# THE GOVERNMENT OF THE UNITED STATES

**THE CONSTITUTION**

### LEGISLATIVE BRANCH

**Makes the Law**

### EXECUTIVE BRANCH

**Enforces the Law**

### JUDICIAL BRANCH

**Interprets the Law**

**The Congress House of Reps Senate**

Government Accounting Office Library of Congress Congressional Budget Office

**The President The Vice President**

**Executive Office of the President**

White House Office Office of the Vice President Council of Economic Advisers

National Security Council Office of Management and Budget

**The Supreme Court of the U.S.**

United States Court of Appeals United States District Courts United States Tax Courts

United States Court of International Trade

U.S. Court of Appeals for Veterans’ Claims

**AGRICULTURE**

***THE CABINET DEPARTMENTS***

***INDEPENDENT REGULATORY AGENCIES***

CONSUMER PRODUCT SAFETY COMMISSION

Executes policies on agriculture, farming, and food

**COMMERCE**

Improves living standards by promoting economic development and technological innovation

**DEFENSE**

Provides military forces for war and to protect the security of the country

**EDUCATION**

Promote student achievement in America

**ENERGY**

Advance the energy security of the U.S.; Take care of the nation’s nuclear security

**HEALTH AND HUMAN SERVICES**

Protecting the health of all Americans; Oversee the FDA and the CDC

**HOMELAND SECURITY**

Prevent terrorist attacks; protect the American people and critical infrastructure

**HOUSING AND URBAN DEVELOPMENT**

In charge programs that take on America’s housing needs and enforce fair housing laws

**INTERIOR**

Conservation agency that protects America’s natural resources and parks

**JUSTICE**

Enforce the law and defend the interests of the U.S. according to the law

**LABOR**

Promote the welfare of job seekers, wage earners, and retirees of the United States by improving their opportunities for profitable employment

**STATE**

Lead role in developing the President’s foreign policy

**TRANSPORTATION**

Ensure fast, safe, efficient, accessible and convenient transportation systems that meet our national interest and enhance the quality of American lives

**TREASURY**

Promotes economic prosperity and ensures the security of the U.S. and international financial systems

**VETERANS’ AFFAIRS**

Administers benefit programs for veterans, their families and their

Survivors

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FEDERAL COMMUNICATIONS COMMISSION FEDERAL ELECTION COMMISSION

FEDERAL MARITIME COMMISSION

FEDERAL RESERVE SYSTEM FEDERAL TRADE COMMISSION

NATIONAL LABOR RELATIONS BOARD NUCLEAR REGULATORY COMMISSION

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION SECURITIES AND EXCHANGE COMMISSION

***GOVERNMENT CORPORATIONS***

FEDERAL DEPOSIT INSURANCE CORPORATION

NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK) TENNESSEE VALLEY AUTHORITY

U.S. POSTAL SERVICE

***INDEPENDENT AGENCIES*** CENTRAL INTELLIGENCE AGENCY(C.I.A.) ENVIRONMENTAL PROTECTION AGENCY GENERAL SERVICES ADMINISTRATION

MERIT SYSTEMS PROTECTION BOARD

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) NATIONAL ARCHIVES AND RECORDS ADMINISTRATION NATIONAL ENDOWMENT FOR THE ARTS

NATIONAL SCIENCE FOUNDATION

NATIONAL TRANSPORTATION SAFETY BOARD OFFICE OF GOVERNMENT ETHICS

OFFICE OF PERSONNEL MANAGEMENT PEACE CORPS

SELECTIVE SERVICE SYSTEM

SMALL BUSINESS ADMINISTRATION SOCIAL SECURITY ADMINISTRATION

U.S. INTERNATIONAL TRADE COMMISSION

**CONSTITUTIONAL AMENDMENTS #1-#27**

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|  | ***Date*** | ***#*** | ***Change or Addition to Constitution*** |
| **Bill of Rights** | **1791** | **1** | Freedom of religion, speech, press, assembly, petition |
| **2** | Right to bear arms would not be infringed (violated) |
| **3** | No soldier in time of peace shall be quartered in a private citizen’s home without the homeowner’s consent |
| **4** | People and their personal property cannot be searched without a warrant, issued by a judge |
| **5** | Due process; No double jeopardy; No self-incrimination; Eminent domain |
| **6** | Guarantee of a speedy trial; Guarantee of a public trial; The right to confront witnesses; The right to have legal counsel (an attorney); Impartial jury of your peers |
| **7** | In a civil suit (lawsuit between two persons or groups), the defendant has the right to a trial by jury if the amount in question is over twenty dollars |
| **8** | No excessive bail; No cruel and unusual punishment shall be used against a convicted criminal |
| **9** | Powers that are not specifically granted to the national government are to be retained by the people |
| **10** | Powers that are not specifically granted to the national government are to be retained by the states |
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| **Early Post-Bill****of Rights Amendments** | **1795** | **11** | A citizen from one state cannot sue a citizen from another state in federal court |
| **1804** | **12** | Electors will vote for President and Vice President on separate ballots |
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| **Amendments Arising from the Civil War** | **1865** | **13** | Slavery was abolished |
| **1868** | **14** | Granted citizenship rights to former slaves; Incorporated the Bill of Rights amendments to apply to the States; Due process of the law; Equal protection of the law |
| **1870** | **15** | African American males were guaranteed the right to vote |
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| **20th Century Amendments** | **1913** | **16** | Congress shall have the power to lay and collect taxes on incomes |
| **1913** | **17** | Senators elected directly by people of each state |
| **1919** | **18** | The manufacture, transportation or sale of alcoholic beverages was prohibited |
| **1920** | **19** | The right to vote cannot be denied because of a person’s gender |
| **1933** | **20** | Shortened the period of time between federal elections and the day that officials were sworn into office |
| **1933** | **21** | Repealed a previously-ratified amendment; The Prohibition Era in America was over |
| **1951** | **22** | President of the U.S. now limited to serving no more than two full terms in office |
| **1961** | **23** | People who live in Washington, D.C. are allowed to vote for President and granted three electoral votes |
| **1964** | **24** | People cannot be denied the right to vote in federal elections because they had not paid a tax on voting |
| **1967** | **25** | Established procedures to follow in the case of presidential death and/or disability |
| **1971** | **26** | 18-year-olds granted right to vote |
| **1992** | **27** | Congress may pass a law increasing members' salaries, but cannot collect it until after there has been a federal election |

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| **Issues Addressed by the Amendments** |
| ***Issue*** | ***Amendments*** |
| **Civil Rights and Liberties** | **1-9** | **13** | **14** |  |  |
| **Government Power & Function** | **10** | **11** | **16** | **27** |  |
| **Election Rules & Office-Holding** | **12** | **17** | **20** | **22** | **25** |
| **Social Concerns** | **18** | **21** |  |  |  |
| **Voting Rights** | **15** | **19** | **23** | **24** | **26** |

**DEFINING DEMOCRACY**

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| **WHAT IS THE MEANING OF DEMOCRACY?** | * Formerly a term of derision - Positive meaning only in last 100 years
* Distinguishing feature of democracy is that government derives authority from its citizens
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| **DIRECT DEMOCRACY*** Practiced by Athens and other Greek cities
* Modern day examples:
	+ Direct primary - voters, rather than party leaders or other elected officials, select who may run for office
	+ Referendum - procedure for submitting to popular vote measures passed by the legislature or proposed amendment to a state constitution (can only be done at the state level)
	+ Initiative - procedure whereby a certain number of voters may, by petition, propose a law or constitutional amendment and have it submitted to the voters (can only be done at the state level)
	+ Recall - procedure for submitting to popular vote the removal of officials from office before the end of their term (can only be done at the state level)
* Founding Fathers feared direct democracy >> fear of mob rule or “mobocracy”
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| **REPRESENTATIVE DEMOCRACY*** This is today’s meaning of democracy
* Representative democracy = republic
* Republic
	+ Same as indirect democracy
	+ Solves problems of direct democracy
	+ “Secures the advantages of direct democracy while curing its weaknesses”
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| **CONSTITUTIONAL DEMOCRACY*** Constitutional democracy refers to a government that enforces limits on those who govern and allows people to be heard through free and fair elections
* Constitutionalism refers to how power is granted, dispersed, and limited
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| **WHAT ARE THE CORE BELIEFS IN AMERICAN DEMOCRACY?** | * **Individual liberty**
	+ All individuals must have the opportunity to realize individual goals
	+ Every individual has rights; these rights are the source of all legitimate governmental authority and power
		- John Locke and the social contract theory
	+ Freedom of expression
	+ The right to assemble and protest
	+ Opposite of statism (state supreme over individual)
* **Popular consent**
	+ Governmental power from people
	+ A willingness to lose if majority removes support
* **Equality of opportunity**
	+ Jefferson's Declaration of Independence statement (“All men are created equal”)
	+ What kind of equality? Equality of opportunity? Role of FDR’s 2nd Bill of Rights: economic security
* **Free and fair elections**
	+ Held at frequent intervals; decided by majority rule
	+ All citizens should have equal voting power
	+ Existence of opposition political parties
* **Majority rule**
	+ Those with the most votes assume power
	+ Majority still respects minority views
	+ Constitution reflects fear of tyranny by majority
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**THEORIES OF DEMOCRACY**

John Locke and other Enlightenment thinkers, such as Voltaire, Montesquieu, and Jean Jacques Rousseau, created theories of democracy that guided the Founders as they shaped the new government of the United States in the late 18th century.

Four theories of democracy have taken shape over time, each addressing the questions of who holds power and influence over public policy and decision making at the local, state, and national levels of government.

### TRADITIONAL (MAJORITARIAN) THEORY

##### Government depends on the consent of the governed, which may be given directly or through representatives.

* + This theory promotes majority rule without violating minority rights, maintaining the willingness to compromise, and recognizing the worth and dignity of all people. This participation can occur either by direct or representative vote. For voting to be effective at any level, people need access to information, so they can make informed decisions.
	+ **RESULT** – Everyone has the right to participate in government. Everyone has a voice in the government.

### PLURALIST THEORY

##### Interest groups compete in the political arena, with each promoting its policy preferences through organized efforts.

* + This theory holds that people with common interests form organized groups to promote their causes and influence the political agenda. It also asserts that a healthy competition exists in the development of the policy agenda and in the selection of the policy makers. Examples of special interest groups that represent the needs and agendas of the public include the National Rifle Association (NRA), National Organization of Women (NOW), the American Civil Liberties Union (ACLU), and the American Association of Retired Persons (AARP). Conflict among groups may result, requiring bargaining and compromise so that opposing views are represented in the eventual public policy.
	+ **RESULT** – No single group, industry, or government agency dominates politics.

### ELITE THEORY

##### A small number of powerful elite (corporate leaders, top military officers, government leaders) form an upper class, which rules in its own self-interest.

* + This theory maintains that the majority of political power and influence is held by a small number of individuals, groups, and industries. People who support this theory argue that government policies disproportionately favor the elite over everyone else. For example, the oil industry and many others have been known to funnel millions of dollars into political campaigns for the candidates who support lenient pollution standards.
	+ **RESULT** – Democracy is not based on the will of the people, but that there is a relatively small, elite class that makes almost all the important decisions for the nation.

### HYPERPLURALISM

##### Democracy is a system of many groups having so much strength that government is often "pulled" in numerous directions at the same time.

* + This theory suggests that people who share interests form groups to advance their causes. Groups are so strong that government is weakened. It is an extreme, exaggerated form of pluralism in which so many groups wield power and influence on the government. For example, when a group does not like a policy passed by Congress, it can take its cause to court. Several important court decisions have been reached in civil rights and environmental cases thanks to the efforts of strong special interest groups. The factionalism that Madison and Hamilton warned about in *Federalist Papers* #10 and #51 come into play in this scenario.
	+ **RESULT** – Total gridlock of government. There are too many groups vying for power but lacking the cohesion necessary to force compromise.

Although quite different, all four theories of democracy share a common idea: people, either as individuals or groups, can make a difference in government. Involvement is the key to effecting change and making sure the government responds to its citizens.

# ROOTS OF THE AMERICAN CONSTITUTIONAL EXPERIMENT

During the Revolutionary War, the Continental Congress wrote the Articles of Confederation to provide unity for the separate states that loosely formed the new country. The Articles allowed state governments to retain their powers, and the newly formed central government had severe limitations.

Declaration of Independence >> Revolutionary War >> Articles of Confederation (1781-1789) and its weak central government

* *U.S. began as a confederation (a “firm league of friendship”)*

o Weak national government – true power is in the hands of the state legislatures

* + States retained sovereignty
	+ States retained all powers not specifically granted to Congress
	+ Unicameral Congress in which each state had one vote, regardless of population or size
	+ No executive branch or judicial branch
* *Flaws*

o Congress lacked the power to levy taxes; had to ask the states for revenue

* + Congress lacked the power to regulate or promote commerce among the states
	+ No chief executive and no national judiciary
	+ No national currency
	+ Amendments required unanimous consent of all 13 states
	+ Weak and inadequate central government

The weaknesses evident in the Articles of Confederation allowed the states to focus on their own powers. With no central government to control them, the states taxed each other, printed their own money, made treaties with foreign governments, and often refused to uphold the laws of the Confederation government. States quarreled over borders and tariffs, the country was badly in debt, and foreign countries saw the lack of a strong central government as weakness that could easily be exploited. Many leaders began to push for a government strong enough to settle disputes, to regulate commerce, and levy limited taxes. An important turning point occurred when farmers in western Massachusetts, in debt and unable to pay their taxes, rebelled against foreclosures, forcing judges out of court and freeing debtors from jails. Shays’ Rebellion was eventually controlled, but it encouraged leaders to seek a stronger central government.

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| **Weaknesses of the Articles of Confederation**Articles created a "league of friendship" between the states  Congress could not tax; Only request contributions  Congress could not regulate interstate trade/foreign commerce  No separate executive to enforce the acts of Congress No national judiciary to handle state disputes States and national gov’t had the authority to coin money Each state had one vote, regardless of size or population Nine of 13 states required to pass legislation Unanimous consent required to amend the Articles of Confederation | **How the Constitution Remedied Weaknesses**Constitution created a federal system of government National government was given the power to taxCongress given power to regulate commerce and foreign tradeArticle II created a separate executive department whose job is to enforce the laws of CongressArticle III created a national judiciary with a Supreme Court and lower courts as established by CongressOnly the national government has the authority to coin moneyStates are represented based on population in the House of Representatives and equality in the SenateBills need a simple majority in both houses of CongressTwo-thirds of Congress and three-fourths of the states are necessary to amend the Constitution |

**CONSENSUS AT THE CONVENTION**

The founders' common belief in a balanced government led them to construct a government in which no single interest dominated. They were concerned with the "excesses of democracy" demonstrated by Shays’ Rebellion and they agreed with John Locke that government should protect property.

Benjamin Franklin - a strong proponent of liberty and equality - proposed that all white males have the right to vote, but most delegates believed that only property owners should have the franchise. In their view, ordinary people would either scheme to deprive property owners of their rights or become the "tools of demagogues." In the end the founders did not include specific voting requirements in the Constitution, leaving each state to decide voter qualifications for its citizens.

The founders had consensus on the following issues:

* All delegates supported republican government (representative republic); scrap Articles
* Common philosophy was a general framework of government favoring the protection of property
* States would determine voting qualifications; suffrage for property owners only
* Provisions designed to increase the economic powers of the central government
* Agreed on national government consisting of a supreme legislative, executive, and judiciary branch
* Agreed on the need for a strong executive and an independent judiciary
* Stronger national government, but not tyrannical

# CONFLICT AND COMPROMISE

A major issue at the convention was the balance of power between the large states and the small. The large states favored a strong national government that they believed they could dominate, and the small states wanted stronger state governments that could avert domination by the central government. These different interests are apparent in the first discussions of representation in Congress. Most favored a bicameral, or two- house, legislature, similar to the organization of most state legislatures since colonial times.

* **The Virginia Plan** (favored by more populous states)
	+ Representation in each house based on population and/or monetary contributions to the national government by the state
* **The New Jersey Plan** (favored by small states)
	+ Representation in house would be equal among the states

### The Connecticut Compromise

* + Called for one house in which each state would have an equal vote – to be selected by the state legislatures – (New Jersey Plan = Senate) and a second house in which representation would be based on population – only form of direct democracy in original Constitution for elected officials – (Virginia Plan = House of Reps) and in which all bills for raising or appropriating money would originate

Another disagreement at the Convention was based on North/South differences, particularly regarding the counting of slaves for purposes of apportioning seats in the House. The South wanted to count slaves in order to increase its number of representatives, and the North resisted. The delegates finally agreed on the Three- fifths Compromise, which allowed southern states to count a slave as three-fifths of a person, allowing a balance of power between North and South.

### North-South Compromises

* + Issue of representation in the House of Representatives was resolved by the three-fifths compromise – counting of slaves (North gets taxes, South gets reps)
	+ Slave Trade compromise - forbidding Congress the power to tax the export of goods from any State, and, for 20 years, the power to act on the slave trade
	+ Southern delegates insisted on a two-thirds majority in the Senate before presidents could ratify treaties

Another debate concerned the selection of the president. The initial decision was for the president to be selected by Congress, but the delegates were concerned about too much concentration of power in the legislature. On the other hand, they feared direct election by the people, especially since the House of Representatives were to be popularly elected. The Compromise was to leave the selection of the president to an electoral college - people selected by each state legislature to formally cast their ballots for the presidency.

### Election of the President

* + Life term vs. annual election >> compromise of a 4-year term
		- There was NO LIMIT on the number of terms that a president could serve (until the 22nd Amendment)
	+ Method of election:
		- Some wanted election by Congress
		- Some wanted election by state legislatures
		- Some wanted direct election
		- Compromise: Electoral College system

# FEDERALISTS VERSUS ANTI-FEDERALISTS

The delegates agreed that the Constitution would go into effect as soon as popularly elected conventions in nine states approved it. The debate over ratification - the formal approval of the Constitution by the states - raged throughout the country, with supporters of the new government calling themselves Federalists, and their opponents, the Anti-Federalists. The main debate was primarily about the scope of power of the central government.

* Federalists supported the greatly increased powers of the central government and believed that the Constitution adequately protected individual liberties.
* The Anti-Federalists believed that the proposed government would be oppressive and that more individual freedoms and rights should be explicitly guaranteed.

Pamphlets, newspapers, and speeches supported one view or the other.

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| **FEDERALISTS*** Favored Constitution
* Led by Madison, Hamilton, and Jay
* Stressed weaknesses of Articles; strong central government needed to protect nation and solve domestic problems
* Checks and balances would protect against abuses
* Protection of property rights
* Constitution is a bill of rights with limitations and reserved powers for the states; state constitutions already had protections in bills of rights
 |  | **ANTI-FEDERALISTS*** Opposed Constitution
* Led by Patrick Henry, George Mason, Samuel Adams
* Wanted strong state governments; feared a strong national government
* Created a strong executive similar to monarchy
* Wanted fewer limits on popular participation
* Wanted a bill of rights to protect individual liberty and citizens against government and individual
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###### THE FEDERALIST PAPERS

Ratification of the Constitution was defended by the *Federalist Papers*, written by Alexander Hamilton, James Madison, and John Jay. These documents contain some of the most basic and brilliantly argued philosophical underpinnings of American government. Two famous papers are *Federalist #10* and *Federalist #51.*

The *Federalist #10* addresses the question of how to guard against “factions”, or groups of citizens, with interests contrary to the rights of others or the interests of the whole community and argued that separation of powers and federalism check the growth of tyranny: If “factious leaders...kindle a flame within their particular states...” leaders can check the spread of the “conflagration through the other states.” Likewise, each branch of the government keeps the other two from gaining a concentration of power. Madison argues that a long-lived democracy must manage its interest groups, even though these factions can never be eliminated. Madison argued that a strong, big republic would be a better guard against those dangers than smaller republics—for instance, the individual states.

The *Federalist #51* explained why strong government is necessary: “If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary.” It also addressed means by which appropriate checks and balances can be created in government and also advocates a separation of powers within the national government. One of its most important ideas is the often quoted phrase, “Ambition must be made to counteract ambition.”

###### THE BILL OF RIGHTS

A compromise between Federalists and Anti-Federalists was reached with the agreement to add ten amendments that guaranteed individual freedoms and rights. With this agreement, the Constitution was finally ratified by all the states in 1789, and the Bill of Rights was added in 1791. Without these crucial additions, the Constitution would not have been ratified in several key states.

# CHECKING POWER WITH POWER

The founding fathers wanted to create a constitution because James Madison was concerned that government would be controlled by majority or minority factions. He believed that factions would best be controlled by a large republic that operated under a constitution. The Constitution is the supreme and binding law that both grants power to the government and limits the power of the government.

The Madisonian plan also provided for a system of separation of powers, in which each of the three branches of government would be relatively independent so that no single branch could control the others. However, the powers were not completely separate: a system of checks and balances was established that reflected Madison’s goal of setting power against power to constrain government actions.

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| **SEPARATION OF POWERS** | * Colonial experiences, e.g. excessive power in state legislatures >> need for strong executive
* To Madison, tyranny was government that controlled all 3 branches of government >> division of power among the legislative, executive, and judicial branches
* Allocation of constitutional authority to each of the three branches of the national government
* Each branch is politically independent of the others
* Danger of one branch combining forces with another branch >> checks and balances
 |
| **CHECKS AND BALANCES** | * Background
	+ 18th century view of government as something to be restrained, and modern view of government as something to be used for the common good.
	+ Fear of tyranny among Founders >> distrust of government >> checks and balances as means of intentionally building inefficiency in order to prevent government abuse of power.
* Each branch has a role in the actions of others (veto, veto override, appointment and confirmation, treaty making and ratification, defense funding and Commander-In-Chief)
* Power struggles among three branches (especially Congress and the president)
* A majority of the voters can win control over only part of the government at one time. Staggering of terms within each branch >> a majority of voters can gain control over one part of government at one time, e.g. midterm congressional elections can serve as a check of the executive.
* Independent national courts are provided
* Political independence within each branch: no branch is dependent upon the other two for election (exception: judges are appointed by President) and continuance in office (life terms for judges eliminates presidential influence)
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Judicial review (the power of courts to hold executive and congressional policies unconstitutional) was not explicit in the Constitution, but was asserted by the Supreme Court under John Marshall in *Marbury* v. *Madison* (1803).

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| **JUDICIAL REVIEW** | *MARBURY V. MADISON* (1803)* Framers did not specifically provide for judicial review
* Chief Justice John Marshall reasoned that judges should interpret the Constitution, not the President or Congress
* Judicial review became established due to this case
* A single person may challenge an existing law through judicial hearings
* Effects
	+ Litigation sometimes trumps legislation as a way to make public policy
	+ *D.C. v. Heller* (2008) and *McDonald v. Chicago* (2010)
 |

# AMENDING THE CONSTITUTION

#### INFORMAL AMENDMENT PROCESS

Although the United States Constitution has been formally changed only 27 times, there have been many changes in the way in which the American government operates. Thomas Jefferson believed each generation might need new Constitution. This hasn’t occurred because of the changes that have allowed the Constitution to adapt to changing times (especially with Congress’ use of implied powers). Most of those changes have come about through the informal amendment process and do not involve actually changing the wording of the Constitution. Informal changes in the Constitution may occur in the following ways:

* **Legislative Branch**: Congress has passed various acts that have altered or made clear the meaning of the Constitution. For example, under Article III Congress is given the authority to create lower courts, which they did through the Judiciary Act of 1789. Another example, the Commerce Clause allows Congress to regulate and promote interstate and international commerce. Over time, Congress has passed many laws that define the Commerce Clause, including regulations on forms of commerce that didn’t exist in 1789, such as air routes and internet traffic.
* **Executive Branch**: Presidents may negotiate executive agreements with other countries, an authority not mentioned in the Constitution. The Constitution requires that foreign treaties be ratified by the Senate, but executive agreements do not. These agreements are used to circumvent the formal process, especially for routine matters that might simply slow the work of the Senate down. The use of executive agreements rather than treaties allows the president to bypass the Senate.
* **Judicial Branch**: Of all the branches, the judiciary has been the most influential in interpreting the Constitution. Article III defines the power of the judiciary very broadly, but does not specifically mention judicial review - the power of the courts to declare statutes unconstitutional and interpret the Constitution when disputes arise. That power was first established in *Madison v. Marbury* in 1803, when Chief Justice John Marshall claimed judicial review as a prerogative of the court in his famous majority opinion issued in the case.
* **Custom and usage**: Traditions that have been incorporated into the political system and which have lasted over time have changed the meaning of the Constitution. Senatorial courtesy in the Senate and the "no-third-term" tradition in the Presidency (until the Twenty-second Amendment made it part of the Constitution) are examples.

#### FORMAL AMENDMENT PROCESS

One major weakness of the Articles of Confederation was the amendment process, which required unanimous approval for amendments to become effective. The framers of the Constitution anticipated the need to change the Constitution and provided a process to amend the Constitution (Article V) that required both state and national action (a form of federalism). Amending the Constitution requires proposal, a national function, and ratification, a state function.

Amendments may be proposed in Congress by two methods and ratified in the states by two methods, creating four possible methods for formally amending the Constitution.

The Founders designed the amendment process to be difficult enough that Congress could not add so many amendments that the original document would end up with little meaning.

Formal amendments are written changes to the Constitution. They add to, change the wording of, or delete language from the Constitution. Only 27 formal amendments have been added to the Constitution since its adoption. The first ten amendments, the Bill of Rights, were added in 1791.

**THE CONSTITUTION MAY BE FORMALLY AMENDED IN FOUR WAYS:**

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| --- | --- | --- | --- | --- |
| **1** | Proposed by 2/3 vote of each house of Congress |  | Ratified by 3/4 of the state legislatures | *Used 26 times* |
| **2** | Proposed by 2/3 vote of each house of Congress |  | Ratified by special conventions in at least 3/4 of the states | *Used once 21st Amendment* |
| **3** | Proposed by a national constitutional convention called by Congress at the request of 2/3 of the state legislatures |  | Ratified by 3/4 of the state legislatures | *Never used* |
| **4** | Proposed by a national constitutional convention called by Congress at the request of 2/3 of the state legislatures |  | Ratified by special conventions in at least 3/4 of the states | *Never used* |