**

**Reviewing Ideas, Terms, and People**

1. **a. Describe** What type of government did the Constitution establish for the United States?
   
   **b. Contrast** What is the difference between delegated, reserved, and concurrent powers?

2. **a. Recall** What role does the vice president serve in the legislative branch?
   
   **b. Compare and Contrast** In what ways are the Senate and the House of Representatives similar and different?

3. **a. Describe** What powers are granted to the president?
   
   **b. Make Generalizations** Why is it important that the president and Congress work together in resolving governmental issues?

4. **a. Explain** What is the main power of the judicial branch?
   
   **b. Evaluate** Which branch of government do you feel is most important? Explain your answer.

5. **Categorizing** Review your notes on the branches of government. Then copy the web diagram below and use it to show two powers of each branch of government.

---

**Critical Thinking**

5. **Categorizing** Review your notes on the branches of government. Then copy the web diagram below and use it to show two powers of each branch of government.

---

**Focus on Writing**

6. **Gathering Information about the Constitution**

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