



## Chapter 3 - The Constitution

### Outline of the Constitution

The Constitution is broken down into parts. The first is the Preamble and it introduces the goals of the document. Think of it like the Constitution's thesis statement. Next come articles one through seven. These establish the three branches of government and outline the powers of the national government. The Bill of Rights is the first ten amendments, or changes to the Constitution. These outline individual freedoms of citizens. There are a total of 27 amendments to the Constitution with 11 through 27 describing changes made to the Constitution.

Articles of the Constitution	
Section	Subject
Preamble	States the purpose of the Constitution
Article I	Legislative branch
Article II	Executive branch
Article III	Judicial branch
Article IV	Relations among the States
Article V	Amending the Constitution
Article VI	National debts, supremacy of national law, and oaths of office
Article VII	Ratifying the Constitution

Bill of Rights: protection of individual rights

Amendments: formal changes to the Constitution

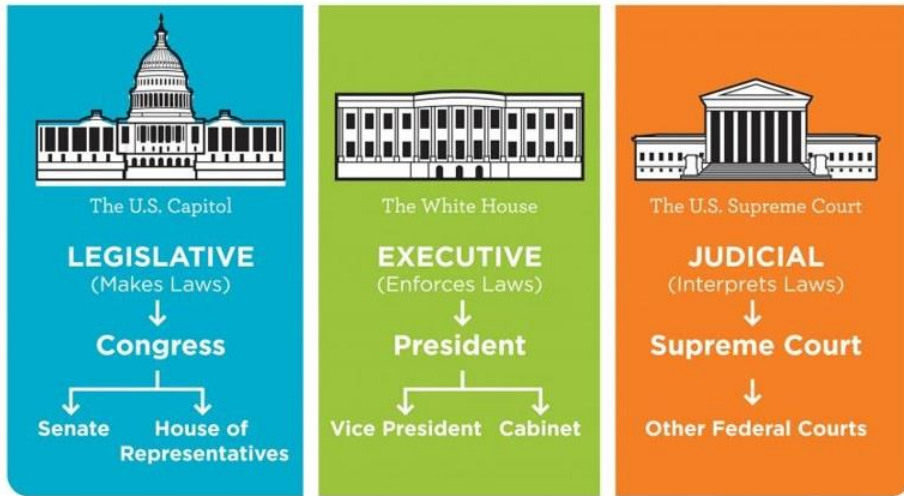
## The Six Basic Principles of the Constitution

**Popular Sovereignty** The idea that all political power resides with the people. Basically, the government can only govern with the consent of the governed. While also a component of the Declaration of Independence, it is also woven throughout the Constitution. It is in the first words of the Constitution, "We the people..." that declares the will of the people to establish the Constitution.

**Limited Government** This principle holds that government only has the powers granted to it. It cannot be all-powerful, only having the powers the people want it to have.




**Separation of Powers** The idea of three separate branches of government. A legislative branch makes the laws, an executive branch enforces the laws, and a judicial branch interprets the laws. The powers given to these three branches are the first three articles in the Constitution.

## Three Branches of Government FEDERAL LEVEL



**Checks and Balances** While the National Government is organized into three separate branches, the Constitution gives each branch certain powers within their branch and other powers to check that of other branches. Each branch is subject to checks (or restraints) from the other branches to ensure that no one branch becomes too powerful.

# CHECKS AND BALANCES

<b>Executive Branch</b> (President carries out laws) 	<b>Checks on the Legislative Branch</b> Can propose laws Can veto laws Can call special sessions of Congress Makes appointments Negotiates foreign treaties	<b>Checks on the Judicial Branch</b> Appoints federal judges Can grant pardons to federal offenders
<b>Legislative Branch</b> (Congress makes laws) 	<b>Checks on the Executive Branch</b> Can override President's veto Confirms executive appointments Ratifies treaties Can declare war Appropriates money Can impeach and remove President	<b>Checks on the Judicial Branch</b> Creates lower federal courts Can impeach and remove judges Can propose amendments to overrule judicial decisions Approves appointments of federal judges
<b>Judicial Branch</b> (Supreme Court interprets laws) 	<b>Check on the Executive Branch</b> Can declare executive actions unconstitutional	<b>Check on the Legislative Branch</b> Can declare acts of Congress unconstitutional

**Judicial Review** This is the power of the judicial branch to determine if laws and executive actions are constitutional or unconstitutional. This allows the judicial branch, both the Supreme Court and lower courts, to interpret the Constitution.

**Federalism** is the division of power between a central government and several regional governments. In the United States this is the sharing of power between the National Government and the States. It came about because of American fears of having too strong a central government (like when they were colonies of England) and too little power (like under the Articles of Confederation).

## Changing the Constitution

### The Formal Amendment Process

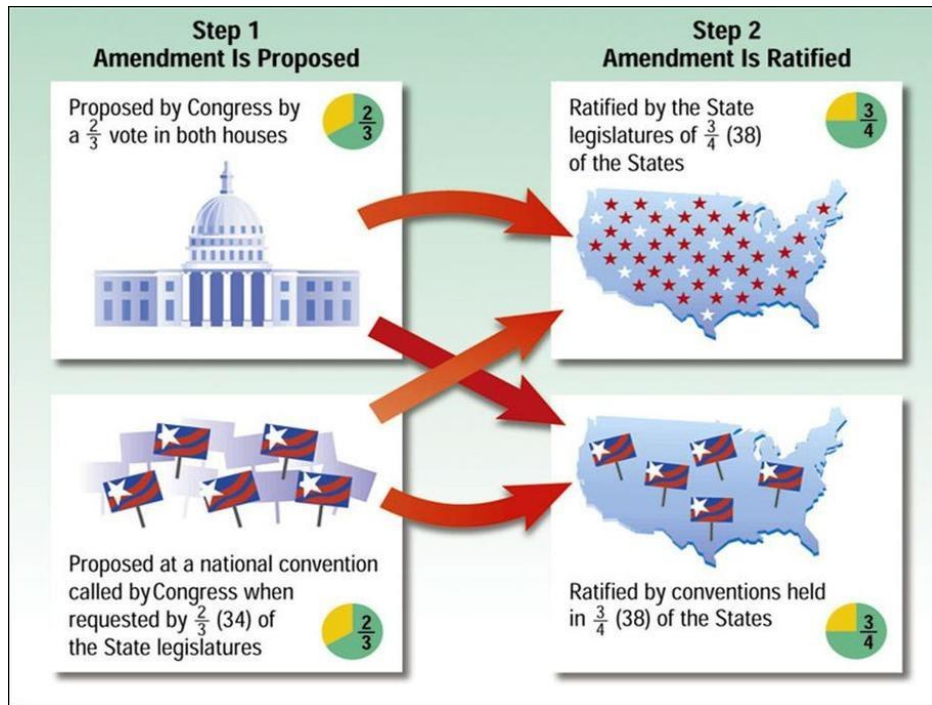
*There are two different ways to propose an amendment AND two ways to ratify one:*

**Method 1** An amendment is proposed by 2/3 of each house of Congress and ratified by 3/4 of State legislatures (38 of them). 26 amendments were adopted this way.

**Method 2** An amendment is proposed by Congress and ratified by conventions held in 2/4 of the States. Only the 21st Amendment used this method (repeal of Prohibition).

**Method 3** An amendment is proposed by a national convention, called by Congress at the request of 2/3 of State legislatures (that's 34 States). It is then ratified by 3/4 of the State legislatures. Congress has never called such a convention.

**Method 4** An amendment is proposed by a national convention and ratified by conventions in 3/4 of the States. This is similar to the way the Constitution was adopted, but it has never been used for an amendment.



## Federalism and Popular Sovereignty

The formal amendment process lends itself to the idea of federalism as the nature of the process includes both State governments and the National government. Also, the will of the people is included in this process, this, including the principle of popular sovereignty.

## The Amendments

The Constitution contains 27 amendments. The first ten are known as the Bill of Rights and protect citizen's individual rights. The other 17 amendments were added for various reasons as the country evolved over time.

## Constitutional Change by Other Means

The Constitution is a relatively short document and was left ambiguous in places by the Framers on purpose. There are a few ways in which the Constitution is impacted beyond formal amendments.

### Basic Legislation

Congress has been a major agent for constitutional change over time. In those areas where the Constitution is vague, Congress has added details to these areas as necessary. An example of this is in

Article II. This article only establishes the office of the president and the vice president. The many departments, offices, and bureaucracy of the executive branch has been created over time by Congress.

### **Executive Action**

The president has certain powers that have been expanded over time. When a president makes an *executive agreement*, a pact with another foreign head of state, he is circumventing the treaty process which requires the approval of the Senate. During the Civil War, President Lincoln instituted martial law in Maryland and suspended habeas corpus through executive orders. Throughout history, presidents have used their power as commander-in-chief to unilaterally move troops into combat without a declaration of war from Congress.

### **Court Decisions**

The United States Supreme Court, as you have learned, has the power of judicial review and can determine the constitutionality of laws and executive actions. Through judicial review the Courts are able to interpret and apply the Constitution to the cases they hear, thus changing or creating precedence and how the Constitution is carried out.

### **Customs and Traditions**

Unwritten custom sometimes can be as strong as written laws and have developed throughout American history. It has been custom for the president to elect a Cabinet, or advisory body, to help guide decision making. There is no discussion of a Cabinet in the Constitution. George Washington refused to seek a third term in office, a custom followed by presidents until FDR. And after FDR, a constitutional amendment was created to ensure that no president would serve more than two terms.