

**[Back](http://www.ushistory.org/gov/6.asp)[Home](http://www.ushistory.org/gov/)[Next](http://www.ushistory.org/gov/6b.asp)**

Top of Form



Bottom of Form

[](http://www.ushistory.org/gov/6.asp)

Top of Form



Bottom of Form

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**6a. The Powers of Congress**

  
In 1789, Federal Hall in New York City became the home of the first U.S. Congress. By 1790, Congress moved to the new capital of Philadelphia.

At its creation in 1789, the legislative branch was the most innovative.

Rule by kings and emperors was an old style of government, and the legislature in many ways represented the new. Almost certainly, the founders intended Congress to have more important powers than the President and the Supreme Court. However, they placed many checks and balances on the legislature that have prevented absolute power in the hands of one branch. Founders controlled power not only by checks from the other branches, but by creating a bicameral, or two house, Congress — the**SENATE** and the **HOUSE OF REPRESENTATIVES**. The powers of Congress, then, are both constitutional and evolutionary.

**Constitutional Powers**

  
Metallica drummer Lars Ulrich testified before the Senate Judiciary Committee investigation into Napster and other music "piracy" websites. Power over the copyrights he tried to protect are addressed in Article I of the Constitution.

The Constitution specifically grants Congress its most important power — the authority to make laws. A **BILL**, or proposed law, only becomes a law after both the House of Representatives and the Senate have approved it in the same form. The two houses share other powers, many of which are listed in Article I, Section 8. These include the power to declare war, coin money, raise an army and navy, regulate commerce, establish rules of immigration and naturalization, and establish the federal courts and their jurisdictions.

**Article I of the Constitution**

**Section 1.** 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.

**Section. 2.**The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.  
No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.  
*Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of freePersons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all otherPersons* [Modified by Amendment XIV]. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least oneRepresentative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.  
When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall choose their Speaker and other Officers; and shall have the sole Power of Impeachment.

**Section 3.** The Senate of the United States shall be composed of two Senators from each State, *chosen by the Legislature thereof* [Modified by Amendment XVII], for six Years; and each Senator shall have one Vote.  
Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may bechosen every second Year; *and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies*[Modified by Amendment XVII].  
No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.  
The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.  
The Senate shall choose their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on**OATH OR AFFIRMATION**. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

  
When the federal budget is not approved by Congress, employees don't get paid and many federal services stop. There have been multiple government shutdowns in the last 20 years.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

**Section 4.** The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators.

The Congress shall assemble at least once in every Year, *and such Meeting shall be on the first Monday in December* [Modified by Amendment XX], unless they shall by Law appoint a different Day.

**Section 5.** Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.  
Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member.  
Each House shall keep a **JOURNAL OF ITS PROCEEDINGS**, and from time to time publish the same, excepting such Parts as may intheir Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

Neither House, during the Session of Congress, 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.

**Section 6.** The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They 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 thesame; and for any Speech or Debate in either House, they shall not be questioned in any other Place.  
No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his

Continuance in Office.

**Section 7.** All Bills for raising **REVENUE** shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.  
Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States: If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If aftersuch Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting forand against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.  
Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of**ADJOURNMENT**) shall be presented to the President of the United States; and before the Same shall take

Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

**Section 8.** The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;To borrow Money on the credit of the United States;  
To regulate **COMMERCE** with foreign Nations, and among the several States, and with the Indian Tribes;  
To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;  
To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;  
To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;  
To establish Post Offices and post Roads;  
To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;  
To constitute Tribunals inferior to the supreme Court;  
To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;  
To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;  
To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;  
To provide and maintain a Navy;  
To make Rules for the Government and Regulation of the land and naval Forces;  
To provide for calling forth the **MILITIA** to execute the Laws of the Union, suppress Insurrections and repel Invasions;  
To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;  
To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, forthe Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;

And To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

**Section 9.** The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.  
The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.  
No Bill of Attainder or ex post facto Law shall be passed.  
No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.  
No **TAX** or Duty shall be laid on Articles exported from any State.  
No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another; nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.  
No Money shall be drawn from the **TREASURY**, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No **TITLE OF NOBILITY** shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

**Section 10.** No State shall enter into any **TREATY**, **ALLIANCE**, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.  
No State shall, without the Consent of the Congress, lay any Imposts or**DUTIES** on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws; and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revisionand Control of the Congress.  
No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep **TROOPS**, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

The Constitution also gives each house of Congress some special, exclusive powers. Such powers given to the House of Representatives include the following:

* **REVENUE BILLS** must originate in the House of Representatives. Although this power is still honored today, it tends to have blurred over the years. Often budget bills are considered simultaneously in both houses. For example, current discussions of possible tax cuts are taking place not only in both houses, but in the executive branch as well.
* **Impeachment power**, the authority to charge the President and other "civil officers" with wrongdoing, is given to the House. A simple majority vote can impeach an elected official.

Special, exclusive powers given to the Senate include the following:

* **Major presidential appointments** must be confirmed by the Senate. The Senate offers "**ADVICE AND CONSENT**" to the President by a majority vote on the appointments of federal judges, ambassadors, and Cabinet positions.
* **Treaties** with other nations entered into by the President must be approved by a **TWO-THIRDS VOTE** by the Senate. This provision is an illustration of checks and balances, and it has served as a very important restriction to foreign policy powers of the President.
* An **IMPEACHMENT TRIAL** occurs in the Senate. If the House votes to impeach an elected official, the accused party gets a hearing in the Senate. A two-thirds majority can convict the individual and remove him or her from office.

**Important Constitutional Differences  
Between the House and the Senate**

|  |  |
| --- | --- |
| **House** | **Senate** |
| Initiates all revenue bills | Must confirm many major presidential appointments |
| Initiates impeachment procedures and passes articles of impeachment | Tries impeachment officials |
| Two-year terms | Six-year terms (One-third up for reelection every two years) |
| 435 members (apportioned by population) | 100 members (two from each state) |
|  | Approves treaties |

**Evolutionary Powers**

The "elastic," or implied powers, clause gives Congress the authority to pass laws it deems "necessary and proper" to carry out its enumerated functions. Many Congressional powers that have evolved over the years are based on this important clause. Here are a couple.

* **Oversight of the budget.** Congress reviews and restricts the **ANNUAL BUDGET** prepared by the executive branch. When a law is passed setting up a government program, Congress must pass an authorization bill that states the maximum amount of money available. When the nation's budget is set, only Congress can set the appropriations — the actual amount available in a fiscal year — for each program that it has authorized.
* **INVESTIGATION.** Congress may investigate both issues that warrant study and wrongdoings by public officials. Through **COMMITTEE HEARINGS**, Congress has examined issues such as crime, consumer safety, health care, and foreign trade. Although Congress must abide by protected individual rights, their committees have examined many allegations against elected officials. Famous recent investigations include the**WHITEWATER** and the Clinton-Lewinsky hearings.

The American Congress has more power than any legislature among the world's modern democracies. The parliaments of Europe are often "arena" legislatures that provide a forum for debate on policies proposed by a powerful prime minister or president. Only the American democracy enables its legislature with the critical role of setting the lawmaking agenda.

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On the Web

[**The Capitol Building Homepage**](http://xroads.virginia.edu/~CAP/PORTRAITS/portraits.html)  
The artwork in the Capitol building is a tribute to both the architects of America and Congressmen who have served the country with distinction. These portraits make the Capitol a monument to men and women who have held public office, as well as an inspiration to today's Congress. The University of Virginia provides this website, which has both an interactive map of the Capitol portraits and a history of the pictures.

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[**Disconnecting the Spanish-American War Telephone Tax**](http://usgovinfo.about.com/newsissues/usgovinfo/library/news/aa052600a.htm?iam=mt&terms=%2Btax+%2Bspanish-american+%2Bwar)  
By eliminating an outdated war tax, Congress will save money for 94% of Americans. After years of repeal and reinstatement, Congress will finally kill the long-distance telephone tax created to support the Spanish-American War. This tax has been used to pay for WWI, WWII, and even Vietnam, and takes a few pennies each time you call long distance.

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[**The Government Shutdown of 1995**](http://www.cnn.com/US/9511/debt_limit/countdown/index.html)  
When the government shuts down, the nations shudders. Services and resources are either cut off or curtailed while Congress wrangles over the federal budget. CNN explores the conditions that caused the 1995 government shutdown, as well as how it affects the people. Polls on public reaction are also included.

[**The Affects of a Shutdown on the People**](http://www.cnn.com/US/9511/debt_limit/11-18/wrap/impact.html)  
Government workers were furloughed and regular citizens couldn't visit state parks or even get passports to travel during the government crisis.

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[**Congress for Life**](http://innerself.com/Commentary/Congress_for_Life.htm)  
Presidents may only serve two consecutive terms in the White House, yet Senators and Representatives may be re-elected again and again. The fight for term limits is difficult because members of Congress must approve something that fires themselves after two or three terms. In an *InnerSelf*magazine article, one scholar plainly forwards his opinion that term limits are essential to stopping congressional abuses.

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[**The Impeachment of Andrew Johnson**](http://www.law.umkc.edu/faculty/projects/ftrials/impeach/impeachmt.htm)  
Over 140 years ago, another President was impeached by Congress. Andrew Johnson, unpopular to many legislators, faced impeachment charges for an unauthorized firing of a Cabinet member. The University of Missouri at K.C. Law School provides historical pictures and political cartoons to complement text testimony (sorry, no RealPlayer in the 19th century). The text includes the highlights from the impeachment hearings as well as from the Senate trial, which was decided by one vote.

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[**The House of Representatives**](http://www.house.gov/)  
Instituted by the Founding Fathers to be the "people's" connection to the federal government, the House of Representatives still functions as one of the most important institutions in American government today. Browse through their official website to find personal webpages of Congressmen, current committee pages, and information on bills and laws (using their famous search engine, Thomas). You'd expect more glitter from an official government website, but the ease of navigation makes a visit worth your while.

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