

# **The Constitution of the United States of America**

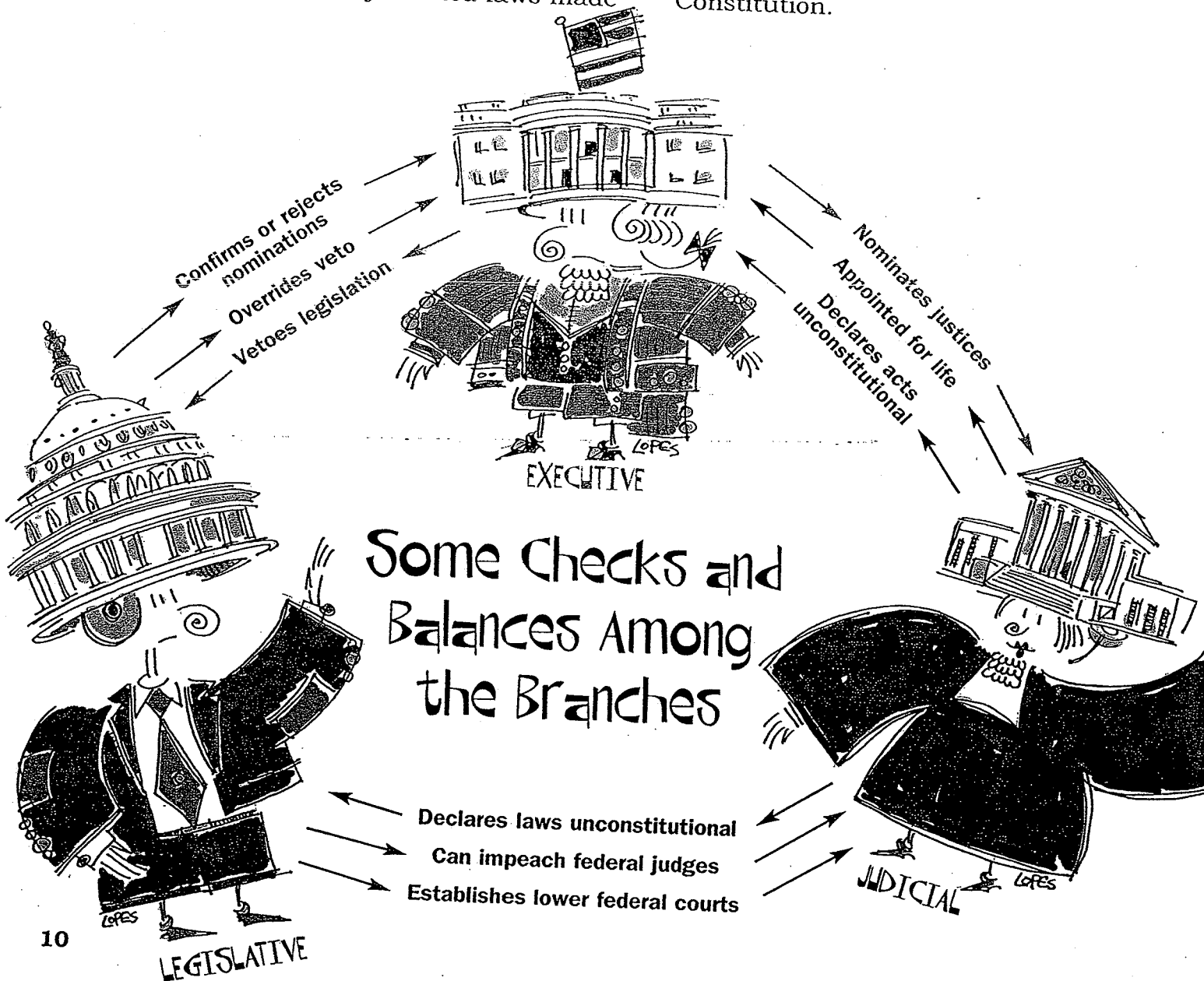
Name \_\_\_\_\_

Class Period \_\_\_\_\_

# A Product of Argument and Compromise

The men who wrote the U.S. Constitution had various goals, and they disagreed about many of them. They wanted a strong national leader, but not a king. They wanted laws made

by representatives of the people, but not rule by a mob. And, they wanted courts of law that would act independently, using the guidelines set by the Constitution.



# ment

by **Barbara Brooks Simons**  
illustrated by **Tom Lopes**

After weeks of argument and compromise, the Framers developed a plan that created a new kind of government. Beginning with: "We the people of the United States...", the Constitution implies that it is the *people* who choose — and, if necessary, change — their government and its leaders.

The Framers were skeptical of a powerful government. They divided power among three branches: legislative, executive, and judicial. The Constitution spells out the specific duties of each branch, as well as what each one may not do. Finally, the Constitution gives each branch ways to limit the actions of the other two. This system is called "checks and balances." For instance, the president (executive branch) can veto, or turn down, laws passed by Congress. On the other hand, if Congress (legislative branch) can gather enough votes, it can override the president's veto.

More than two hundred years have passed since this great document was written. Since then, to keep up with changing times, Congress has passed other laws that expand and further interpret the Constitution's basic ideas.

## THE FACTS OF FEDERALISM

Sovereignty  
means  
supremacy  
or power.

To fully understand the workings of America's central government, it is important to understand what *federal* means. According to the *American Heritage Dictionary*, federal is defined as "a form of government in which a union of states recognizes the sovereignty of a central authority while also keeping some powers of government on a local level."

What does that mean for us in the twenty-first century? In a simplified way, it means that certain powers are divided between the federal, or central, government and the fifty state governments. The federal government in Washington, D.C., is responsible for things or events that affect America's citizens as a nation. This ranges from a national taxing system to the kinds of relationships the United States has with other countries in the world. The state governments, meanwhile, provide localized control of issues that pertain more specifically to each of the states. These include such topics as maintaining roads and structures, determining education issues, and establishing individual state taxing systems.

Our Founding Fathers — with their suspicion of a strong central government and support of states' rights — might be surprised today to see how the federal government has evolved. Laws passed by Congress and interpreted by the Supreme Court more often have supported the establishment of a strong national government at the expense of the states.

# How did the Framers resolve the conflict about the powers of the legislative branch?

## LESSON PURPOSE

One problem facing the Framers at the Philadelphia Convention was how much power to give to the legislative branch. In this lesson you will learn about the debates that the Framers had concerning which powers to delegate to Congress.

When you finish the lesson, you should be able to explain the powers that the Constitution gives Congress.

# 15



## TERMS TO UNDERSTAND



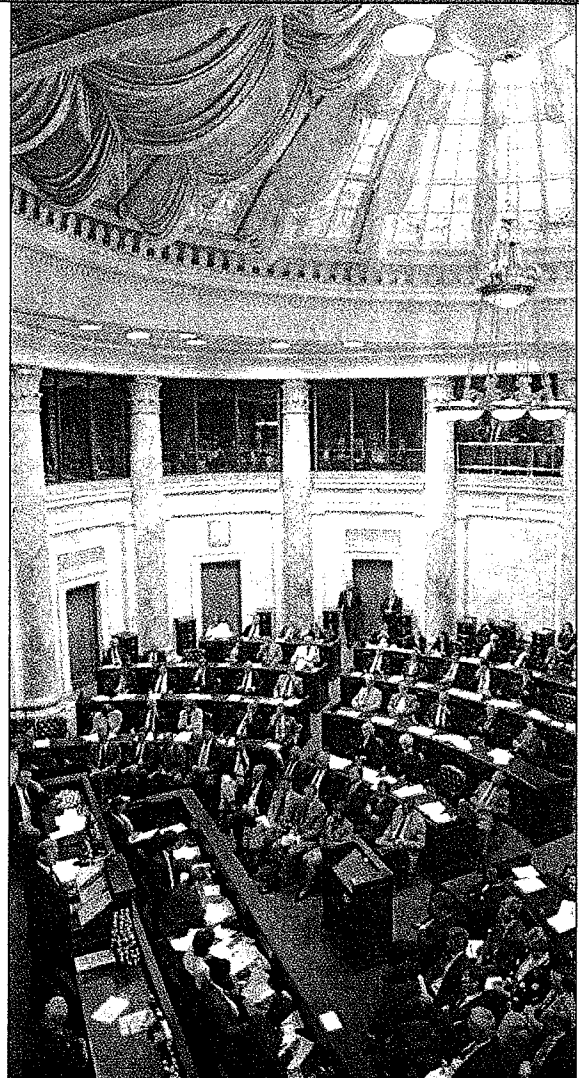
bill of attainder  
enumerated powers  
ex post facto law  
general welfare clause  
necessary and proper clause  
unconstitutional  
writ of habeas corpus

### How much power should Congress have?

Under the Articles of Confederation, Congress was unable to deal with the trade and economic problems of the country. More importantly, Congress was not strong enough to control the actions of state governments. The Framers were convinced that the state legislatures were passing laws that violated the property rights of many citizens.

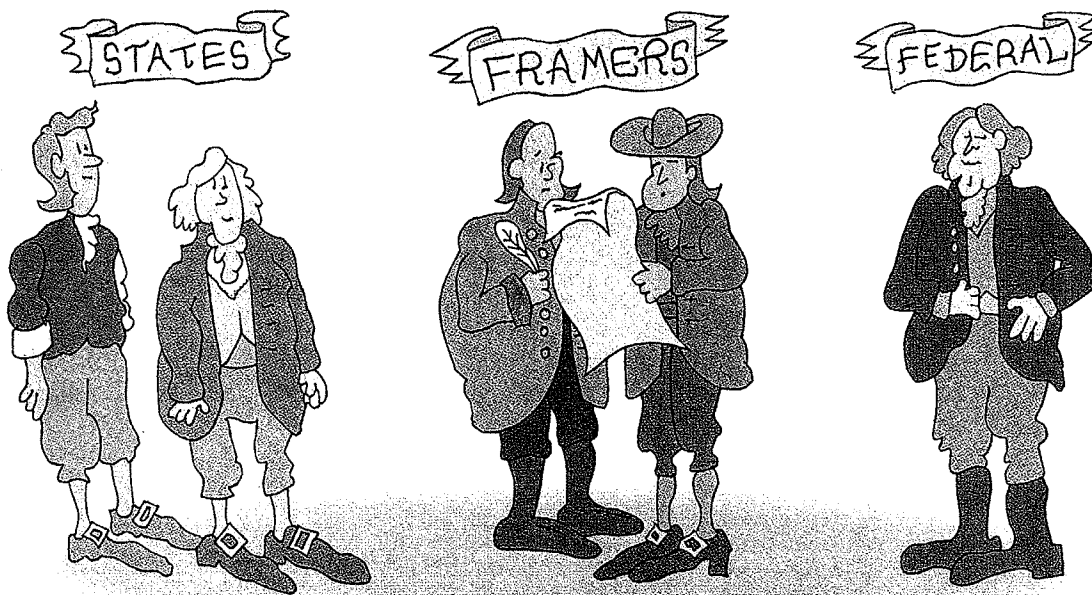
A basic problem with the Articles of Confederation was that Congress did not have the power to act directly on the people. When Congress passed laws, it had to depend on the states to enforce them. Congress could not raise taxes to support itself; it could only ask the states for money. Many states ignored congressional requests for funds.

Most of the Framers agreed that there was a need for a stronger national government. There were still some areas of disagreement, however. The American experience with the British government had caused many of the Framers to be suspicious of a central government and executive power.



*Why did some Framers believe that the state governments had too much power under the Articles of Confederation? Why did some Framers believe that there should be a strong national government?*





*How did the Framers solve the problem of distributing power between the state governments and the national government?*

The compromises about representation and slavery reduced resistance to increasing the power of the national government. The delegates, however, still disagreed about how much power to give to each of the three branches of the national government. The problem facing the Framers was how to create a national government that was strong enough to protect the rights of the people, and yet not so strong that it would endanger those rights.

## **How should the Constitution be written to give power to Congress?**

James Madison argued that the new Congress should keep the powers that it had under the Articles of Confederation. He also wanted Congress to make the laws that the state legislatures were prevented from making. He thought that Congress should also be given the power to reject or turn down laws made by state legislatures.

Madison's recommendations would have given the national government great power over the states and the people. To give all this power to the national government meant that the new constitution would have to be written in very general language. For example, the constitution might say, "Congress shall have the power to make all laws that are necessary."

Many of the Framers disagreed with Madison. They saw a problem with general language in the new constitution. General language could be understood to mean that government was given the power to do almost anything it wanted to do. It does not provide a good way to limit the powers of government.

Many delegates also opposed giving Congress the power to veto laws made by state legislatures. Under British rule, royal governors and Parliament had vetoed acts of the colonial legislatures. The Framers did not want to give this power to Congress.

An alternative was to write the new constitution in very specific language.

Specific language meant writing down exactly what powers Congress would have. For example, "Congress shall have the power to collect taxes." The Framers wanted a government of enumerated powers. **Enumerated powers** are powers that are specifically listed in a constitution. The problem with enumerated powers was that a constitution might leave out important powers needed by Congress to deal with unforeseen situations.

The solution was to use both general and specific language. The new constitution would give specific powers to Congress and place limitations on these powers. It would also include two general clauses that would give Congress the power to deal with unexpected situations.

## What are the enumerated powers of Congress?

Article I deals with the legislative branch. Article I alone makes up more than half of the Constitution. It shows just how important the legislative branch was to the Framers.

Article I, Section 8 includes seventeen enumerated powers. Some of these powers give Congress the right to

- impose and collect taxes and duties
- borrow money
- regulate commerce with foreign nations and among the states
- coin money
- establish post offices
- declare war
- raise and support an army and navy



*Should the federal government regulate postal services? Why or why not?*

## What are the general powers of Congress?

Article I, Section 8 also includes two general statements of power given to Congress. These are the power of Congress to

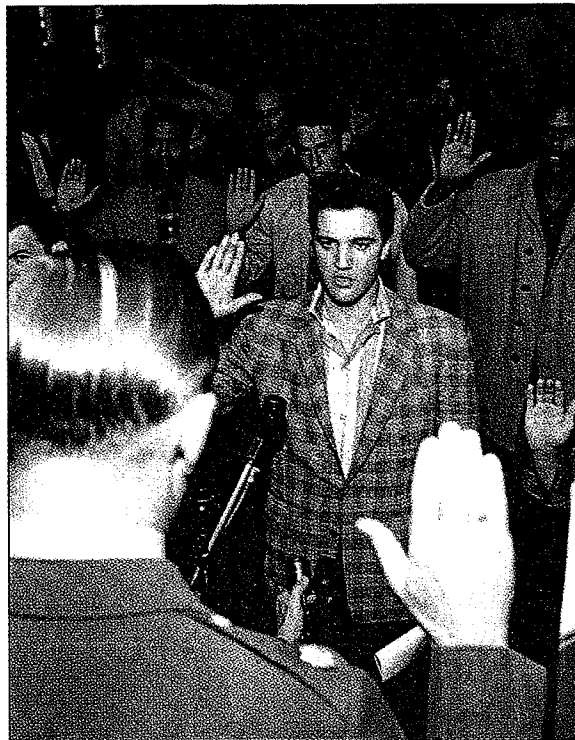
- “provide for the common Defense and general Welfare [common good] of the United States.” This is called the **general welfare clause**.
- “make all Laws which shall be necessary and proper” for carrying out the other powers that the Constitution grants to Congress. This is called the **necessary and proper clause**. For example, under the enumerated powers, Congress has the power to raise and support an army. To exercise this power, it might be necessary and proper that Congress pass a law requiring citizens to serve in the armed forces.

Neither of these general clauses caused any disagreements at the convention. They did cause strong disagreements in the states about whether to approve the Constitution. Both clauses were the source of conflicts in the early years of the new government. You will learn more about these conflicts in later lessons.

## What limits are there on the powers of Congress?

The Constitution includes several limits on the powers of Congress. Article I, Section 9 prohibits Congress from

- banning the slave trade before 1808
- suspending the privilege of the **writ of habeas corpus** except in



*Elvis Presley was drafted into the Army in 1958. What parts of the Constitution can be used to justify the power of Congress to draft people into the armed forces?*

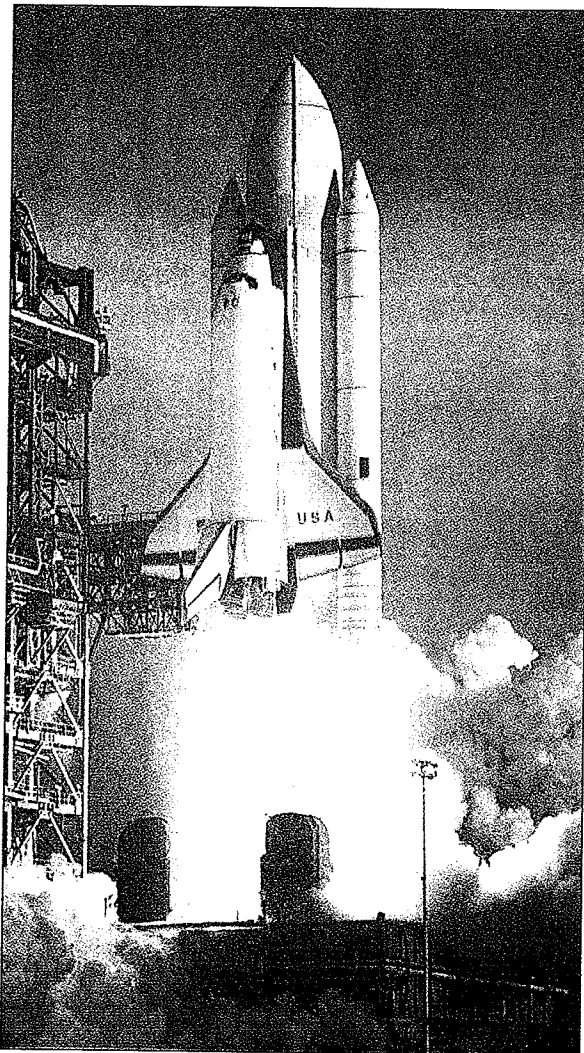
emergencies. In Latin, **habeas corpus** means to “have the body.” A writ of **habeas corpus** orders government to deliver a person it has arrested to a court of law. Government must explain why that person has been arrested and held. If government cannot show that the person has broken the law, the person must be set free.

- passing **ex post facto laws**. This is a law that makes an act a crime even though the act was legal when it took place.
- passing **bills of attainder**. This is a legislative act that declared a person guilty of violating the law and set the punishment without a court trial.



- ✧ taxing anything exported from a state
- ✧ taking money from the treasury without first passing a law to do so
- ✧ granting titles of nobility

In this way, the Framers tried to balance the need for a strong government with the need to limit its powers. Those limits were included to make sure that government did not become a threat to the people's rights.



*What part of Article I, Section 8 of the Constitution gives Congress the power to conduct a space exploration program?*

## How do the other branches check the power of Congress?

Remember that Congress is divided into two "houses." This arrangement is a check on the power of Congress to pass laws. For example, when the House of Representatives passes a bill, it must be sent to the Senate. The bill must also pass the Senate by a majority vote before it can become law.

The executive and judicial branches also have checks, or controls, on Congress. If a bill passes in both houses of Congress, the bill must be sent to the president for approval and signature. When the president signs the bill it becomes a law.

The president may refuse to sign a bill and send it back to Congress. This is the president's power to veto a bill passed in Congress. When the president vetoes a bill, the bill can only become law if approved by a two-thirds majority in both houses of Congress.

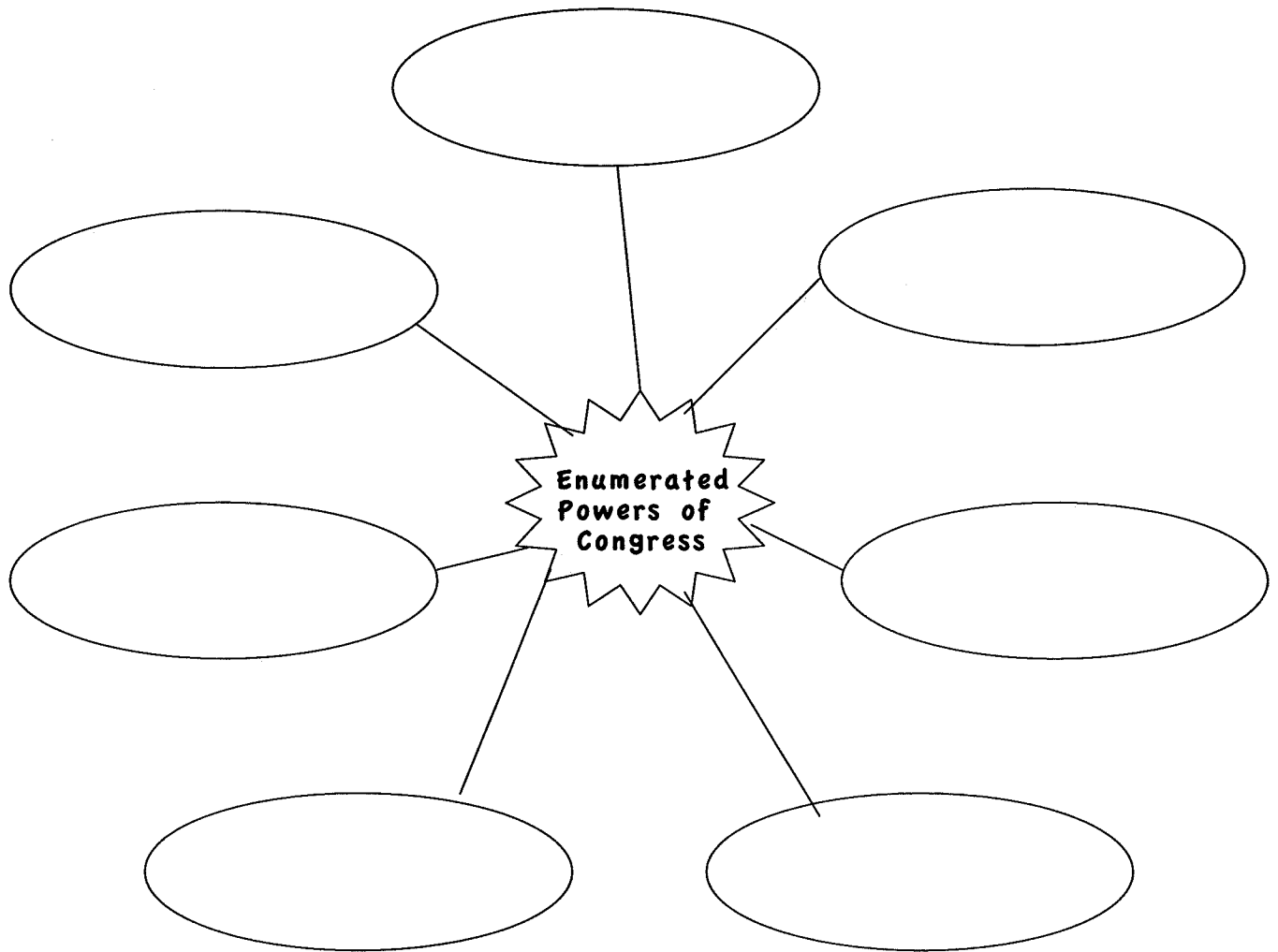
The U.S. Supreme Court has the power to declare a law made by Congress unconstitutional. **Unconstitutional** means that the law or action is not permitted by the Constitution. The Court may say that the Constitution does not give Congress the right to pass such a law. In this case, the law can no longer be carried out or enforced. You will learn more about this power of the U.S. Supreme Court in a future lesson.

## **The Legislative Branch**

1. What disagreements about the powers of Congress did the Framers have? How did they resolve these disagreements?

2. What does "enumerated powers" mean?

3. List the seven ENUMERATED powers mentioned in the reading

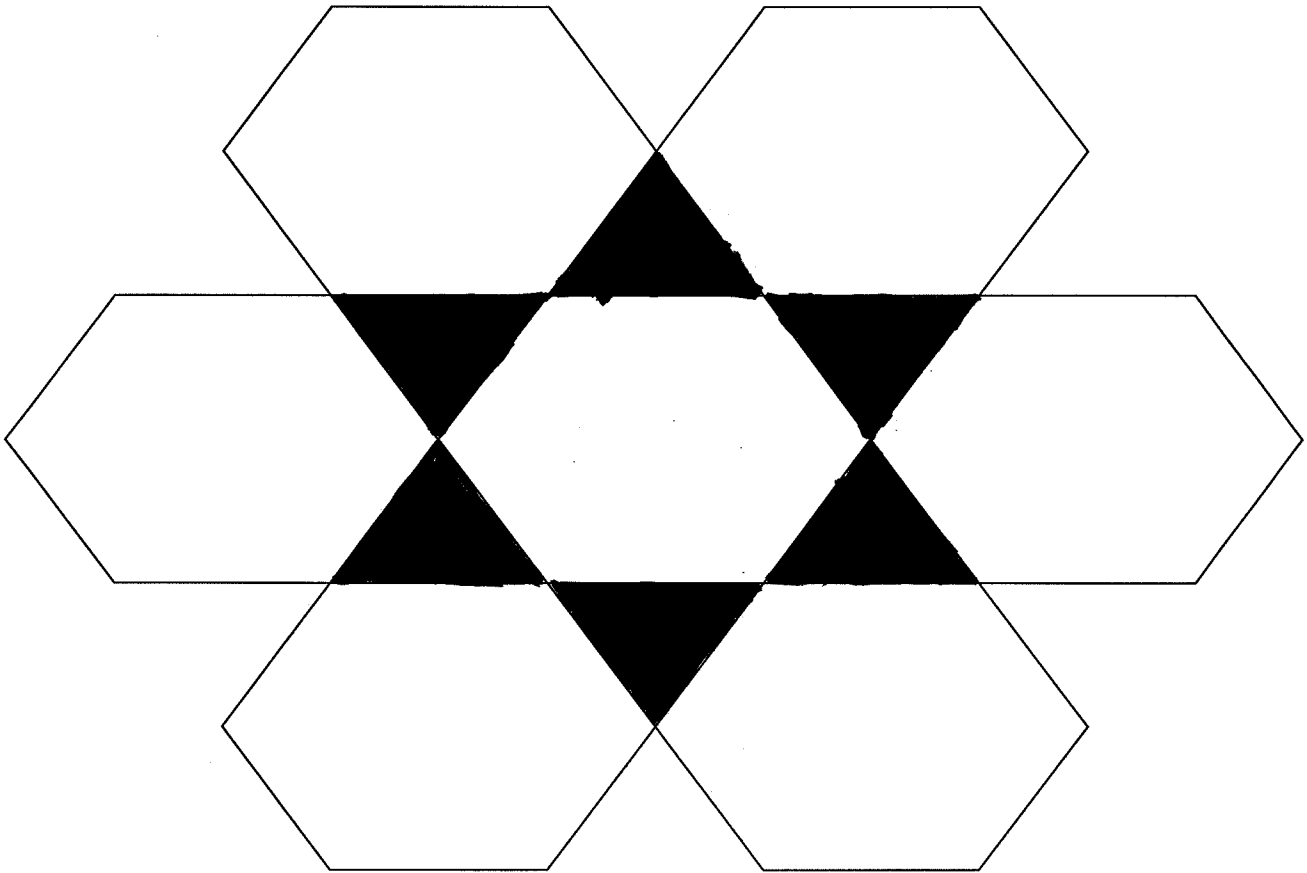


4. List the two GENERAL statements of power given to Congress:

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5. Congress is NOT allowed to ...



6. Define or explain the following:

**writ of habeas corpus:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**ex post facto law:** \_\_\_\_\_

\_\_\_\_\_

**bill of attainder:** \_\_\_\_\_

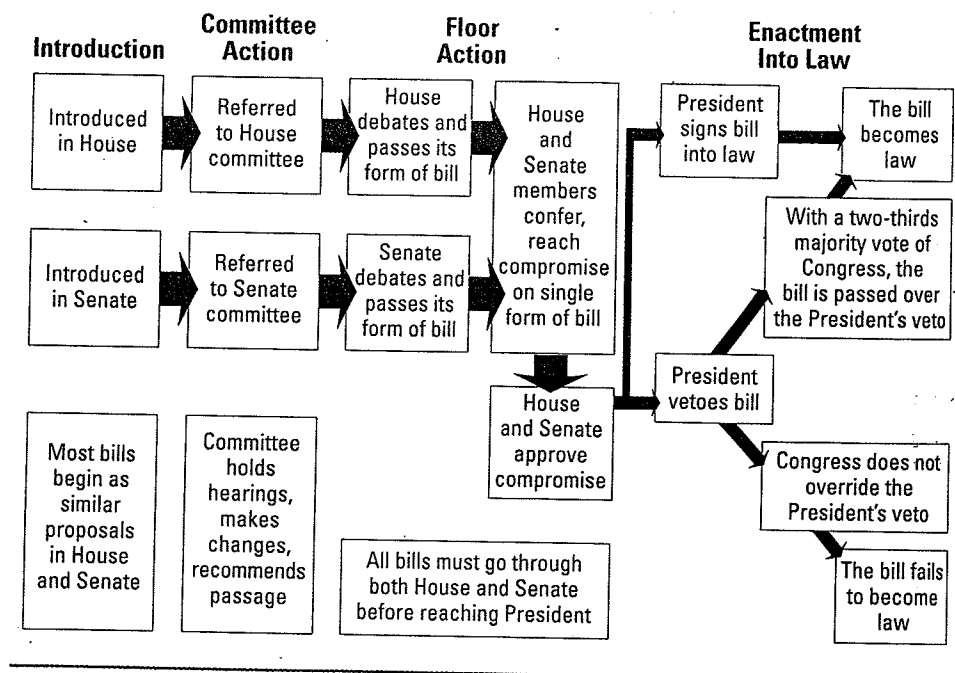
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7. List one way the executive branch can “check” or limit the power of Congress:

8. List one way the judicial branch can “check” or limit the power of Congress:

9. A BILL is a proposed law. The majority of Congress’ work is working through the lengthy and difficult process of passing bills into laws. The process is designed to ensure that only necessary laws are passed—if it was easier to pass laws, they might be considered as carefully. Look at the following diagram of how a bill becomes a law. On the “Bills on the Move” pages on the next page, put the steps of the process in order.

### How a Bill Becomes a Law





# BILLS ON THE MOVE

I asked my Congressman to propose a bill to create a new holiday—National Eagle Day!

What happens next?



Once a bill is written, you have to keep your eye on it—because it starts to MOVE. Sometimes a bill moves quickly, other times it moves slowly. But you always have to be on your toes, if you're going to follow it all the way until it becomes a law.

Just how does a bill become a law? There is a definite pattern to this. Read the description of the steps (A–M). They are out of order. Number the descriptions 1–13 to match the footsteps and show the path a bill takes on its way to becoming a law.

It then becomes law without the president's signature.

If the committee has approved a bill, it goes to the full House of Representatives or Senate to be debated and voted on.

The committee votes on the bill.

The president signs the bill into law.

The bill is introduced in both houses of Congress.

A member of Congress proposes a law. This proposal is called a bill. The person who proposes it is the *sponsor*.

Use with page 29.

Name \_\_\_\_\_

Committees in each house of Congress discuss the bill and change it if they wish.

The bill, with final changes, goes back to the houses for a vote.

The bill is passed by a majority of members in both houses of Congress.

If both houses pass the bill, it is sent to the president.

If the president does not sign the bill, this is a veto.

If the House and Senate pass different versions of the same bill, members of the two houses meet to try to agree on one version.

The veto may be overridden by a two-thirds vote in both houses of Congress.

**"FOOT" NOTE:**  
What specific kinds of bills can be introduced only in the House of Representatives?

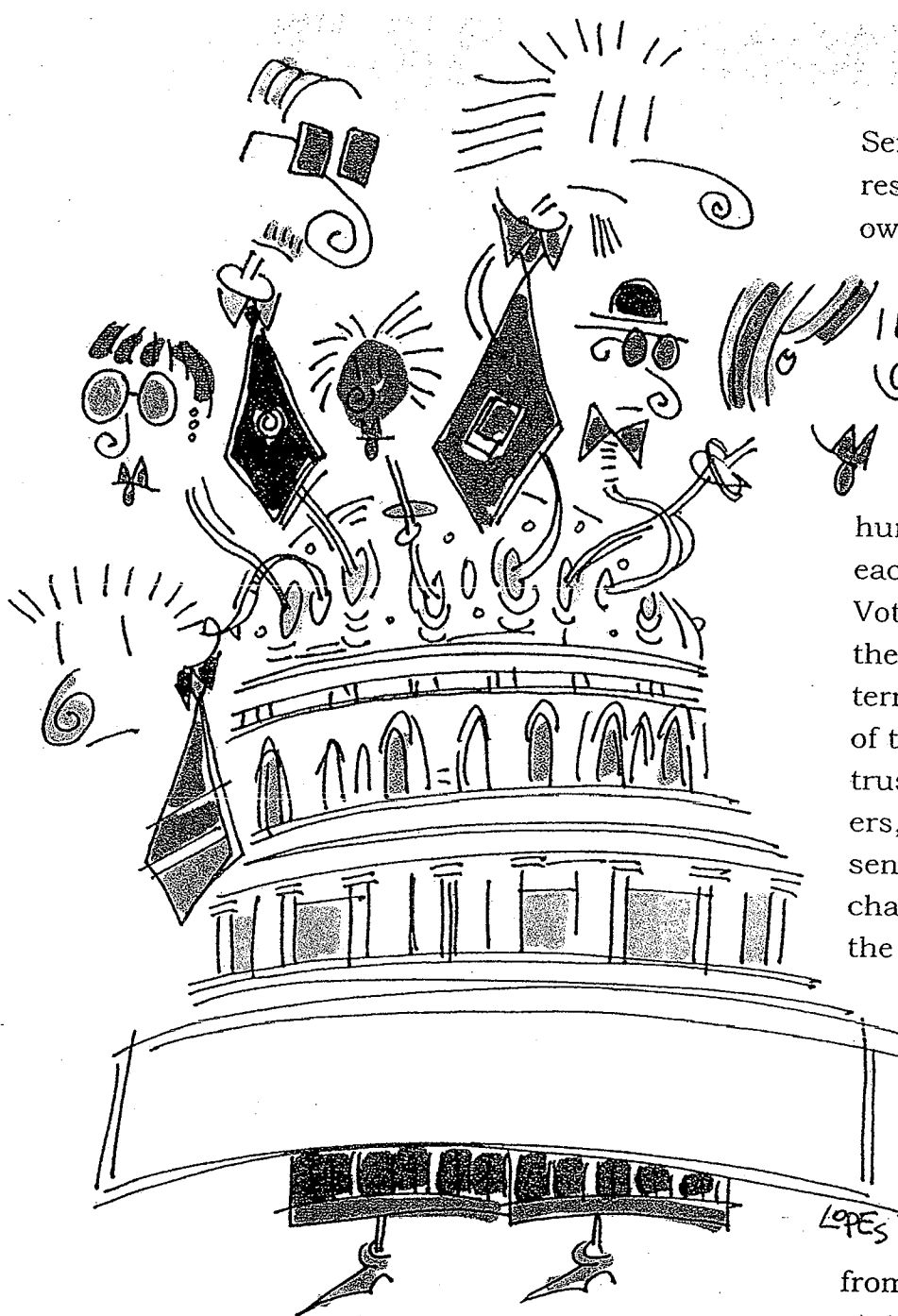


Use with page 28.

Name \_\_\_\_\_

Suppose the following bills were under consideration to become laws. For each bill, decide if Congress would use one of their ENUMERATED (E) powers or their GENERAL (G) powers.

- \_\_\_\_\_ A law to allow government to keep watch over websites on the Internet to protect children from potentially harmful material
- \_\_\_\_\_ A law to allow government to draft citizens to serve in the armed forces
- \_\_\_\_\_ A law to provide money to pay the expenses of the army and navy
- \_\_\_\_\_ A law to allow government to impose fines as punishment for industries that pollute the air
- \_\_\_\_\_ A law to require government to use tax money to provide medical assistance



## A Look at the Legislative Branch

People often think of the executive branch — the president and others in his administration — as the center of government. The Constitution, though, places the legislative branch first. Article I sets up a two-house Congress — the

Senate and the House of Representatives. Both make their own rules and choose their own leaders. To be a senator, one must be at least thirty years old; representatives must be twenty-five.

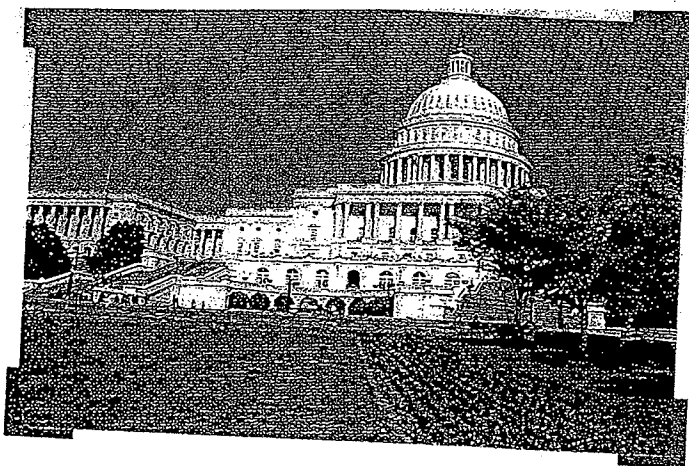
Today, the Senate has one hundred members — two from each of America's fifty states. Voters from each state elect their senators to six-year terms. (Originally, the writers of the Constitution did not trust the "common citizen" voters, so state legislatures chose senators. In 1913, that was changed by an amendment to the Constitution.)

The House of Representatives is supposed to reflect changing American public opinion. Its members are elected every two years. The number of representatives from each state depends on the state's population. If a state gains or loses population, the number of representatives it has may change. Every state is promised at least one representative, however. In 1910, Congress limited the total House membership to 435.

The Constitution spells out many Congressional powers. Important jobs include making national laws, imposing taxes,

coining money, maintaining an army and navy, declaring war, and authorizing government spending. Congress has the power to pass any laws needed to carry out those duties.

The Constitution also defines things Congress cannot do. For example, it cannot tax goods exported by a state. Similarly, the Constitution lists tasks that indi-



*The Capitol*

vidual states must not do. A state cannot issue its own money, for instance.

## A Look at the Legislative Branch

1. Complete the following chart about the two houses of Congress

Name	Number of people	Minimum Age	Length of Term	How many per state?