



History–Social Science Standards In This Unit



CHAPTER 10

Congress

12.4.1, 12.4.3, 12.6.4, 12.6.6, 12.7.5



CHAPTER 11

Powers of Congress

12.2.2, 12.2.3, 12.4.1, 12.4.4, 12.4.6, 12.5.3, 12.7.8



CHAPTER 12

Congress in Action

12.1.5, 12.4.1, 12.4.3, 12.6.4, 12.7.5, 12.7.6

◆ The Capitol, Washington, D.C.

UNIT 3

The Legislative Branch

CONSTITUTIONAL PRINCIPLES

Separation of Powers The Constitution gives Congress the power to make laws. Separating the power to make laws from the power to enforce and the power to review them prevents the misuse of governmental authority.

Checks and Balances The Constitution gives Congress a number of powers with which it can check the actions of the executive and the judicial branches.

Limited Government Congress can exercise only those powers given to it by the Constitution—and, in doing so, it cannot violate any provision in the Constitution.

The Impact on You

What Congress does has an effect on you, quite directly—when it sets the minimum wage, for example, and when it decides how much tax you will pay on your wages. Among many other examples: Congress has decreed that all public high schools must allow student religious groups to meet in the school, on the same terms that other student groups may do so.

Congress

“Any one who is unfamiliar with what Congress actually does and how it does it, with all its duties and all its occupations, . . . is very far from a knowledge of the constitutional system under which we live.”

—Woodrow Wilson (1885)

Wilson saw Congress, the legislative branch, as the most basic part of a democratic, constitutional government. The men and women elected to the House and Senate give the people a voice in setting public policy and making laws.



◆ Representatives and aides outside the Capitol



Standards Preview

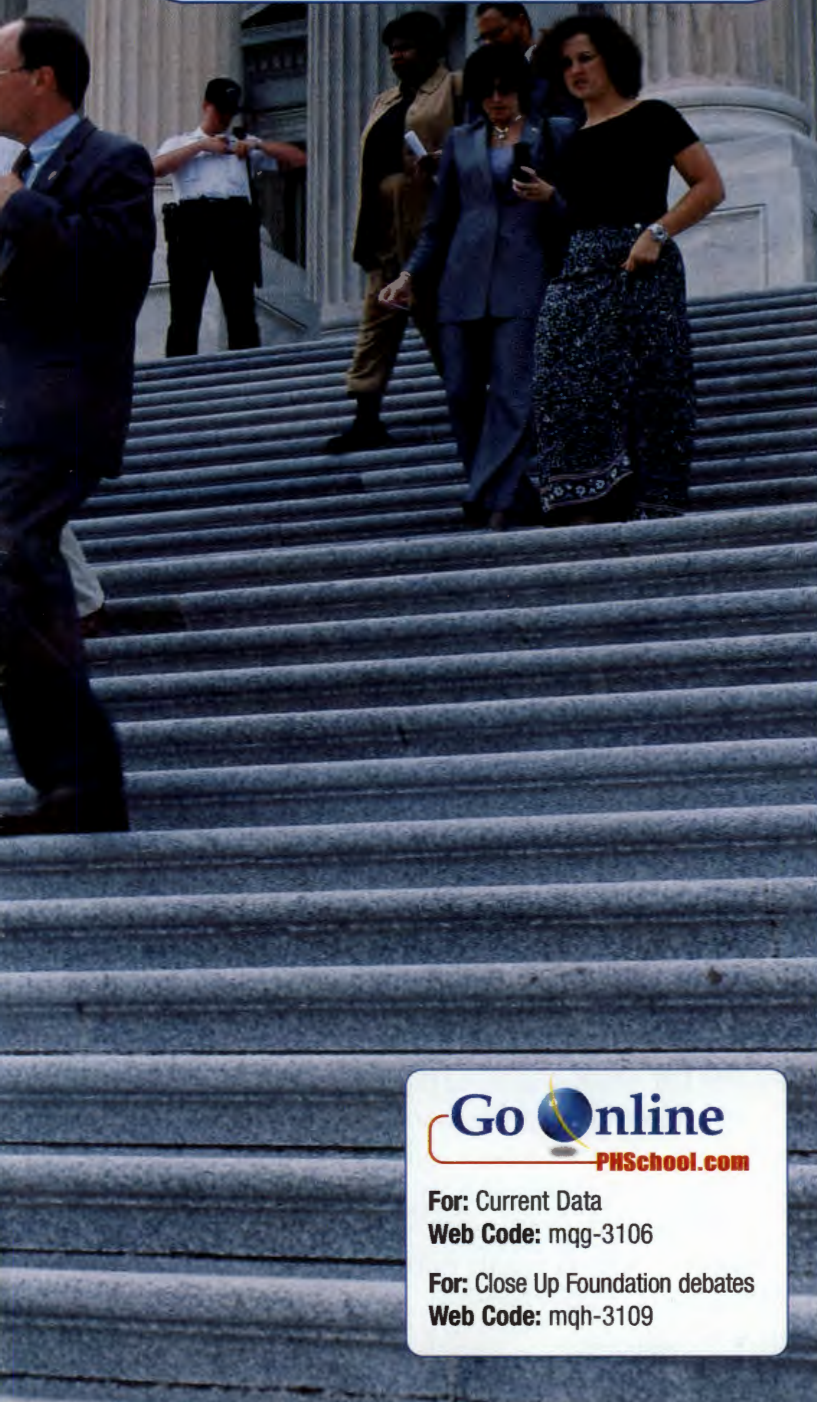
H-SS 12.4.1 Discuss Article I of the Constitution as it relates to the legislative branch, including eligibility for office and lengths of terms of representatives and senators; election to office; the roles of the House and Senate in impeachment proceedings; the role of the vice president; the enumerated legislative powers; and the process by which a bill becomes a law.

H-SS 12.4.3 Identify their current representatives in the legislative branch of the national government.

H-SS 12.6.4 Describe the means that citizens use to participate in the political process (e.g., voting, campaigning, lobbying, filing a legal challenge, demonstrating, petitioning, picketing, running for political office).

H-SS 12.6.6 Analyze trends in voter turnout; the causes and effects of reapportionment and redistricting, with special attention to spatial districting and the rights of minorities; and the function of the Electoral College.

H-SS 12.7.5 Explain how public policy is formed, including the setting of the public agenda and implementation of it through regulations and executive orders.



Chapter 10 in Brief

SECTION 1

The National Legislature (pp. 262–265)

- ★ Congress is bicameral, or divided into two houses.
- ★ In the House of Representatives, States are represented according to population.
- ★ Each State has two members in the Senate.
- ★ Congress meets for two-year terms, divided into two one-year sessions.

SECTION 2

The House of Representatives (pp. 267–273)

- ★ Each member of the House of Representatives represents a district of roughly equal population and is up for reelection every two years.
- ★ After each census, seats in the House are redistributed among the States, and districts are redrawn to reflect changes in population.
- ★ Congressional districts are often gerrymandered by the dominant party in a State's legislature.

SECTION 3

The Senate (pp. 275–278)

- ★ The Senate includes 100 members, two from each State, who are elected to six-year terms.
- ★ Senators usually have more experience, power, and prestige than their colleagues in the House.
- ★ Senators are protected from some political pressures because they serve for a long period between elections.

SECTION 4

The Members of Congress (pp. 279–284)

- ★ Members of Congress are likely to be older and wealthier than the average American, and most members are men.
- ★ Members bring a variety of viewpoints and career backgrounds to Congress.
- ★ Members of Congress juggle a number of roles by working as lawmakers, party members, and servants of their constituents.
- ★ Congress sets its own pay and other compensations—and that fact poses peculiar problems for its members.

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Section Preview

OBJECTIVES

1. **Explain** why the Constitution provides for a bicameral Congress.
2. **Describe** a term of Congress.
3. **Summarize** how sessions of Congress have changed over time.

WHY IT MATTERS

The Framers of the Constitution created a Congress with two bodies: a small Senate and a much larger House of Representatives. Each Congress since 1789 has met for a term of two years; those terms are now divided into two one-year sessions.

POLITICAL DICTIONARY

- ★ **term**
- ★ **session**
- ★ **adjourn**
- ★ **prorogue**
- ★ **special session**

You know that you live in a democracy, and in a democracy, the people rule. But what does that really mean? You are one of “the people,” but you do not rule, at least not in the hands-on sense. You do not make laws, collect taxes, arrest criminals, or decide court cases.

You do not do those or all of the other things that government does because you live in a *representative* democracy. Here, it is the representatives of the people who are responsible for the day-to-day work of government.

Congress stands as a leading example of that fact. It is the legislative branch of the National Government. Congress, then, is charged with the most basic governmental function in a democratic society—that of translating the public will into public policy in the form of law.

James Madison called Congress “the first branch” of the National Government. Just how profoundly important he and the other Framers thought Congress to be can be seen in this fact: the very first and longest of the articles of the Constitution is devoted to it.

FROM THE Constitution

“All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.”

—Article I, Section 1

A Bicameral Congress

As you have just seen, the Constitution immediately establishes a bicameral legislature—that is, one made up of two houses. It does so for historical, practical, and theoretical reasons.

1. **Historical** The British Parliament had consisted of two houses since the 1300s. The Framers and most other Americans knew the British system of bicameralism quite well. Most of the colonial assemblies and, in 1787, all but two of the new State legislatures were also bicameral. Among the original thirteen colonies, only



▲ **Party Leaders** Senator Bill Frist (R., Tennessee) is the Senate’s majority leader today, and Representative Nancy Pelosi (D., California) serves as the minority leader in the House. **H-SS 12.4.1**

Georgia and Pennsylvania had unicameral colonial and then State legislatures. Georgia's legislature became bicameral in 1789 and Pennsylvania's in 1790 (Only one State, Nebraska, has a unicameral legislature today.)

2. Practical The Framers had to create a two-chambered body to settle the conflict between the Virginia and the New Jersey Plans at Philadelphia in 1787. As you have read in Chapter 2, the most populous States wanted to distribute the seats in Congress in proportion to the population of each State, while the smaller States demanded an equal voice in Congress. Bicameralism is a reflection of federalism. Each of the States is equally represented in the Senate and each is represented in line with its population in the House.

3. Theoretical The Framers favored a bicameral Congress in order that one house might act as a check on the other.

A leading constitutional historian recounts a breakfast-table conversation between Thomas Jefferson and George Washington. Jefferson, who had just returned from France, told Washington that he was opposed to a two-chambered legislature. As he made his point, he poured his coffee into his saucer, and Washington asked him why he did so. "To cool it," replied Jefferson. "Even so," said Washington, "we pour legislation into the senatorial saucer to cool it."¹

The Framers were generally convinced that Congress would dominate the new National Government. As Madison observed,

PRIMARY Sources *"In a republican government, the legislative authority necessarily predominates. The remedy for this inconveniency is to divide the legislature into different branches."*

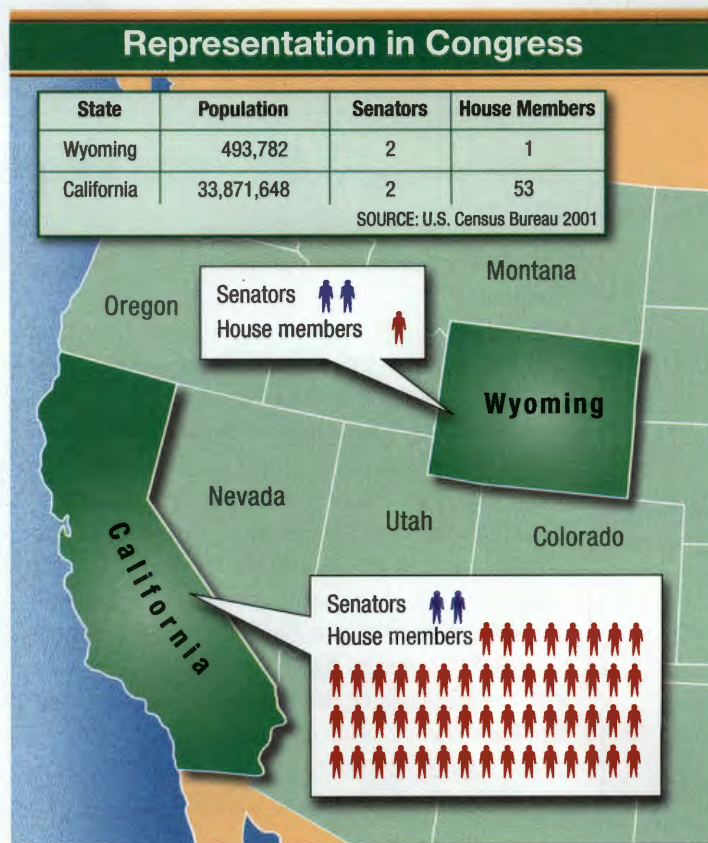
—The Federalist No. 51

The Framers saw bicameralism as a way to diffuse the power of Congress and so prevent it from overwhelming the other two branches of government.

For more than 200 years now, some people have argued that equal representation of the

¹Max Farrand, *The Framing of the Constitution* (1913).

²There is not the remotest chance that that would ever be done. Recall, the Constitution provides in Article V that "no State, without its Consent, shall be deprived of its equal Suffrage in the Senate."



INTERPRETING MAPS California and Wyoming each elect two senators, despite a huge difference in their populations. **How does the distribution of Senate seats among the States illustrate the principle of federalism?** H-SS 12.4.1

States in the Senate is undemocratic and should be eliminated.² They often point to the two extremes to make their case. The State with the least population, Wyoming, has only some 500,000 residents. The largest State, California, now has a population of more than 35 million. Yet each of these States has two senators.

Those who argue against State equality in the Senate ignore a vital fact. The Senate was purposely created as a body in which the States would be represented as coequal members and partners in the Union. Remember, had the States not been equally represented in the Senate, there might never have been a Constitution.

Terms and Sessions

One woman, incensed at something her senator had done, said "You know, 535 of you people in Congress meet every two years. There are some of us who think that it would be much better if just two of you met every 535 years."

Frequently Asked Questions



Congress

Does it matter that the States are not equally represented in the Senate?

Many people say that it does matter. They note that the Senate is the only legislative body in the United States that is not built on the principle of representation according to population. Most senators represent constituencies that are more white, rural, and conservative than would be the case if seats were allocated by population. The Senate's critics often note that many of the chamber's most powerful members regularly come from the smaller States. The late Senator Daniel P. Moynihan (D., NY), who knew firsthand that the interests of the residents of some States fare less well in the Senate than they might, declared that "sometime [soon] the United

States is going to have to address the question of apportionment in the Senate."

Is there any chance that the way in which seats in the Senate are distributed will ever be changed?

The short answer: No. The Constitution declares, in Article V, that "no State, without its Consent shall be deprived of its equal Suffrage in the Senate." Three-quarters of States would need to ratify a constitutional amendment to change the distribution of senators, and a great many people are satisfied with the current arrangement.

Any Questions?

What would you like to know about the United States Congress? Brainstorm two new questions and exchange them with a classmate. What did you learn?

While that story may or may not be true, the government has never followed that woman's advice. Ever since 1789, Congress has met for two-year terms.

Terms of Congress

Each **term** of Congress lasts for two years, and each term is numbered consecutively.³ Congress began its first term on March 4, 1789, and that term ended two years later, on March 4, 1791.

The date for the start of each new term was changed by the 20th Amendment in 1933. In an earlier day, the several months from election to March 4 allowed for delays in communicating election results. This gave newly chosen lawmakers time to arrange their affairs and travel to Washington. The March date gave Congress less time to accomplish its work each year, however, and by the 1930s travel and communications were no longer an issue. The start of each new two-year term is now "noon of the 3d day of January" of every odd-numbered

year. So the term of the 109th Congress began on January 3, 2005, and it will end at noon on January 3, 2007.

Sessions

A **session** of Congress is that period of time during which, each year, Congress assembles and conducts business. There are two sessions to each term of Congress—one session each year. The Constitution provides

FROM THE
Constitution

"The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day."

—20th Amendment, Section 2

In fact, Congress often does "appoint a different day." The second session of each two-year term frequently begins a few days or even two or three weeks after the third of January.

Congress **adjourns**, or suspends until the next session, each regular session as it sees fit. Until World War II, the nation's lawmakers typically met for four or five months each year. Today, the many pressing issues facing Congress force it to remain in session through most of each

³Article I, Section 2, Clause 1 dictates a two-year term for Congress by providing that members of the House "shall be . . . chosen every second Year."

year. Both houses do recess for several short periods during a session, however.

Neither house may adjourn *sine die* (finally, ending a session) without the consent of the other. The Constitution provides that

FROM THE
Constitution

“Neither House . . . shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.”

—Article I, Section 5, Clause 4

Article II, Section 3 of the Constitution does give the President the power to **prorogue**—end, discontinue—a session, but only when the two houses cannot agree on a date for adjournment. No President has ever had to use that power.

Special Sessions

Only the President may call Congress into **special session**—a meeting to deal with some emergency situation.⁴ Only 26 special sessions of Congress have ever been held. President Harry Truman called the most recent one in 1948, to consider anti-inflation and welfare measures in the aftermath of World War II.

Note that the President can call Congress or either of its houses into a special session. The Senate has been called into special session alone

⁴Article II, Section 3 says that the President “may, on extraordinary Occasions, convene both Houses, or either of them. . . .”



▲ **Outside Washington** Members of Congress have many responsibilities outside the regular legislative session in Washington. California Congressman Jim Costa (left) is shown here meeting with a constituent.

on 46 occasions, to consider treaties or presidential appointments, but not since 1933. The House has never been called alone.

Of course, the fact that Congress now meets nearly year-round reduces the likelihood of special sessions. That fact also lessens the importance of the President’s power to call one. Still, as Congress nears the end of a session, the President sometimes finds it useful to *threaten* a special session if the two chambers do not act on some measure high on his legislative agenda.

Section 1 Assessment

Key Terms and Main Ideas

1. How long does a **term** of Congress last?
2. How does a **special session** differ from a regular session of Congress?
3. When does Congress **adjourn**?
4. Who has the power to **prorogue** a session of Congress?

Critical Thinking

5. **Determining Cause and Effect** What are the historical, practical, and theoretical reasons for bicameralism in Congress?
6. **Expressing Problems Clearly** Why do some people believe the Senate is undemocratic?



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7. **Making Comparisons** The Articles of Confederation provided for a Congress that met for one-year terms. Why do you suppose the Framers of the Constitution created a Congress that meets for a term of two years?

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Face the Issues

Health Care Reform

Background *The U.S. health care system is in crisis. Some 45 million Americans under 65 have no health insurance at all, and that number is growing. Meanwhile, the cost of Medicare, the government-funded health care system for retired people, skyrockets each year. Many are openly questioning whether the Federal Government should spend so much money in health care—or whether it should extend health coverage to everyone. What do you think?*



Prescription medications: a rising expense



Analysis Skill HR4

A Free-Market Solution

The root of our health care crisis is runaway spending. Any attempt by the government to extend health insurance in its current form to those without coverage will only make matters worse.

Most patients are spending someone else's money when they purchase health care services. That creates an incentive for wasteful spending. High spending makes insurance more expensive, so fewer workers can afford it. While workers are less able to afford insurance for themselves, they must pay higher taxes to cover rising Medicare costs for seniors.

We need to put responsibility for spending back in the hands of the patient. People could make deposits into tax-free Medical Savings Accounts (MSAs) to pay for expenses. Workers without insurance could put savings from lower taxes into their MSAs. Employers, who currently must pay rising insurance costs for their workers, could make deposits to employees' MSA accounts instead. Affordable insurance would still cover costs of catastrophic illness. When consumers pay their own health care bills, they will make smarter choices with their own dollars.

Let Governments Provide

We cannot fix our health care system without tackling runaway inflation among prescription drugs and medical services. Price hikes by drug manufacturers are endangering Medicare's future. The government must negotiate lower prices for Medicare prescriptions and doctor visits to reduce costs.

High-quality health care should be a right, not a privilege. All Americans should have access to government-funded health care. The solution to rising costs and lack of insurance among those under 65 is to extend Medicare to every American. Medicare is actually more efficient than private health insurance and spends less on bureaucrats and paperwork.

Our current system links health care to jobs. The unemployed and many minimum-wage workers are left out. People who are too sick to work run the risk of losing their insurance when they need it most. This system is unfair and hurts the most vulnerable members of our society. The Federal Government is the only institution big enough to provide inexpensive, effective health care to all citizens, working or unemployed. Medicare is the model.

Exploring the Issues

1. Both sides agree that higher costs for Medicare are a problem. Who is responsible for this spending according to each article?
2. Identify one reason why Medical Savings Accounts might not help every working American.

For more information about trends in the United States health care system, view "Health Care Reform."



2

The House of Representatives

Section Preview

OBJECTIVES

1. **Describe** the size and the elective terms of the members of the House.
2. **Explain** how House seats are reapportioned among the States after each census.
3. **Describe** a typical congressional election and congressional district.
4. **Analyze** the formal and informal qualifications for election to the House.

WHY IT MATTERS

The 435 members of the House of Representatives represent districts of roughly equal populations but very different characteristics. House members can serve an unlimited number of two-year terms. The House is often described as the branch of Congress closest to the people because of the short terms and relatively small districts of members.

POLITICAL DICTIONARY

- ★ **apportion**
- ★ **reapportion**
- ★ **off-year election**
- ★ **single-member district**
- ★ **at-large**
- ★ **gerrymander**

Every other autumn, all across the country, hundreds of men and women seek election to the House of Representatives. Most of them try to attract supporters and win votes with banners and posters, yard signs, billboards, flyers, buttons, and other eye-catching campaign materials. Nearly all of them make their “pitches” with radio and television spots, newspaper ads, and now in cyberspace. In this section, you will discover the general shape of the office that all of those candidates so eagerly pursue.

Size and Terms

The exact size of the House of Representatives—today, 435 members—is not fixed by the Constitution. Rather, it is set by Congress. The Constitution provides that the total number of seats in the House of Representatives shall be **apportioned** (distributed) among the States on the basis of their respective populations.⁵

Each State is guaranteed at least one seat in the House, no matter what its population. Today, seven States—Alaska, Delaware, Montana, North Dakota, South Dakota, Vermont, and Wyoming—have only one representative apiece.

The District of Columbia, Guam, the Virgin Islands, and American Samoa each elect a delegate to represent them in the House and Puerto Rico chooses a resident commissioner. Those

officials are not, however, full-fledged members of the House of Representatives.

Article I, Section 2, Clause 1 of the Constitution provides that “Representatives shall be . . . chosen every second Year”—that is, for two-year terms. This rather short term means that, for House members, the next election is always just around the corner. That fact tends to make them pay close attention to “the folks back home.”

There is no constitutional limit on the number of terms any member of Congress may serve. In the 1990s, people tried to persuade Congress to offer a constitutional amendment to limit congressional terms. Most versions of such an amendment would put a three- or four-term limit (six or eight years) on service in the House and a two-term limit (twelve years) for the Senate.⁶

Reapportionment

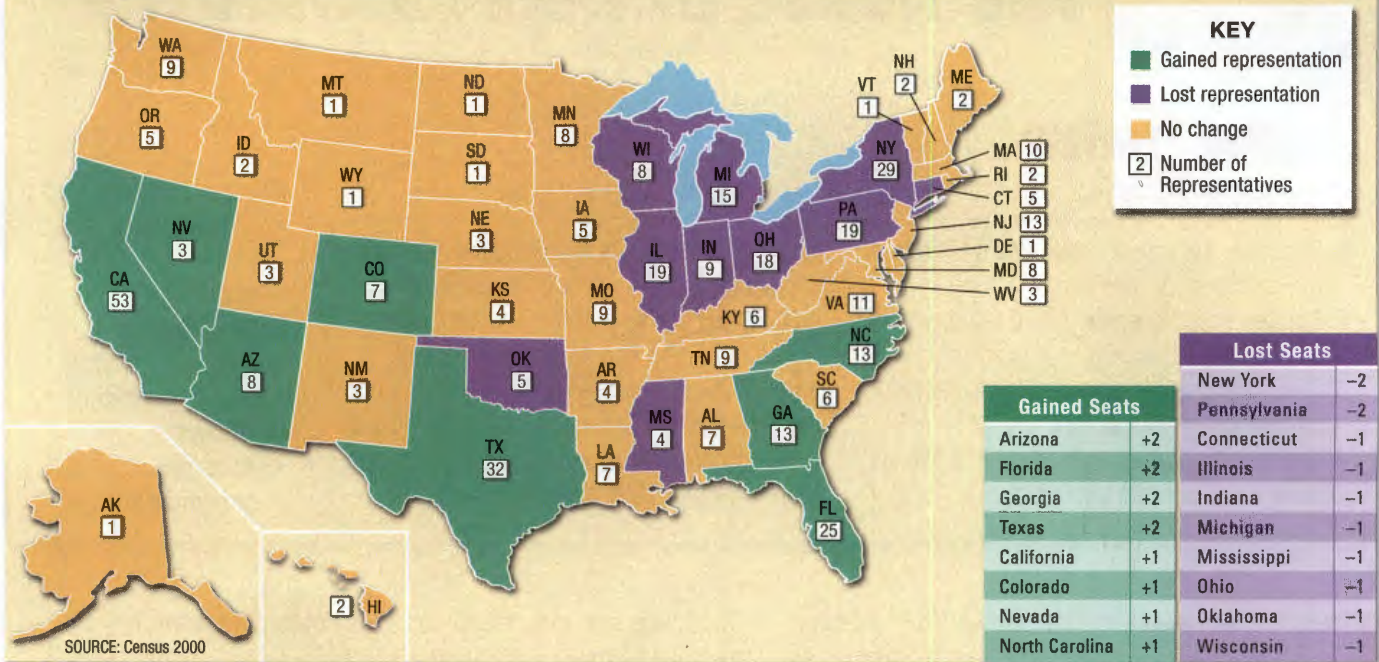
Article I of the Constitution directs Congress to **reapportion**—redistribute—the seats in the House after each decennial census.⁷ Until a first census could be taken, the Constitution set the size of the House at 65 seats. That many members served in the First and Second Congresses (1789–1793). The census of 1790 showed a national population of 3,929,214 persons;

⁶The States do not have the power to limit the number of terms their members of Congress may serve, *United States v. Thornton*, 1995.

⁷Article I, Section 2, Clause 3. A decennial census is one taken every ten years.

⁵Article I, Section 2, Clause 3.

Congressional Apportionment, 2003–2013



Interpreting Maps This map shows the changes in State representation due to the reapportionment of the House after the 2000 Census, and in effect from January 3, 2003 to January 3, 2013. The next reapportionment will be based on the census to be taken in 2010. **What general trend in population growth around the country does this map show? H-SS 12.6.6**

thus, in 1792 Congress increased the number of House seats by 41, to 106.

A Growing Nation

As the nation's population grew, and as the number of States increased, so did the size of the House. It went to 142 seats after the census of 1800, to 186 seats 10 years later, and so on.⁸ By 1912, following the census of 1910 and the admission of Arizona and New Mexico, the House had grown to 435 seats.

With the census of 1920, Congress found itself in a painfully difficult political position. The House had long since grown too large for effective floor action. To reapportion without adding more seats to the House, however, would mean that some States would have to lose seats if every State were to be represented according to its population.

Congress met the problem by doing nothing. So, despite the Constitution's command, there

⁸Once, following the census of 1840, the size of the House was reduced from 242 to 232 seats.

was no reapportionment on the basis of the 1920 census.

The Reapportionment Act of 1929

Faced with the 1930 census, Congress avoided repeating its earlier lapse by passing the Reapportionment Act of 1929. That law, still on the books, sets up what is often called an "automatic reapportionment." It provides:

(1) The "permanent" size of the House is 435 members. Of course, that figure is permanent only so long as Congress does not decide to change it. Congress did enlarge the House temporarily in 1959 when Alaska and then Hawaii became States. Today each of the 435 seats in the House represents an average of some 650,000 persons.

(2) Following each census, the Census Bureau is to determine the number of seats each State should have.

(3) When the Bureau's plan is ready, the President must send it to Congress.

(4) If, within 60 days of receiving it, neither house rejects the Census Bureau's plan, it becomes effective.

The plan set out in the 1929 law has worked quite well through now eight reapportionments. The law leaves to Congress its constitutional responsibility to reapportion the House, but it gives to the Census Bureau the mechanical chores (and political “heat”) that go with that task.

Congressional Elections

According to the Constitution, any person whom a State allows to vote for members of “the most numerous Branch” of its own legislature is qualified to vote in congressional elections.⁹ The Constitution also provides that

FROM THE Constitution *“The Times, Places and Manner of holding [Congressional] Elections . . . shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations. . . .”*¹⁰

—Article I, Section 4, Clause 1

Date

Congressional elections are held on the same day in every State. Since 1872 Congress has required that those elections be held on the Tuesday following the first Monday in November of each even-numbered year. Congress has made an

⁹Article I, Section 2, Clause 1.

¹⁰The Constitution allows only one method for filling a vacancy in the House—by a special election, which may be called only by the governor of the State involved; Article I, Section 2, Clause 4.

exception for Alaska, which may hold its election in October. To date, however, Alaskans have chosen to use the November date.




















In that same 1872 law, Congress directed that representatives be chosen by written or printed ballots. The use of voting machines was approved in 1899, and today, most votes cast in congressional elections are cast on some type of (usually electronic) voting machine.

Off-Year Elections

Those congressional elections that occur in the nonpresidential years—that is, between presidential elections—are called **off-year elections**. The most recent ones were held in 2002, and the next ones are due in 2006.

Far more often than not, the party in power—the party that holds the presidency—loses seats in the off-year elections. The time line below illustrates that point. The President’s party did particularly poorly in 1974, after President Nixon resigned due to the Watergate Scandal, and in 1994, during President Clinton’s first term. The 1998 off-year elections were an exception to the rule. That summer and fall, the Republican Congress held hearings to prepare to impeach President Clinton. Public opinion polls showed weak support for the impeachment, and many believe the hearings prompted significant support for Democratic candidates for Congress. And, recall, the elections of 2002 were also a departure, as we noted on page 131.

Gains and Losses in Off-Year Elections

Congress	1974	1978	1982	1986	1990	1994	1998	2002	
	 seats: -48 House -5 Senate	 seats: -15 House -3 Senate	 seats: -26 House +1 Senate	 seats: -5 House -8 Senate	 seats: -8 House -1 Senate	 seats: -53 House -8 Senate	 seats: +5 House 0 Senate	 seats: +8 House +2 Senate	
President	1972*  Richard Nixon reelected	1976  Jimmy Carter elected	1980  Ronald Reagan elected	1984  Ronald Reagan reelected	1988  George H.W. Bush elected	1992  Bill Clinton elected	1996  Bill Clinton reelected	2000  George W. Bush elected	2004  George W. Bush reelected
*Nixon resigned in August 1974 and was replaced by Gerald Ford.					KEY:  Republican  Democrat				



Interpreting Time Lines The President’s party frequently loses seats in the House and Senate in an off-year election. **In which two election years above did the President’s party lose the most seats in the House?**

Districts

The 435 members of the House are chosen by the voters in 435 separate congressional districts across the country. Recall that seven States now each have only one seat in the House of Representatives. There are, then, 428 congressional districts within the other 43 States.

The Constitution makes no mention of congressional districts. For more than half a century, Congress allowed each State to decide whether to elect its members by a general ticket system or on a single-member district basis. Under the **single-member district** arrangement, the voters in each district elect one of the State's representatives from among a field of candidates running for a seat in the House from that district.

Most States quickly set up single-member districts. Several States used the general ticket system, however. Under that arrangement, all of the State's seats were filled **at-large**—that is, elected from the State as a whole, rather than from a particular district. Every voter could vote for a candidate for each one of the State's seats in the House.

At-large elections proved grossly unfair. A party with even a very small plurality of voters Statewide could win all of a State's seats in the House. Congress finally did away with the general ticket system in 1842. Thereafter, all of

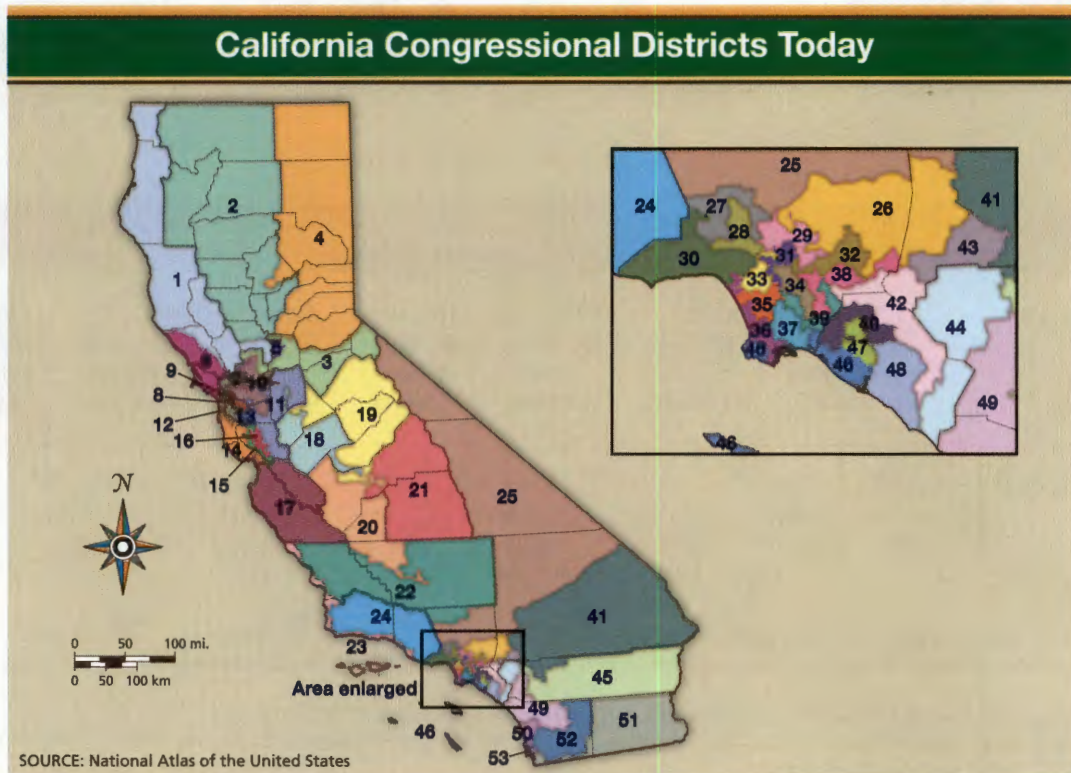
the seats in the House were to be filled from single-member districts in each State. Since the seven States with the fewest residents each have only one representative in the House, these representatives are said to be elected "at-large." Although each representative represents a single-member district, that district covers the entire State.

The 1842 law made each State legislature responsible for drawing any congressional districts within its own State. It also required that each congressional district be made up of "contiguous territory," meaning that it must be all one piece. In 1872 Congress added the command that the districts within each State have "as nearly as practicable an equal number of inhabitants." In 1901 it further directed that all the districts be of "compact territory"—in other words, a comparatively small area.

These requirements of contiguity, population equality, and compactness were often disregarded by State legislatures, and Congress made no real effort to enforce them. The requirements were left out of the Reapportionment Act of 1929. In 1932 the Supreme Court held (in *Wood v. Broom*) that they had therefore been repealed. Over time, then, and most notably since 1929, the State legislatures have drawn many districts

Interpreting Maps

California gained one seat in the House after the 2000 Census. State legislators drew a map that realigned existing districts and created a new seat in the southern Central Valley. Districts in California are numbered from north to south, 1 to 53. **Why does the redrawing of district lines regularly produce sharp political conflicts in a State? H-SS 12.6.6**



with very peculiar geographic shapes. Moreover, until fairly recently, many districts were also of widely varying populations.

Gerrymandering

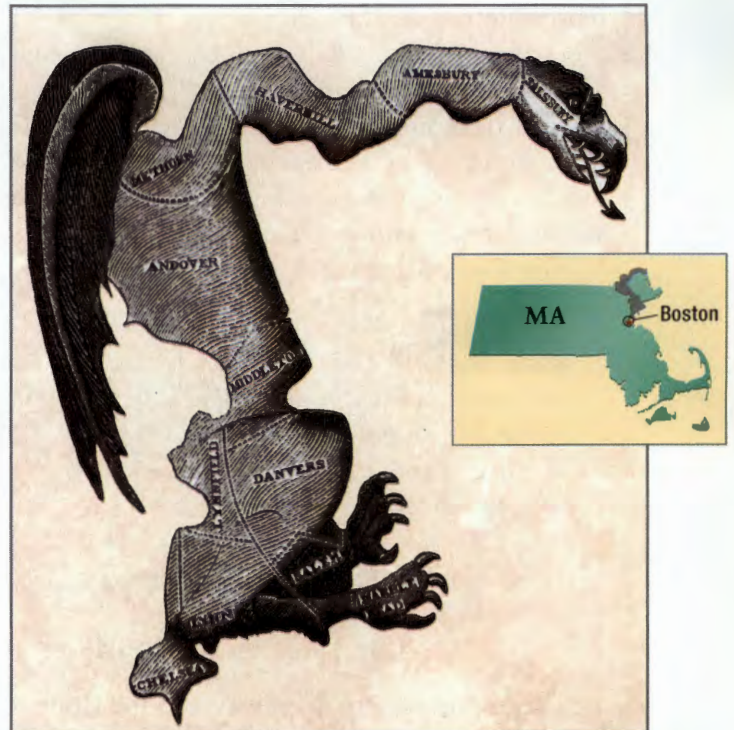
Congressional district maps in several States show one and sometimes several districts of very odd shapes. Some look like the letters S or Y, some bear a resemblance to a dumbbell or a squiggly piece of spaghetti, and some defy description. Those districts have usually been **gerrymandered**. That is, they have been drawn to the advantage of the political party that controls the State's legislature.

Gerrymandering is widespread today—and not just at the congressional district level. Districts for the election of State legislators are regularly drawn for partisan advantage. In fact, gerrymandering can be found in most places where lines are drawn for the election of public officeholders—in cities, counties, school districts, and elsewhere.

Most often gerrymandering takes one of two forms. The lines are drawn either (1) to concentrate the opposition's voters in one or a few districts, thus leaving the other districts comfortably safe for the dominant party; or (2) to spread the opposition as thinly as possible among several districts, limiting the opposition's ability to win anywhere in the region. Gerrymandering's main goal is to create as many "safe" districts as possible—districts almost certain to be won by the party in control of the line-drawing process. And the computer-driven map-making techniques of today make the practice more effective than ever in its storied past.

For decades, gerrymandering produced congressional districts that differed widely in the number of people they included. State legislatures were responsible for this situation. A number of them regularly drew district lines on a partisan basis—with the Republicans gouging the Democrats in those States where the GOP controls the legislature, and the

¹¹The pattern of rural over-representation in the State legislatures has now all but disappeared as a consequence of the Supreme Court's several "one-person, one-vote" decisions of the 1960s and 1970s. In the leading case, *Reynolds v. Sims*, 1964, the Court held that the 14th Amendment's Equal Protection Clause commands that the seats in both houses of a State's legislature must be apportioned on the basis of population equality.



▲ **The original Gerrymander** Gerrymandering takes its name from Governor Elbridge Gerry of Massachusetts, who in 1812 drew the State's legislative districts to favor the Democratic-Republicans. It is said that the painter Gilbert Stuart added a head, wings, and claws on a district map hanging over the desk of a Federalist newspaper editor. "That," he said, "will do for a salamander." "Better say Gerrymander," growled the editor.

Democrats doing the same thing to the Republicans where they hold sway. In fact, that circumstance exists in several States today. Historically, most States were carved up on a rural versus urban as well as a partisan basis—because, through much of history, the typical State legislature was dominated by the less-populated (and over-represented) rural areas of the State.¹¹

Wesberry v. Sanders, 1964

Suddenly, and quite dramatically, these long-standing patterns of wide population variations among House districts and of rural over-representation in the chamber came to an end in the mid- to late 1960s. These abrupt changes were the direct result of a historic decision by the Supreme Court in 1964. In *Wesberry v. Sanders*, the Court held that the population differences among Georgia's congressional districts were so great as to violate the Constitution.

In reaching its landmark decision, the Supreme Court noted that Article I, Section 2 declares that

representatives shall be chosen “by the People of the several States” and shall be “apportioned among the several States . . . according to their respective Numbers. . . .” These words, the Court held, mean that “as nearly as practicable one man’s vote in a congressional election is to be worth as much as another’s.”

The Court added that

PRIMARY Sources “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 of the House of Representatives. That is the high standard of justice and common sense which the Founders set for us.”

—Justice Black, *Opinion of the Court*

The importance of *Wesberry* and the Court’s later “one person, one vote” decisions cannot be overstated. They had an extraordinary impact on the makeup of the House, on the content of public policy, and on electoral politics in general. The nation’s cities and suburbs now speak with a much larger voice in Congress than ever before. Notice, however, that it is quite possible

to draw congressional (or any other) district lines in accord with the “one person, one vote” rule and, at the same time, to gerrymander them.

Gerrymandering based solely on race, however, is a violation of the 15th Amendment, *Gomillion v. Lightfoot*, 1960. So-called “majority-minority districts” were drawn in some States following the census in 1990 and again in 2000—districts crafted to include a majority of African Americans and/or Latinos and so likely to send African Americans and Latinos to Congress. The Supreme Court struck down those race-based districts in several cases—most notably, in a case from Texas, *Bush v. Vera*, 1996. But, most recently, the Court has held this: while race cannot be the controlling factor in drawing district lines, race can be one of the mix of factors that shape that process. It did so in a case from North Carolina, *Hunt v. Cromartie*, in 2001.

Qualifications for House Members

You know that there are 435 members of the House of Representatives, and that each one of them had to win an election to get there. Each one of them also had to meet two quite different sets of qualifications to win office: the formal qualifications for membership in the House set out in the Constitution and a number of informal qualifications imposed by the realities of politics.

Formal Qualifications

The Constitution says that a member of the House

- (1) must be at least 25 years of age,
- (2) must have been a citizen of the United States for at least seven years, and
- (3) must be an inhabitant of the State from which he or she is elected.¹²

Longstanding custom, not the Constitution, also requires that a representative must live in the district he or she represents. The custom is based on the belief that the legislator should be closely familiar with the locale he or she represents, its people, and its problems. Rarely, then, does a district choose an outsider to represent it.

¹²Article I, Section 2, Clause 2; see also Article I, Section 6, Clause 2.

¹³Article I, Section 5, Clause 1.

¹⁴Article I, Section 5, Clause 2.

Major Differences Between the House and Senate

HOUSE	SENATE
Larger body (435 members)	Smaller body (100 members)
Shorter term (2 years)	Longer term (6 years)
Smaller constituencies (elected from districts within States)	Larger constituencies (elected from entire State)
Younger membership	Older membership
Less prestige	More prestige
Lower visibility in the news media	Higher visibility in the news media
Strict rules, limited debate	Flexible rules, nearly unlimited debate
Most work is done in committees, not on the floor	Work is split more evenly between committees and the floor
No power over treaties and presidential appointments	Approves or rejects treaties and presidential appointments

Interpreting Tables Members of the House and Senate work under very different rules and conditions. **Why do House members debate most bills in committees before bringing them to the House floor?**

The Constitution makes the House “the Judge of the Elections, Returns and Qualifications of its own Members.”¹³ Thus, when the right of a member-elect to be seated is challenged, the House has the power to decide the matter. Challenges are rarely successful.

The House may refuse to seat a member-elect by majority vote. It may also “punish its Members for disorderly Behavior” by majority vote, and “with the Concurrence of two thirds, expel a Member.”¹⁴

Historically, the House viewed its power to judge the qualifications of members-elect as the power to impose additional standards. It did so several times. In 1900 it refused to seat Brigham H. Roberts of Utah because he was a polygamist—that is, he had more than one wife. In *Powell v. McCormack*, 1969, however, the Supreme Court held that the House could not exclude a member-elect who meets the Constitution’s standards of age, citizenship, and residence. The House has not excluded anyone since that decision.

Over more than 200 years, the House has expelled only five members. Three were ousted in 1861 for their “support of rebellion.” Michael Myers (D., Pennsylvania) was expelled in 1980 for corruption. Myers had been caught up in the Abscam probe, an undercover FBI investigation of corruption. Most recently, the House ejected James Traficant (D., Ohio) in 2002. Mr. Traficant had earlier been convicted of several counts of bribery, fraud, and tax evasion. Over time, a few members have resigned to avoid almost certain expulsion.

The House has not often punished a member for “disorderly Behavior,” but such actions are not nearly so rare as expulsions. Most recently, the House voted to “reprimand” Barney Frank (D., Massachusetts) in 1990 for conduct stemming from his relationship with a male prostitute. Mr. Frank, an avowed homosexual, has been easily reelected by the voters in his congressional district every two years since then.

The Speaker of the House left Congress under a cloud in 1989. Jim Wright (D., Texas) resigned his seat after the House Ethics Committee charged him with a number of violations of House rules. Most of those allegations centered around Mr. Wright’s financial dealings with individuals and companies with an interest in legislation before the House.

Informal Qualifications

The realities of politics produce a number of informal qualifications for membership in the House—beyond those qualifications set out in the Constitution. These additional qualifications vary somewhat from time to time and from State to State, and sometimes from one congressional district to another within the same State.

Informal qualifications have to do with a candidate’s vote-getting abilities. They include such factors as party identification, name familiarity, gender, ethnic characteristics, and political experience. The “right” combination of these factors will help a candidate win nomination and then election to the House. The “wrong” ones, however, will almost certainly spell defeat.

Section 2 Assessment

Key Terms and Main Ideas

1. How are the seats in the House of Representatives **apportioned**?
2. When will the next two **off-year elections** occur?
3. Explain the difference between a **single-member district** seat and an **at-large** seat.
4. Why do politicians **gerrymander** districts?

Critical Thinking

5. **Drawing Inferences** How did *Wesberry v. Sanders* change the makeup of Congress?
6. **Predicting Consequences** Since 1910, the average number of people in a congressional district has tripled



Standards Monitoring Online

For: Self-quiz with vocabulary practice
Web Code: mqa-3102

from 210,000 to well over 650,000. How might this have affected the ability of members of Congress to represent their constituents?

Go Online PHSchool.com

For: An activity on gerrymandering
Web Code: mqd-3102

Redistricting and Race



Analysis Skills CS3, HR4, HI3

*African Americans and Latinos have historically been underrepresented in the House of Representatives. As a result, several States designated “majority-minority” congressional districts to elect more minority members to Congress. Although the Supreme Court had previously rejected one such district, North Carolina’s 12th, in 1993 and 1996, it reversed itself in *Hunt v. Cromartie* (2001) as explained by commentator Richard A. Zitrin.*

The U.S. Supreme Court has ruled 5–4 that race was not proven to be the predominant factor in the creation of a highly contested North Carolina congressional district. . . .

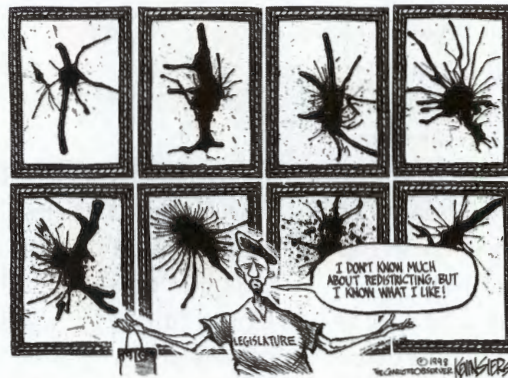
The decision upholds the legality of North Carolina’s 12th Congressional District, currently represented by Democrat Melvin Watt, one of two black representatives from the state. . .

The court’s ruling reversed a federal district court decision that the North Carolina legislature violated the equal protection clause of the 14th Amendment by using “facially race-driven” criteria in changing the 12th district’s boundaries.

The 12th district is about 47 percent African-American. It is a long narrow district that stretches 71 miles and includes the cities of Greensboro, Winston-Salem and Charlotte.

In defending the district, the state said it was drawn for political considerations because North Carolina wanted to maintain an even split between Republicans and Democrats in its congressional delegation.

Writing for the Supreme Court majority, Justice Breyer said that in cases “where majority-minority districts (or the approximate equivalent) are at issue and where racial identification correlates highly with political affiliation, the party attacking the legislatively drawn boundaries must show at least that



What does the cartoon suggest about the process of redistricting?

the legislature could have achieved its legitimate political objectives in alternative ways that are comparable (and) consistent with traditional districting principles. That party must also show that those districting alternatives would have brought about significantly greater racial balance.”

In a dissenting opinion, Justice Clarence Thomas wrote that the Supreme Court should have deferred to the trier of fact [the federal district court].

“The only question that this Court should decide is whether the District Court’s finding of racial predominance was clearly erroneous,” Thomas wrote. “In light of the direct evidence of racial motive and the inferences that may be drawn from the circumstantial evidence, I am satisfied that the District Court’s finding was permissible, even if not compelled by the record.”

Analyzing Primary Sources

1. What is the main issue in *Hunt v. Cromartie*?
2. On what grounds did the Court reverse itself in *Hunt v. Cromartie*?
3. The Supreme Court has ruled that States can group voters into districts by party, but not by race. Do you agree or disagree with that decision? Give reasons for your position.

3 The Senate

Section Preview

OBJECTIVES

1. **Compare** the size of the Senate to the size of the House of Representatives.
2. **Describe** how States have elected senators in the past and present.
3. **Explain** how and why a senator's term differs from a representative's term.
4. **Identify** the qualifications for serving in the Senate.

WHY IT MATTERS

Each State has two seats in the Senate, the smaller and more prestigious house of Congress. Senators are generally older and more experienced than representatives, and their longer terms offer some protection against political pressures.

POLITICAL DICTIONARY

- ★ **continuous body**
- ★ **constituency**

You should not be very much surprised by these facts: Nearly a third of the present members of the Senate once served in the House of Representatives; none of the current members of the House has ever served in the Senate. Indeed, many of the men and women who now serve in the House look forward to the day when, they hope, they will sit in the Senate. As you read this section, you will come to see why the Senate is often called the “upper house.”

Size, Election, and Terms

Why are there 100 members of the United States Senate? Have the members of the Senate always been elected by the voters of their States? Why do senators serve six-year terms? The organization of the Senate has changed some over time, but it remains a vital part of our government.

Size

The Constitution says that the Senate “shall be composed of two Senators from each State,” and so the Senate is a much smaller body than the House of Representatives.¹⁵ The Senate had only 22 members when it held its first session in March of 1789, and 26 members by the end of the First Congress in 1791. Like the House, the size of the upper chamber has grown with the country. Today 100 senators represent the 50 States.

¹⁵Article I, Section 3, Clause 1 and the 17th Amendment.

The Framers hoped that the smaller Senate would be a more enlightened and responsible body than the House. Many of them thought that the House would be too often swayed by the immediate impact of events and by the passions of the moment. The Framers reinforced that hope by giving senators a longer term and by setting the qualifications for membership in the Senate a cut above those they set for the House.

James Madison saw those provisions as “a necessary fence” against the “fickleness and passion” of the House of Representatives. Nearly a century later, Woodrow Wilson agreed with Madison:

PRIMARY Sources “It is indispensable that besides the House of Representatives which runs on all fours with popular sentiment, we should have a body like the Senate which may refuse to run with it at all when it seems to be wrong—a body which has time and security enough to keep its head, if only now and then and but for a little while, till other people have had time to think.”

—Woodrow Wilson, *Congressional Government*



▲ Senator Blanche K. Bruce (R., Mississippi) was one of the first two African Americans to serve in the Senate. He served one term from 1875 to 1881.

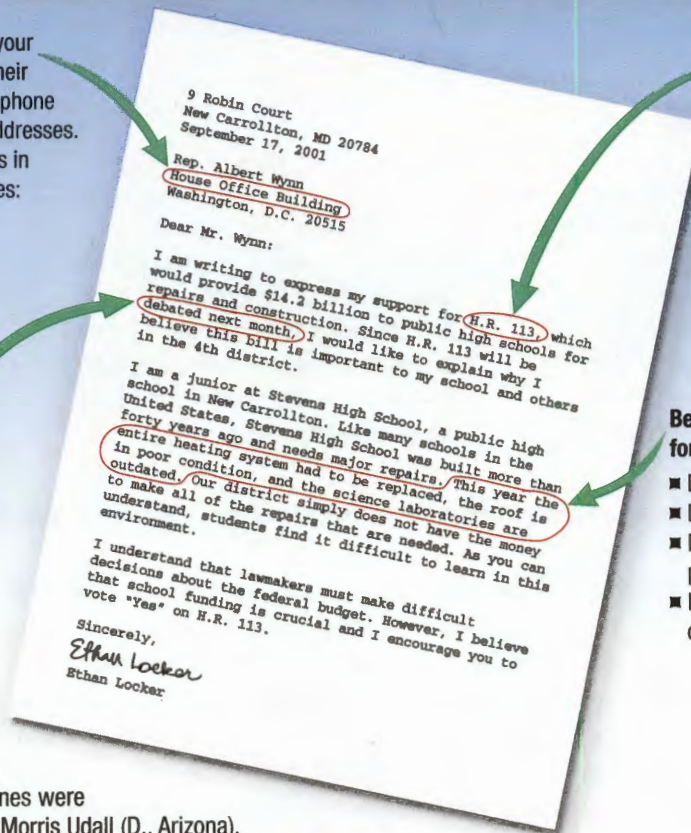
How to Write to Your Lawmakers

Choose a method. You can write to your representative's local address or to their Washington address. Check your telephone directory's blue pages to find local addresses. Letters can be sent to representatives in Washington at the following addresses:

Representative _____
House Office Building
Washington, D.C. 20515

Senator _____
Senate Office Building
Washington, D.C. 20510

Write while your issue is still current. Don't wait until a bill is out of the committee or has passed the House (or Senate).



Be specific. Identify the issue that prompted you to write, preferably in your first paragraph. Give the bill number or mention its popular title - e.g. the Minimum Wage Bill, the Child Care Bill.

Be brief, but give the reasons for your position. Avoid these don'ts:

- Don't make threats or promises.
- Don't berate your lawmaker.
- Don't pretend to wield vast political power.
- Don't try to instruct your lawmaker on every issue.

SOURCE: *Congressional Quarterly*

Interpreting Diagrams These guidelines were suggested by former Representative Morris Udall (D., Arizona).

Why is it important to write while a bill is still in committee? H-SS 12.6.4

Members of the Senate represent entire States. So nearly all of them represent a larger, more diverse population and a broader range of interests than do the representatives from their State. If you look at your own State—at the size, diversity, and major characteristics of its population and at its history, geography, and economy—you will see the point.

Election

Originally, the Constitution provided that the members of the Senate were to be chosen by the State legislatures. Since the ratification of the 17th Amendment in 1913, however, senators have been picked by the voters in each State at the regular November elections. Only one senator is elected from a State in any given election, except when the other seat has been vacated by death, resignation, or expulsion.¹⁶

Before the coming of popular election, the State legislatures often picked popular and qualified senators. On other occasions, however, their choice was the result of maneuvering and

in-fighting among the leaders of various factions in the State. These leaders all spent a great deal of energy trying to gain (and sometimes buy) enough legislators' votes to win a seat in the United States Senate. By the late 1800s, the Senate was often called the "Millionaires' Club," because so many wealthy party and business leaders sat in that chamber.

The Senate twice defeated House-passed amendments to provide for popular election. In 1912, it finally bowed to public opinion and agreed to what became the 17th Amendment. The Senate was also persuaded by the fact that several States had already devised ways to ensure that their legislatures would choose senators who were supported by the people of the State.

¹⁶The 17th Amendment gives each State a choice of methods for filling a Senate vacancy. A State may (1) fill the seat at a special election called by the governor, or (2) allow the governor to appoint someone to serve until the voters fill the vacancy at such a special election or at the next regular (November) election. Most States use the appointment-special election method.

Each senator is elected from the State at-large. The 17th Amendment declares that all persons whom the State allows to vote for members of “the most numerous Branch” of its legislature are qualified to vote for candidates for the United States Senate.

Term

Senators serve for six-year terms, three times the length of those for which members of the House are chosen.¹⁷ Senators may be elected to any number of terms. The late Strom Thurmond (R., South Carolina) set the all-time record. Senator Thurmond was elected to the Senate nine times, and he served there for nearly 50 years. He was first elected to fill a vacancy in 1954 and won a full term in 1956. First elected as a Democrat, he became a Republican in 1964 and finally retired in 2003 at the age of 100.

Senators’ terms are staggered. Only a third of them—33 or 34 terms—expire every two years. The Senate is, then, a **continuous body**. That is, all of its seats are never up for election at the same time.

The six-year term gives senators a somewhat greater degree of job security than members of the lower house have. Those six years give senators some insulation from the rough-and-tumble of day-to-day politics. The six-year term also tends to make senators less subject to the pressures of public opinion and less susceptible to the pleas of special interests than are members of the House.

The larger size and the geographic scope of their **constituencies**—the people and interests the senators represent—are designed to have much the same effect. In other words, senators are supposed to be less concerned with the interests of a specific small locality and more focused on the “big picture” of the national interest. Indeed, senators are in general more likely to be regarded as national political leaders than most House members.

The large size of the House generally prevents representatives from gaining as much notice and public exposure as members of the Senate attract. Senators, and especially those who have presidential ambitions, are better able to capture national media attention. Over the past

several elections, the Senate has emerged as a prime source of contenders for the presidential nomination in both parties. Senators also find it easier to establish themselves as the champions of public policies that appeal to large segments of the American people—for example, social security or national health care.

Senators are also more likely to be covered by the media in their States. They tend to have more clout in their State’s politics than that enjoyed by members of the lower house.

Qualifications for Senators

A senator must meet a higher level of qualifications than those the Constitution sets for a member of the House. A senator must be at least 30 years of age, must have been a citizen of the United States for at least nine years, and must be an inhabitant of the State from which he or she is elected.¹⁸

¹⁸Article I, Section 3, Clause 3. Under the inhabitant qualification, a senator need not have lived in the State for any particular period of time. Most often, of course, senators have been longtime residents of their States.



Government Online

The Senate Oral History Program What was it like to be a reporter covering the Senate? What happened when an African American staff member challenged de facto segregation of the Senate cafeteria in the early 1950s? What preparations were made in the Senate for Richard Nixon’s impeachment?

You can find the answers to these questions and many others through the Senate’s Oral History program. The Senate Historical Office has been interviewing retired Senate staff members since 1976. These personal recollections provide behind-the-scene views of the Senate. They include the observations of former Senate pages, Capitol police officers, Senate aides and assistants, and members of the press.

The Historical Office concentrates on staff members with more than 20 years of service in the Senate. Their interviews are in-depth. (A typical interview totals 10 to 12 hours, over 6 to 8 sessions.) They are available in several national archives, including the manuscript division of the Library of Congress. The Senate Historical Office has begun publishing the interviews online, as well.



Use Web Code mqd-3107 to find out more about the Senate Oral History Program and for help in answering the following

question: *Christine S. McCreary was on the staff of two senators (Symington and Glenn). Why might an historian be interested in her recollections about helping to desegregate the Senate staff cafeterias?*

¹⁷Article I, Section 3, Clause 1.

Interpreting Political Cartoons This 1890 cartoon depicts a candidate for the Senate. **Why does the candidate deposit his money in a box labeled “State Legislature”?**
H-SS 12.4.1



The Senate, like the House, judges the qualifications of its members, and it may exclude a member by a majority vote.¹⁹ As has the House, the Senate has at times refused to seat a member-elect. The Senate may also “punish its Members for disorderly Behavior” by majority vote and “with the Concurrence of two thirds, expel a Member.”²⁰

Fifteen members of the Senate have been expelled by that body, one in 1797 and 14 during

¹⁹Article I, Section 5, Clause 1.

²⁰Article I, Section 5, Clause 2.

the Civil War. Senator William Blount of Tennessee was expelled in 1797 for conspiring to lead two Native American tribes, supported by British warships, in attacks on Spanish Florida and Louisiana. The 14 senators ousted in 1861 and 1862 were all from States of the Confederacy and were expelled for supporting secession.

Since the country was founded, a few senators have resigned in the face of almost certain expulsion. Most recently, the Senate’s Ethics Committee had recommended that Senator Bob Packwood (R., Oregon) be expelled from the Senate because of several episodes of sexual harassment and other personal misconduct. Packwood, in his fifth term in the upper house, had fought the charges for years. But the Ethics Committee’s chairman, Senator Mitch McConnell (R., Kentucky), noted that lengthy committee investigations had shown “a habitual pattern of aggressive, blatantly sexual advances.” Such behavior, McConnell declared, “cannot be tolerated in the United States Senate.” Senator Packwood resigned effective October 1, 1995.

The punishing of a senator for “disorderly Behavior” has also been rare. In the most recent case, in 1990, the Senate formally “denounced” Senator David Durenberger (R., Minnesota). The Ethics Committee had found him guilty on several counts of financial misconduct. The Senate called Durenberger’s conduct “reprehensible” and declared that he had “brought the Senate into dishonor and disrepute.” Senator Durenberger chose not to seek reelection to a third term in 1994.

Section 3 Assessment

Key Terms and Main Ideas

1. Why is the Senate called a **continuous body**?
2. How does a typical senator’s **constituency** differ from that of a typical representative in the House?
3. Why do most senators receive more public attention than their colleagues in the House of Representatives?

Critical Thinking

4. **Determining Cause and Effect** Why did the 17th Amendment change the way that senators are chosen?
5. **Making Comparisons** Why did the Framers set each senator’s term at six years instead of two years?



Standards Monitoring Online

For: Self-quiz with vocabulary practice

Web Code: mqa-3103

6. **Drawing Inferences** In order to expel a senator from the Senate, two thirds of the Senate must agree. Why do you think the Constitution sets such a high requirement?

Go Online
PHSchool.com

For: An activity on the Senate

Web Code: mqd-3103

4

The Members of Congress

Section Preview

OBJECTIVES

1. **Identify** the personal and political backgrounds of the current members of Congress.
2. **Describe** the duties performed by those who serve in Congress.
3. **Describe** the compensation and privileges of members of Congress.

WHY IT MATTERS

Members of Congress must fill several roles as lawmakers, politicians, and servants of their constituents. For their work, they receive fairly generous pay and benefits.

POLITICAL DICTIONARY

- ★ trustee
- ★ partisan
- ★ politico
- ★ oversight function
- ★ franking privilege

Can you name your two senators? Your representative? Regrettably, most Americans cannot—let alone tell you much about their backgrounds, qualifications, or voting records.

Personal and Political Backgrounds

Whatever else they may be, the 535 members of Congress are *not* a representative cross section of the American people. Rather, the “average” member is a white male in his early 50s. The median age of the members of the House is just over 56 and of the Senate, 61.

There are more women in Congress today than ever—70 in the House and 14 in the Senate—and they are moving into positions of leadership. Nancy Pelosi (D., California) is now the House Minority Leader; Deborah Pryce (R., Ohio) heads the GOP’s caucus in the House; and Maine’s two Republican senators, Susan Collins and Olympia Snowe, now chair committees in the upper house.

There are now 42 African Americans, 24 Hispanics, five Asian Americans, and one Native American in the House. One African American, two Hispanics, one Asian American, and one Native Hawaiian sit in the Senate. Representative David Wu (D., Oregon), first elected in 1998, is the first-ever Chinese American to sit in either house. Senator Barack Obama (D., Illinois), elected in 2004, is only the fifth African American ever elected to the Senate.

Nearly all members are married, a few are divorced, and they have, on the average, two children. Only a few members say they have no religious affiliation. Just about 60 percent are Protestants, 30 percent are Roman Catholics, and some 6 percent are Jewish.

Well over a third of the members of the House and well over half the senators are lawyers. Nearly all went to college. More than four out of five have a college degree and most, in fact, have advanced degrees.

Most senators and representatives were born in the States they represent. Only a handful were born outside the United States. Sprinkled among the members of Congress are several millionaires. A surprisingly large number of the men and women who sit in the House depend on their congressional salaries as their major source of income, however.

Most members of Congress have had considerable political experience. The average senator is serving a second term, and the typical representative has served four terms. Nearly a third of the senators once sat in the House. Several senators are former governors. A few senators have held Cabinet seats or other high posts in the executive branch of



▲ Senator Barack Obama (D., Illinois) served as a State senator before his election to the U.S. Senate in 2004.

the Federal Government. The House has a large number of former State legislators and prosecuting attorneys among its members.

Again, Congress is not an accurate cross section of the nation's population. Rather, it is made up of upper-middle-class Americans, who are, on the whole, quite able and hard-working people.

The Job

One leading commentary on American politics describes Congress and the job of a member of Congress this way:

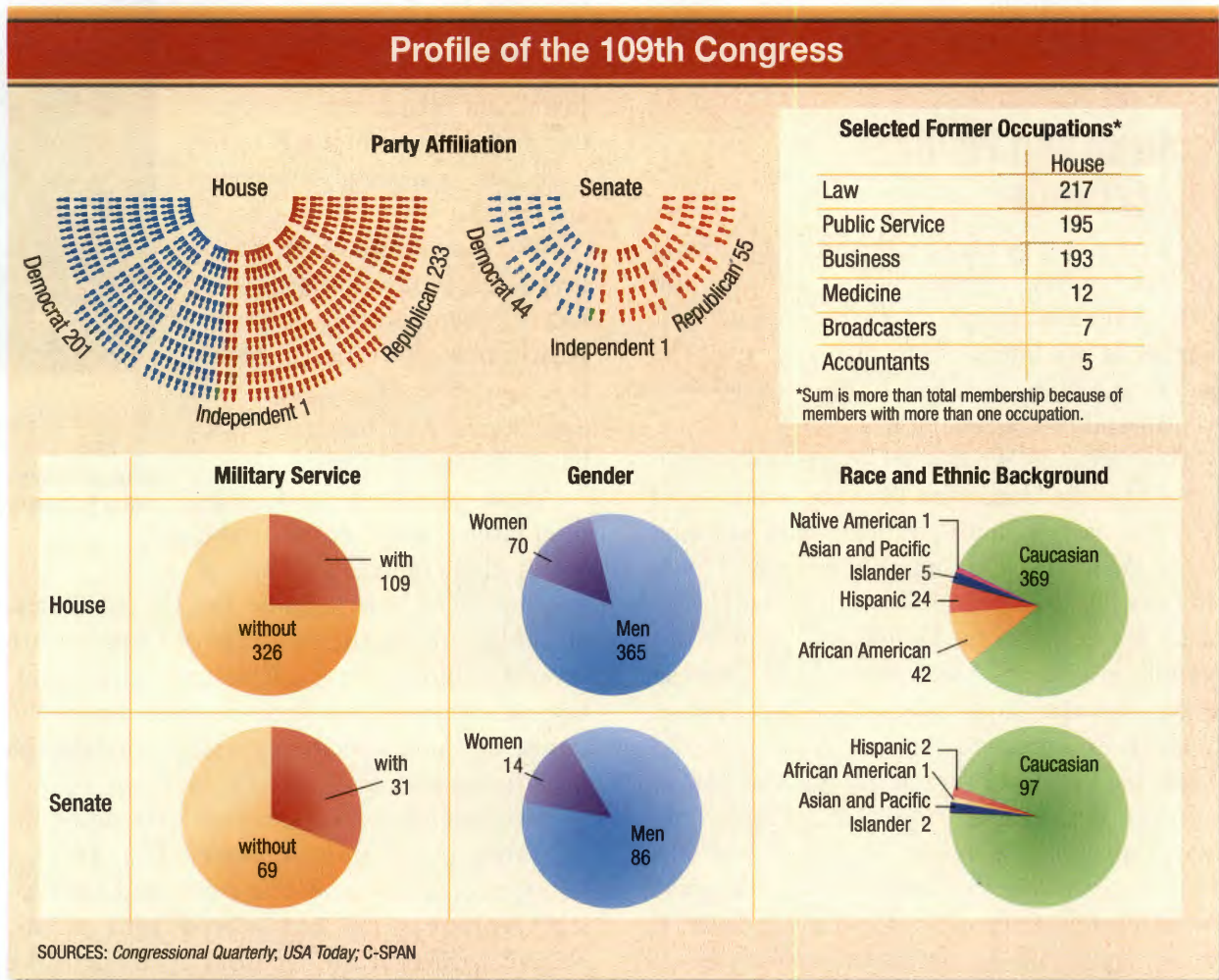
PRIMARY Sources

“Congress has a split personality. On the one hand, it is a lawmaking institution and makes policy for the entire nation. In this capacity, all the members are expected to set aside their personal

ambitions and perhaps even the concerns of their constituencies. Yet Congress is also a representative assembly, made up of 535 elected officials who serve as links between their constituents and the National Government. The dual roles of making laws and responding to constituents' demands forces members to balance national concerns against the specific interests of their States or districts.”

—Burns, et al., *Government by the People*

Members of Congress play five major roles. They are most importantly (1) legislators and (2) representatives of their constituents. Beyond these roles, they are also (3) committee members, (4) servants of their constituents, and (5) politicians. You will take a close look at their lawmaking function in the next two chapters. Here, we consider their representative, committee member, and servant functions.



Interpreting Graphs Members of Congress come to Washington, D.C., with a wide variety of backgrounds. **How does racial and ethnic diversity differ between the House and the Senate?** H-SS 12.4.3

Representatives of the People

Senators and representatives are elected to represent people. But what does that really mean? They cast hundreds of votes during each session of Congress. Many of those votes involve quite routine, relatively unimportant matters; for example, a bill to designate a week in May as National Wild Flower Week. But many of those votes, including some on matters of organization and procedure, are cast on matters of far-reaching import.

So, no questions about the lawmaking branch can be more vital than these: How do the people's representatives represent the people? On what basis do they cast their votes?

In broad terms, each lawmaker has four voting options. He or she can vote as a trustee, as a delegate, as a partisan, or as a politico.

Trustees believe that each question they face must be decided on its merits. Conscience and independent judgment are their guides. Trustees call issues as they see them, regardless of the views held by their constituents or by any of the other groups that seek to influence their decisions.

Delegates see themselves as the agents of those who elected them. They believe that they should vote the way they think “the folks back home” would want. They are willing to suppress their own views, ignore those of their party's leaders, and turn a deaf ear to the arguments of colleagues and of special interests from outside their constituencies.

Those lawmakers who owe their first allegiance to their political party are **partisans**. They feel duty-bound to vote in line with the party platform and the wishes of their party's leaders. Most studies of legislators' voting behavior show that partisanship is the leading factor influencing their votes on most important measures.

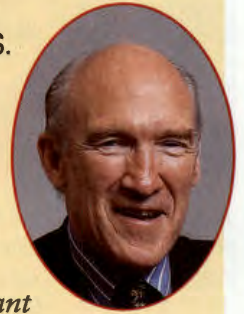
Politicos attempt to combine the basic elements of the trustee, delegate, and partisan roles. They try to balance these often conflicting factors: their own views of what is best for their constituents and/or the nation as a whole, the political facts of life, and the peculiar pressures of the moment.

Committee Members

In every session of Congress, proposed laws (bills) are referred to committees in each chamber. As committee members, senators and

Voices on Government

For **Alan Simpson**, politics is a family business. His father was governor of Wyoming and a U.S. senator. Simpson began his political career at the State level, and was later elected to the U.S. Senate. His 18 years as a Republican senator gave him this perspective:



“I am a legislator. I never wanted to be governor or president or vice president. If you're thinking of politics, make up your mind. You're going to legislate or you want to be governor, president, emperor or king—what is it you're interested in? And make that choice. For me it was to take an idea and personally draft the bill. Which I would do. . . . I did my own amendments, would work the bill myself, manage it on the floor. And so I legislated.”

Evaluating the Quotation

Simpson sees a big difference between legislative and executive jobs. How does his description compare with what you have read about Congress in this chapter?

representatives must screen those proposals. They decide which will go on to floor consideration—that is, be considered and acted upon by the full membership of the House or Senate.

Another vital part of their committee work involves the **oversight function**. Oversight is the process by which Congress, through its committees, checks to see that the various agencies in the executive branch are working effectively and acting in line with the policies that Congress has set by law.

Servants

Members of the House and Senate also act as servants of their constituents. Most often, they do this as they (and, more particularly, their staff aides) try to help people who have various problems with the federal bureaucracy. Those problems may involve a Social Security benefit, a passport application, a small business loan, or any one of a thousand other issues.

Some of “the folks back home” believe that members of Congress are in Washington



▲ Representative Ileana Ros-Lehtinen (R., Florida) must balance several different roles. Her jobs include publicizing important issues, meeting with constituents, and working with her fellow lawmakers in Washington. **Critical Thinking** Why is it important for a representative to speak often with constituents?

H-SS 12.4.1



primarily to do favors for them. Most members are swamped with constituent requests from the moment they take office. The range of these requests is almost without limit—everything from help in securing a government contract or an appointment to a military academy, to asking for a free sightseeing tour of Washington or even a personal loan. Consider this job description offered only half-jokingly by a former representative:

PRIMARY Sources

“A Congressman has become an expanded messenger boy, an employment agency, getter-outer of the Navy, Army, Marines, ward healer, wound healer, trouble shooter, law explainer, bill finder, issue translator, resolution interpreter, controversy oil pourer, gladhand extender, business promoter, convention goer, civil ills skirmisher, veterans’ affairs adjuster, ex-serviceman’s champion, watchdog for the underdog, sympathizer with the upper dog, namer and kisser of babies, recoverer of lost luggage, soberer of delegates, adjuster for traffic violators, voters straying into Washington and into toils of the law, binder up of broken hearts, financial wet nurse, Good Samaritan, contributor to good causes—there are so many good causes—cornerstone layer, public building and bridge dedicator, ship christener—to be sure he does get in a little flag waving—and a little constitutional hoisting and

spread-eagle work, but it is getting harder every day to find time to properly study legislation—the very business we are primarily here to discharge, and that must be done above all things.”

—Rep. Luther Patrick (D., Alabama)

Most members of Congress know that to deny or fail to respond to these requests would mean to lose votes in the next election. This is a key fact, for all of the roles a member of Congress plays—legislator, representative, committee member, constituent servant, and politician—are related, at least in part, to their efforts to win reelection.

Compensation

The Constitution says that members of Congress “shall receive a Compensation for their Services, to be ascertained by Law. . . .”²¹ That is, the Constitution says that Congress fixes that “Compensation.”

Salary

Today, senators and representatives are paid a salary of \$162,000 a year. A few members are paid somewhat more. The Speaker of the

²¹ Article I, Section 6, Clause 1. The 27th Amendment modified this pay-setting authority. It provides that no increase in members’ pay can take effect until after the next congressional election—that is, not until the voters have had an opportunity to react to the pay raise.

House makes \$208,100 a year, the same salary that Congress has set for the Vice President. The Senate's president *pro tem* and the majority and minority floor leaders in both houses receive \$180,100 a year.

Nonsalary Compensation

Each member receives a number of "fringe benefits," some of which are quite substantial. For example, each member has a special tax deduction, not available to any other federal income tax payer. That deduction is designed to help members who must maintain two residences, one in his or her home State and another in Washington.

Generous travel allowances offset the costs of several round trips each year between home and Washington. Members pay relatively small amounts for life and health insurance and for outpatient care by a medical staff on Capitol Hill; they can get full medical care, at very low rates, at any military hospital. They also have a generous retirement plan, to which they contribute. The plan pays a pension based on years of service in Congress, and longtime members can retire with an income of \$150,000 or more a year. Members of Congress are also covered by Social Security's retirement and medicare programs.

Members are also provided with offices in one of the several Senate and House office buildings near the Capitol and allowances for offices in their home State or district. Each member is given funds for hiring staff and for operation costs related to running those offices. The **franking privilege** is a well-known benefit that allows them to mail letters and other materials postage-free by substituting their facsimile signature (frank) for the postage.

Congress has also provided its members with the free printing—and through franking, the free distribution—of speeches, newsletters, and the like. Radio and television tapes can be produced at very low cost. Each member can choose among several fine restaurants in the Capitol. There are also two first-rate gymnasiums, with swimming pools, exercise rooms, and saunas. Members receive still more privileges, including such things as the help of the excellent services of the Library of Congress and free parking in spaces reserved for them at the Capitol and also at Washington's major airports.²²

The Politics of Pay

There are only two real limits on the level of congressional pay. One is the President's veto power. The other and more potent limit is the fear of voter backlash, an angry reaction by constituents at the ballot box. That fear of election-day fallout has always made most members reluctant to vote to raise their own salaries.

Congress has often tried to skirt the troublesome and politically sensitive pay question. It has done so by providing for such fringe benefits as a special tax break, a liberal pension plan, more office and travel funds, and other perquisites, or "perks"—items of value that are much less apparent to "the folks back home."

The debate over congressional pay is not likely to end soon—at least not as long as the current method of establishing salaries remains in effect. All sides of the issue present reasonable arguments.

²²For decades, many members of Congress supplemented their salaries with honoraria—speaking fees and similar payments from private sources, mainly special interest groups. Critics long attacked that widespread practice as at least unseemly and, at its worst, a form of legalized bribery. The House finally prohibited its members from accepting honoraria in 1989, and the Senate did so in 1991.



Interpreting Political Cartoons The salaries and benefits enjoyed by members of Congress have long been a sensitive political issue. **Why are voters reluctant to see members of Congress increase their benefits and pay?**

Clearly, decent salaries—pay in line with the responsibilities of the job—will not automatically bring the most able men and women to Congress, or to any other public office. But certainly, decent salaries can make public service much more appealing to qualified people.

Membership Privileges

Beyond the matter of their salaries and other compensation, members of Congress enjoy several privileges. The Constitution commands that senators and representatives

FROM THE Constitution *“shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same. . . .”*

—Article I, Section 6, Clause 1

The provision dates from English and colonial practice, when the king’s officers often harassed legislators on petty grounds. It has been of little importance in our national history, however.²³

Another much more important privilege is set out in the same place in the Constitution. The Speech or Debate Clause of Article I, Section 6, Clause 1 declares “. . . for any Speech or Debate in either House, they shall not be questioned in any other Place.” The words “any other Place” refer particularly to the courts.

The privilege is intended to “throw a cloak of legislative immunity” around members of Congress. The clause protects representatives and senators from suits for libel or slander arising out of their official conduct. The Supreme Court has held that the immunity applies “to things generally done in a session of the House [or Senate] by one of its members in relation to the business before it.”²⁴ The protection goes, then, beyond floor debate, to include work in committees and all other things generally done by members of Congress in relation to congressional business.

The important and necessary goal of this provision of the Constitution is to protect freedom of legislative debate. Clearly, members must not feel restrained in their vigorous discussion of the sometimes contentious issues of the day. However, this provision is not designed to give members unbridled freedom to attack others verbally or in writing. Thus, a member is not free to defame another person in a public speech, an article, a conversation, or otherwise.

²³The courts have regularly held that the words “Breach of the Peace” cover all criminal offenses. So the protection covers only arrest for civil (noncriminal) offenses while engaged in congressional business.

²⁴The leading case is *Kilbourn v. Thompson*, 1881. The holding has been affirmed many times since. In *Hutchinson v. Proxmire*, 1979, however, the Court held that members of Congress may be sued for libel for statements they make in news releases or in newsletters.

Section 4 Assessment

Key Terms and Main Ideas

1. What does a **trustee** value most when deciding how to vote on a bill?
2. What does a **partisan** value most when deciding how to vote on a bill?
3. How does the **franking privilege** help members of Congress?
4. What is the **oversight function**?

Critical Thinking

5. **Drawing Conclusions** What are the different roles that a member of Congress plays?
6. **Determining Cause and Effect** Why are members of Congress reluctant to pass laws that give them new benefits or higher pay?

7. **Drawing Inferences** Look again at the diagram on page 276. Why might it not be a good idea for a letter writer to berate his or her lawmaker?



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May Congresspersons Be Sued for Their Statements?



Analysis Skills
HR4, HI3, HI4

The “Speech or Debate Clause” in Article I, Section 6 of the Constitution provides that senators and representatives “shall not be questioned in any other place” over “any speech or debate in either House.” This has been interpreted to mean that they cannot be sued for anything they say in their legislative chambers. How far does this protection extend?

Hutchinson v. Proxmire (1979)

Senator William Proxmire of Wisconsin invented the “Golden Fleece of the Month Award” to publicize what he saw as examples of wasteful government spending. In 1975 he gave awards to various federal agencies for spending almost half a million dollars to fund Professor Ronald Hutchinson’s research on emotional behavior. Hutchinson was trying to develop an objective measure of aggression, and his research focused on certain behavior patterns, such as clenching of the jaw.

In an “awards speech” to the Senate, Proxmire stated: “In view of the transparent worthlessness of Hutchinson’s study of jaw-grinding and biting by angry . . . monkeys, it is time we put a stop to the bite [that] Hutchinson and the bureaucrats who fund him have been taking of the taxpayer.” His remarks were published in the *Congressional Record* and in a press release and in various newsletters.

Hutchinson sued Proxmire, saying his professional reputation had been damaged. Proxmire responded that his remarks were protected by the Speech or Debate Clause and by the First Amendment. The district court and court of appeals ruled in favor of Proxmire, and the case went to the Supreme Court for review.

Arguments for Hutchinson

1. The Speech or Debate Clause should not extend protection to comments that are made outside of the Senate chamber or are not part of the legislative function of the Senate.
2. The newsletters and press release about the Golden Fleece Award were aimed at persons

outside Congress and thus are not part of the senator’s official duties.

3. Since Professor Hutchinson is not a public figure, he does not have to prove as part of his lawsuit that the senator’s remarks were made with actual malice (desire to harm).

Arguments for Proxmire

1. The senator’s comments in the Senate about matters of national importance were protected by the Speech or Debate Clause; the use of these comments in a press release and newsletters describing the Senate speech were part of the senator’s official duty to inform the public about his activities.
2. The senator’s criticisms of wasteful spending of public funds were also privileged under the Free Speech Clause of the First Amendment.
3. Professor Hutchinson is a public figure; therefore, he must prove as part of his suit that Proxmire acted with actual malice.

Decide for Yourself

1. Review the constitutional grounds on which each side based its arguments and the specific arguments each side presented.
2. Debate the opposing viewpoints presented in this case. Which viewpoint do you favor?
3. Predict the impact of the Court’s decision on activities and statements by members of Congress outside the House and Senate chambers. (To read a summary of the Court’s decision, turn to pages 799–806.)



Political Dictionary

term (p. 264), **session** (p. 264), **adjourn** (p. 264), **prorogue** (p. 265), **special session** (p. 265), **apportion** (p. 267), **reapportion** (p. 267), **off-year election** (p. 269), **single-member district** (p. 270), **at-large** (p. 270), **gerrymander** (p. 271), **continuous body** (p. 277), **constituency** (p. 277), **trustee** (p. 281), **partisan** (p. 281), **politico** (p. 281), **oversight function** (p. 281), **franking privilege** (p. 283)

Standards Review

H-SS 12.4.1 Discuss Article I of the Constitution as it relates to the legislative branch, including eligibility for office and lengths of terms of representatives and senators; election to office; the roles of the House and Senate in impeachment proceedings; the role of the vice president; the enumerated legislative powers; and the process by which a bill becomes a law.

H-SS 12.4.3 Identify their current representatives in the legislative branch of the national government.

H-SS 12.6.4 Describe the means that citizens use to participate in the political process (e.g., voting, campaigning, lobbying, filing a legal challenge, demonstrating, petitioning, picketing, running for political office).

H-SS 12.6.6 Analyze trends in voter turnout; the causes and effects of reapportionment and redistricting, with special attention to spatial districting and the rights of minorities; and the function of the Electoral College.

H-SS 12.7.5 Explain how public policy is formed, including the setting of the public agenda and implementation of it through regulations and executive orders.

Practicing the Vocabulary

Matching Choose a term from the list above that best matches each description.

1. What happens to the seats in the House of Representatives every decade
2. What the President can do if the two houses of Congress cannot agree on a date to adjourn
3. The right of members of Congress to send mail postage-free by using a signature in place of a stamp
4. The function Congress is performing when it checks on the programs of the executive branch
5. How you might describe a congressional district that has been drawn by a legislature in a very odd shape

Fill in the Blank Choose a term from the list above that best completes the sentence.

6. Congress can _____, or suspend its meeting, whenever it chooses.
7. Each member of the House represents a _____ of about 630,000 people.
8. A member of the House of Representatives is elected for a two-year _____.
9. In States with a low population, members of the House of Representatives are chosen in _____ districts.
10. A _____ is a member of Congress who votes primarily according to the wishes of his or her party.

Reviewing Main Ideas

Section 1

11. How does bicameralism in Congress reflect the principle of federalism?
12. (a) How are States represented in the House of Representatives? (b) How are States represented in the Senate?
13. (a) What is a special session? (b) Why have special sessions lost their importance?

Section 2

14. For what reasons must seats in Congress be reapportioned every 10 years?
15. In what ways has the redistricting of House seats been used for the political gain of certain groups and parties in the various States?
16. (a) What are the constitutional qualifications that all members of the House must meet? (b) What are the informal qualifications that members of the House should meet?

Section 3

17. How do senators differ from their colleagues in the House of Representatives?
18. (a) How do constituencies vary within the Senate? (b) Which State's senators have the largest constituency?
19. (a) In what ways does the long six-year term affect how senators vote? (b) How does this confirm the Framers' intentions for the Senate?
20. The Constitution sets up what formal qualifications for membership in the Senate?

Section 4

21. (a) Do the members of Congress reflect a cross section of the American people? (b) Why or why not?
22. (a) When deciding how to vote, what does a delegate consider? (b) When deciding how to vote, what does a politico consider?
23. How are members of Congress compensated for their work? List several examples.

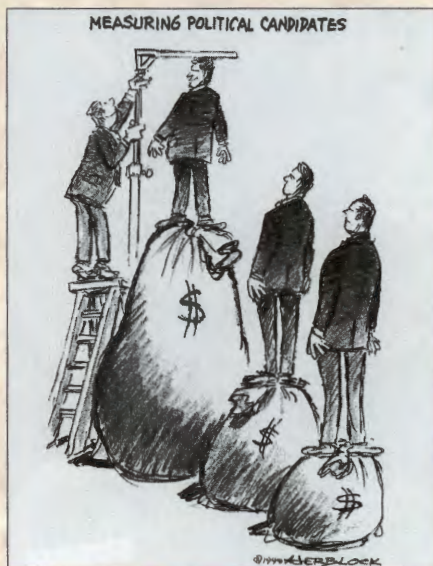
Critical Thinking Skills

Analysis Skills HR1, HR4

24. **Face the Issues** Do American citizens have a right to government-funded health care? Explain your answer with reference to the U.S. Constitution.
25. **Predicting Consequences** Reread the conversation between Thomas Jefferson and George Washington on page 263. Why did Washington think the Congress should be bicameral rather than unicameral?
26. **Understanding Point of View** Congress is a frequent target of criticism in the media and elsewhere. Yet the text says that the members of Congress are on the whole hard-working and able people. How can you explain the existence of these two opposing viewpoints?
27. **Expressing Problems Clearly** Why would you favor or oppose (a) a constitutional amendment to lengthen the elected terms of members of the House and (b) an amendment that would shorten the terms of members of the Senate?

Analyzing Political Cartoons

Using your knowledge of American government and this cartoon, answer the questions below.



28. According to this cartoonist, what factor plays an important role in determining who runs for office?
29. Based on your reading in this chapter, is the cartoonist correct? Explain your answer.



You Can Make a Difference

Most congressional pages are nominated by a senator or representative from their home State. They are usually high school juniors with good grades and outstanding records in school and community service. Suppose that you want to spend a year in Washington, D.C., as a page in the House or Senate. Find out how to apply for this job. Then draft a letter to one of your members of Congress, explaining why you want to be a page, what you think you would learn from the experience, and why you think your record and activities qualify you for the job.

Participation Activities

Analysis Skills HR4, HI1

30. **Current Events Watch** Find a recent news account of a vote cast by one of the members of your State's congressional delegation. Why was that vote newsworthy? Would you have voted that way if you were a member of the House (or Senate)? Why?
31. **Graphing Activity** Turn to the map on page 268 and find the ten States with the greatest number of representatives in the House. Create a circle graph showing each State's representatives as a percentage of the 435 members of the House of Representatives. Remember to label the part of the circle graph that represents the other 40 States. What does this graph tell you about the influence of these States in the House of Representatives?
32. **It's Your Turn** Write a newspaper editorial expressing your views on the qualifications for membership in Congress. List the formal qualifications and those informal ones that you think members should satisfy. Suggest changes (if any) that you would make in those qualifications. Indicate why you think each of the informal qualifications you cite is important. Read your draft for clarity and revise it. Then proofread and draft a final copy. **(Writing an Editorial)**



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