

# First Congress Unit - Lesson 5: Removal Resolution

## Congress Debates Its Executive Oversight Rule

One of the most important roles that the First Congress played in the development of the federal government involved “fleshing out” the sketchy Constitutional plans for the executive and judicial branches of the federal government. The challenge was to perform this task without disturbing the sensitive system of checks and balances intended by the Founding Fathers. In this lesson students tackle the touchy problem of locating power in the federal government when its location is not specified in the Constitution.

**Targeted Audience:** Students of early American history and government.

**Goals:** This lesson is designed to help students understand **(a)** the role that the First Congress played in “fleshing out” the structure and powers of the executive and judicial branches of the federal government and **(b)** the complications that arise when powers that are necessary to the proper functioning of government are not explicitly listed in the Constitution.

## Focus Questions

- Why is government in the United States divided into three branches?
- What role did the First Congress play in helping to shape the executive and judicial branches?
- What impact did Congress’s decision on the removal of executive officers have on the balance of power between the legislative and executive branches of government?

**Time to Complete:** 1-2 class periods.

## Standards Addressed

### 1. Delaware

- **Civics 1 (Grades 6-8):** Students will analyze the reasons for the different organizational structures each level of government [federal] employs.
- **Civics 1 (Grades 6-8):** Students will understand the principles and content of major American state papers, such as the United States Constitution.
- **Civics 2 (Grades 9-12):** Students will understand that the functioning of the government is a dynamic process which combines the formal balances of power incorporated in the Constitution with traditions, precedents, and interpretations which have evolved over the past 200 years.

## 2. National

- Students should be able to explain how the legislative, executive, and judicial powers are distributed and shared among the three branches of government.
- Students should be able to explain how each branch of government can check the powers of the other branches.

## Materials Needed

1. Copies of Handout 1 (Modified Parliamentary Procedure) - see **Unit Resources**.
2. Copies of Handout 5-2 (“Legislative Brief”) and 5-3 (“Roles”) - see **Unit Resources**.

**Terms to Know:** separation of powers, checks and balances, implied powers, legislative, executive, impeach.

## Procedures

**1. Entry Activity:** Prior to class write the names of the three branches of the federal government (Executive, Legislative, and Judicial) on the chalkboard or project them via the overhead projector. Pass out index cards as the students enter the room and ask the students to respond to the following prompts:

- Why did the authors of the Constitution create three branches?
- Which branch has the most power and why?

After you collect their responses, ask student to volunteer answers.

*(Note: Explain to the students that, due largely to experiences with the British monarchy, the fact that at least one legislative house was popularly elected, and the possibility of quick removal of representatives whose terms were only two years, 18th Century Americans tended to support the doctrine of legislative supremacy. They considered the legislative branch the safest branch in which power could be stored.)*

**2. Assign Roles:** In this lesson students will be asked to play roles as members of the FFC. The FFC was divided on the issue of removal. There were four major arguments that emerged in the congressional debates and students are to be given role cards that explain one of the four positions. Assign different arguments to specific students if you want to make sure that the four arguments are divided evenly among your more vocal students or simply distribute the role cards found in Handout 5-3 (see **Unit Resources**) randomly.

**3. Parliamentary Rules:** Distribute copies of Handout 1 (see **Unit Resources**) so that the students can refer to them during the debates.

**4. Distribute the Legislative Brief found on Handout 5-2 (see **Unit Resources**):** Ask students to read their briefs in class or for homework then clarify any questions they may have about the contents of the brief. You may want to spend extra time reviewing

the principles of balance of power, checks and balances, separation of power, and the “necessary and proper” clause as well as the concept of implied powers.

**5. Distribute Role Cards (Handout 5-3 - see Unit Resources):** Ask students to read their role cards then clarify any questions they may have about their roles.

## **6. Debate**

## **7. Vote**

## **8. Debrief**

**(a) Reteach.** One of the problems that can occur when using simulations as a method of instruction is that students may “learn” that what they did during the simulation actually occurred in history. Be sure that the students conclude the lesson with the understanding that the FFC decided that the Constitution grants the President the implied power to remove executive officials without the consent of the Senate. Interestingly, there was a tie when the vote was taken in the Senate and Vice-President John Adams (an executive officer) cast a deciding vote in favor of the Executive’s power to remove without the Senate’s consent.

### **(b) Reflect.**

**(1)** Ask students to explain:

- why government in the United States is divided into three branches?
- which branch of the federal government seems to have been granted the most power under the Constitution and why? Ask the students to support their answers with evidence.
- a role that the First Congress played in shaping the executive branch?
- the impact that Congress’s decision on the FFC’s removal resolution had on the
- balance of power between the legislative and executive branches of government?

**(2)** Ask students to explain:

- why government in the United States is divided into three branches?
- which branch of the federal government seems to have been granted the most power under the Constitution and why? Ask the students to support their answers with evidence.
- a role that the First Congress played in shaping the executive branch?
- the impact that Congress’s decision on the FFC’s removal resolution had on the
- balance of power between the legislative and executive branches of government?

## **Extension Activities**

The power of removal is the legal basis for the first case of Presidential impeachment in American history. In 1867 Congress tried to assert that it had the right to check the President's removal power by requiring Senatorial consent in the Tenure of Office Act.

When President Andrew Johnson removed Secretary of War Edwin Stanton, the House initiated impeachment charges. It might be a good time to lay the groundwork for President Johnson's impeachment by posing a case study void of names and motivations. Ask the students whether Congress would be justified in passing such a law.

### **Recommended Readings/Sources Cited**

- Bickford, Charlene Bangs and Bowling, Kenneth R. Birth of the Nation: The First Federal Congress 1789-1791. Madison House Publishers. Madison, WI. 1989.
- Center for Civic Education. We the People: The Citizen and the Constitution. Calabasas, CA. 1996. (for information on the concept of "legislative supremacy" see pp. 48-49).