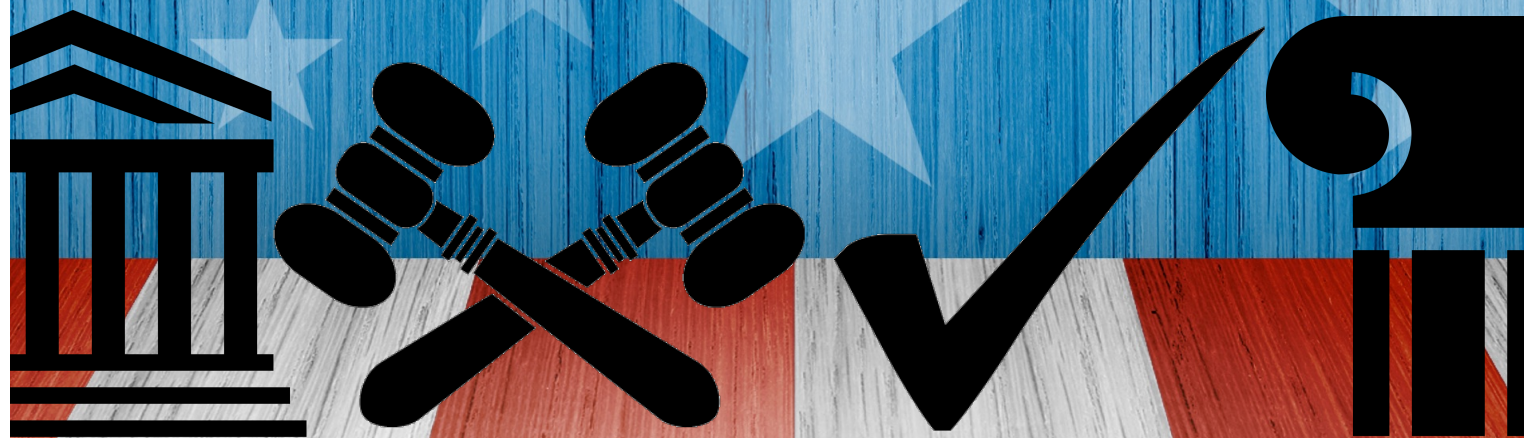


MI OPEN BOOK PROJECT

# CIVIC LIFE



Hillary Baker, Travis Balzer, Annemarie Conway, Kelly  
Dutcher, Katie Hintz, Kymberli Wregglesworth

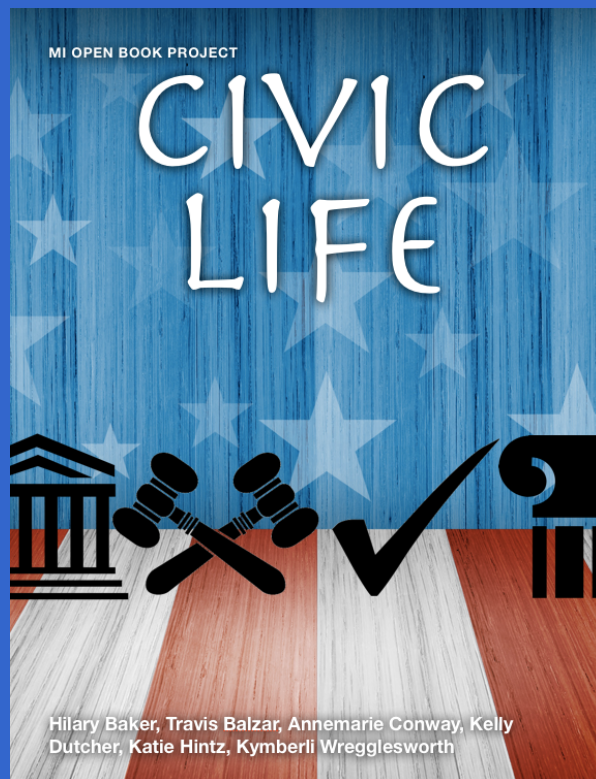


# About the Authors



**MICHIGAN**  
**OPEN BOOK PROJECT**





This is version 1.5.2 of this text, released August 2018

Information on the latest version and updates are available on the project homepage: <http://textbooks.wmisd.org/dashboard.html>



## MICHIGAN OPEN BOOK PROJECT

The text of this book is licensed under a Creative Commons NonCommercial-ShareAlike (CC-BY-NC-SA) license as part of Michigan's participation in the national #GoOpen movement.

### You are free to:

**Share** — copy and redistribute the material in any medium or format

**Adapt** — remix, transform, and build upon the material

The licensor cannot revoke these freedoms as long as you follow the license terms.

### Under the following terms:



**Attribution** — You must give appropriate credit, provide a link to the license, and indicate if changes were made. You may do so in any reasonable manner, but not in any way that suggests the licensor endorses you or your use.



**NonCommercial** — You may not use the material for commercial purposes.

**No additional restrictions** — You may not apply legal terms or technological measures that legally restrict others from doing anything the license permits.



Attribution-NonCommercial-ShareAlike CC BY-NC-SA



# The Michigan Open Book Project

Project Manager: Dave Johnson, Wexford-Missaukee Intermediate School District

HS World Team Editors: Linda Start, the Michigan Center for Civic Education and Rebecca Bush, Ottawa Area Intermediate School District

## Authors

Hillary Baker - East Kentwood High School

Travis Balzar - Shepherd Public Schools

Annemarie Conway - Charlevoix Public Schools

Kelly Dutcher - Harbor Springs Public Schools

Katie Hintz - Gladwin Area Schools

Kymerli Wregglesworth - Onaway Consolidated School District



## Hillary Baker

**East Kentwood High School**

**East Kentwood Public Schools**

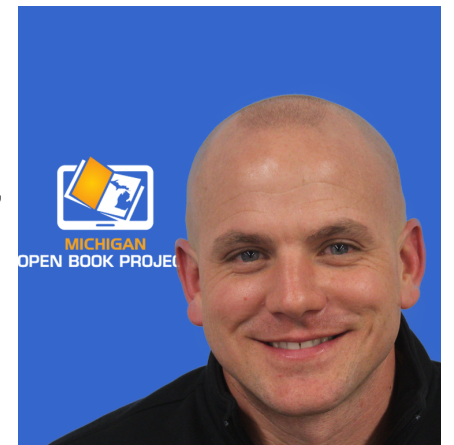
*"Hillary Baker has spent twenty-two years teaching social studies in the high school setting. She has taught Civics, Criminal Law, Advanced Placement U.S. Government and Politics, U.S. History, Sociology, and Humanities. In addition, she has coached and advised various social studies co-curricular programs such as the We the People...The Citizen and the Constitution Congressional Hearing Simulation as well as Model United Nations. Baker has been recognized as the 2014 American Lawyer Alliance's Law-Related Education Teacher of the Year as well as the Michigan Civic Educator of the Year in 2014. She also has served in a leadership capacity for the College Board A.P. Reading since 2008. Baker began her teaching career in Traverse City Area Public Schools where for seven years she taught in an integrated, interdisciplinary Humanities Program as well as other social science courses such as A.P. U.S. Government and Politics and Sociology. She has spent the last fifteen years teaching at East Kentwood High School and currently also serves as an Instructional Coach in the building. She is a graduate from the University of Michigan where she earned a B.A. in Politi-*

## Travis L. Balzer

**Shepherd Public Schools**

*Shepherd Public Schools*

Travis L. Balzer is a Shepherd High School social studies teacher concentrating in Economics, Civics and History. Mr. Balzer (Mr. B) resides in Shepherd with his bride Haley, and daughters Makayla and Mia Jean. A Gladwin High School graduate. Parents Vicki and Teddy reside in Gladwin. Travis' sister, Kristal and two sons, Isaac and Adam reside in the Lansing area. Mr. Balzer earned an Economics and Management degree from Albion College and proceeded to obtain teaching certification from Saginaw Valley State University in Social Studies. In addition, obtaining a masters in Educational leadership from Grand Valley State University. Hunting, exercising including P90X, biking, running and outdoor activities are great ways that time



## Annemarie Conway

**Charlevoix Middle-High School**

*Charlevoix Public Schools*

Annemarie Conway teaches AP US Government, psychology, sociology, American Government, and economics for Charlevoix Middle High School. She graduated from Kalamazoo College with her bachelors degree in political science. She earned her Masters of Education with an emphasis in History from Grand Valley State University. Throughout her teaching career she has worked with AP College Board as a reader, table leader and question leader for the US Government & Politics AP exam. She also sponsors Charlevoix's Model United Nations program.



**MICHIGAN  
OPEN BOOK PROJECT**





## **Kelly Dutcher**

### **Harbor Springs Public Schools**

#### *Harbor Springs High School*

Kelly teaches Economics, Civics, U.S. History, and College Readiness at Harbor Springs High School. Aside from teaching, she is also a Michigan Youth in Government advisor, and class of 2017 sponsor. Mrs. Dutcher is a graduate of Lake Superior State University where she received her BS in Social Studies and Secondary Education. She is currently working towards receiving her MA in American History and Government at Ashland University, and was awarded the James Madison Memorial Fellowship in 2014. Kelly loves teaching at the high school level, and helping bring social studies to life for her students. She shares her life with her husband Jordan and three young daughters: Daphne, Au-

## **Katie Hintz**

### **Gladwin Public Schools**

#### *Gladwin High School*

Katie is completing her seventh year as a teacher at Gladwin High School, where she has taught every Social Studies course available, including: American Government, Sociology, Current Events, World History, Economics, Social Problems in the United States, and Law. A graduate of Saginaw Valley State University's Secondary Education Program, she majored in History, minored in Sociology and earned a Social Studies Endorsement. As Social Studies Department Chair, she was inspired to participate to the Open Book Project because of the disjointed resources that most economics teachers are forced to scrape together to create a captivating curriculum.

Currently, she is working on completing her Masters in Global History at with American Public University. Her final thesis on the Food Industry is due to be published September, 2015.

Katie spends her time outside of the education world raising her two boys, Connor and



## **Kymberli Wregglesworth**

### **Onaway Area Consolidated Schools**

#### *Onaway High School*

Kymberli has a BA in history and political science from Alma College, a MA in education from Michigan State University, and will be completing her MA in American History and Government from Ashland University this spring upon completion of her thesis on suffragist and equal rights activist Alice Paul. She was named a James Madison Fellow in 2011 and was chosen as the Michigan Council for the Social Studies High School Educator of the Year in 2015. Kymberli returned to her high school alma mater where she teaches Civics, World History, Current Events, Women's Studies, and World Cultures, as well as serving as National Honor Society adviser and executive director of the Miss Onaway Scholarship Program. When not doing history geek stuff, she enjoys spending time in the



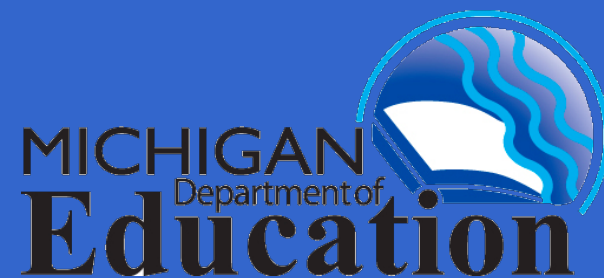


The Michigan Open Book Project Team would like to thank the following individuals for their help in reviewing some content in the book and guiding the development process.

Eric Hemenway - Director of Repatriation, Archives and Records, Little Traverse Bay Bands of Odawa Indians

Jim Cameron, Michigan Department of Education

Melissa Kieswetter, Michigan Department of



**MICHIGAN**  
**OPEN BOOK PROJECT**



## **Linda Start**

### **Michigan Center for Civic Education**

*Former Executive Director*

Linda Start has served as the Executive Director of the Michigan Center for Civic Education for more than twenty-five years. Start has presented at hundreds of school districts across Michigan and is sought out as a speaker for many national civic education conferences. As the Executive Director of the Michigan Civic Education Center, Start served on the Committee to draft the Michigan Civics Standards and presented the Civics Standards and Benchmarks to the Michigan State Board of Education. Start served on a Review Committee for the National Standards in Civics and Government. Start represents Michigan in several national networks of civic educators. In addition, Start was asked to join a group of civic education experts in the United States to work with emerging democracies in Eastern Europe. Start has worked closely with civic educators in Poland, Ukraine, the Czech Republic, and Slovakia. A

## **Rebecca Bush**

### **Instructional Consultant**

*Ottawa Area Intermediate School District*

Rebecca Bush is currently the Social Studies Consultant at the Ottawa Area Intermediate School District (OAISD), where she assists K-12 social studies teachers in developing curriculum, modeling instructional strategies in social studies literacy, and designing district-level formative and summative assessments. Additionally, as Project Director, she has written and received multiple Teaching American History grants, working with teachers throughout an eight-county radius. She has presented at various national conferences on multiple topics surrounding social studies instruction as well as innovative techniques and topics in formative and summative assessment design. Currently she is Co-Project Director of The Performance Assessments of Social Studies Thinking (PASST) Project and assists with the professional development of teacher writers for the MI Open Book Project where she serves as an editor of several of the project's texts. Rebecca currently leads the Michigan Social Studies Supervisors Association and is a member of the National Social Studies Supervisors Association Executive Board of Directors. She is also an adjunct professor at Hope College in Holland, MI



## **David A. Johnson**

### **Project Manager**

*Michigan Open Book Project*

Dave began his career teaching 8th grade United States History in Mesick, Michigan. After almost a decade in the classroom, he took a job at Wexford-Missaukee Intermediate School District (WMISD) as an Instructional Consultant for Social Studies. He is shared across 11 ISDs in Northern Michigan that form the Northern Michigan Learning Consortium. He completed his Masters in Educational Leadership through Central Michigan University in 2011 and is Co-Project Director of the Performance Assessments of Social Studies Thinking (PASST) Project in addition to his duties as the Project Manager for MI Open Book.



## Chapter 1

---

# Who Should Wield Power?

---

What are the political philosophies about the necessities and purpose of government?

Which philosophers had the most direct effect on the Founding generation?

How were the philosophies included in the Founding documents?

*We the People*





# Competing Philosophies

## QUESTIONS TO GUIDE INQUIRY

1. What are the political philosophies about the necessities and purpose of government?
2. Which philosophers had the most direct effect on the Founding generation?
3. How were the philosophies included in the Founding documents?

## TERMS, PLACES, PEOPLE

Consent of the Governed

Social Contract

Civil Society

Civil Government

State of Nature

Democracy

The Founders did not create our system of government out of thin air. They were well-read and lived at a time when many new ideas about government were being developed. They took their inspiration from the ideas of a variety of thinkers, but each of the following had a distinct influence on what government in the United States would become.

One of the earliest political thinkers was Aristotle, who lived in Greece from 384-322 BCE. His collection of essays called *Politics* is one of the first to address the study of political science. His intention was that politicians and government officials would use this science to frame laws, educate the citizenry, create reforms when necessary, and maintain the city-state.

**“Man is by nature a political animal.”**

Aristotle defined three virtuous governments - monarchy, aristocracy, and polity - and three deviant or harmful governments - tyranny, oligarchy,

## Interactive 1.1 Aristotle's Politics



*[Click here to read some excerpts](#)*



and **democracy**. In the three types of virtuous governments, leader(s) govern for the benefit of the society. In the deviant governments, leader(s) govern for the benefit of themselves or their class. In theory, democracy was considered to be deviant because it was hypothesized that the poor would work against the rich to redistribute wealth; this in turn, would lead to the tyranny of the majority.

In Aristotle's time, only property owning males born in the city-state could be citizens and have the right to participate in the governing of others. Although most residents were excluded, those who were citizens participated to a great extent in directly governing. Political rights, according to Aristotle, should only be granted to those who are fully contributing to the political community; the rule of the "best persons," or a natural aristocracy is Aristotle's ideal government.

**"When states are democratically governed according to law, there are no demagogues, and the best citizens are securely in the saddle; but where the laws are not sovereign, there you find demagogues. The people become a monarch . . . such people, in its role as a monarch, not being controlled by law, aims at sole**

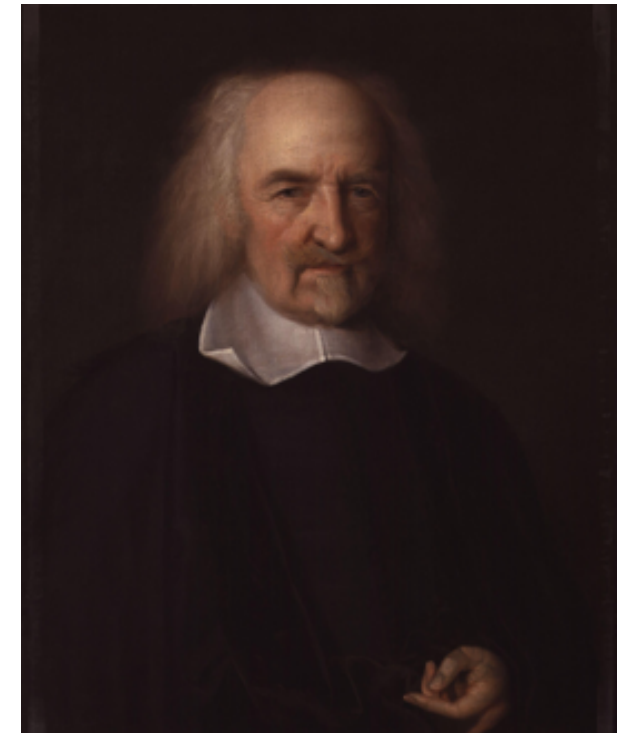
**Interactive 1.2** Robert Reich - Theres a Revolt Coming



*After reading this article, determine whether or not you believe Aristotle is correct.*

**power and becomes like a master."**

Another important philosopher was English philosopher Thomas Hobbes (1588-1679). He wrote Leviathan in 1651. One of his main ideas was that of social contract, where people agree to the type of governmental system under which they live. According to Hobbes, human beings lived in a **state of nature** where life was defined by the survival of the fittest; a war of "every man against every man." People could do no industrious work because they did not know if they would survive until completion, nor would any arts or literature be created because people would be so absorbed with mere survival.



**Interactive 1.3** Hobbes Leviathan



*Click here to read more!*

**"In [the state of nature], there is no place for Industry; because the fruit thereof is uncertain; and consequently no Culture of the Earth; no Navigation, or use of the commodities that may be imported by Sea; no commodious Building; no Instruments of moving, and**



removing such things as require much force; no Knowledge of the face of the Earth; no account of Time; no Arts; no Letters; no Society; and which is worst of all, continual fear, and danger of violent death; And the life of man, solitary, poor, nasty, brutish, and short.”

Constant competition for the limited number of items necessary for survival would lead men to fear one another. This fear would ensure that life was “solitary, poor, nasty, brutish, and short.” Therefore, Hobbes wrote, people enter into a social contract, and they give their **natural rights** and absolute power to a monarch in return for peace, stability and order. Hobbes chose a monarchy over other forms of government because he believed absolute authority was necessary to effective government.

English philosopher John Locke (1632-1704) held a different belief about the state of nature. In his Second Treatise of Government, he wrote that in the state of nature, people are free and equal and that each person has natural rights such as life, liberty, and property. Agreeing with Hobbes that there would be competition for resources, Locke believed the people would eventually enter into a social contract and form **civil society** and **civil government**. Because natural rights predate government, they

cannot be taken away and the government must work to protect those rights.

“Men being, as has been said, by nature, all free, equal and independent, no one can be put out of this estate, and subjected to the political power of another, without his own **consent.**”

According to Locke, if the people believe that the government is not protecting their rights, they can and should overthrow the government and replace it with another. Government can only happen with the **consent of the governed**. Those who enter into the social contract give up their right to execute the law in exchange for justice and stability.

“The legislative cannot transfer the power of making laws to any other hands: for it being but a delegated power from the people, they who have it cannot pass it over to others.”

“There is no greater tyranny than that which is perpetrated under the shield of the law and in the name of justice.”

**Interactive 1.5** Second Treatise



*Read more by clicking here!*

**Interactive 1.4** Gun Rights, Drunk Driving, and John Locke



*Learn more by clicking here!*



Charles-Louis de Secondat (1689-1755), better known as the Baron de Montesquieu, lived in France. In his *The Spirit of the Laws*, he outlined three types of governments: republican, monarchy, and despotism. According to Montesquieu, Republican government can take two forms: democratic or aristocratic. In a democracy, the people hold the

power and are considered to be sovereign. The rulers must be virtuous to an extent that they put the needs and demands of the society ahead of their own.

**“The political liberty, of the subject, is a tranquility of mind arising from the opinion each person has of [their] safety. In order to have this liberty, it is requisite the government be so constituted as one [person] need not to be afraid of another.”**

Liberty, according to Montesquieu, is the ability to have the protection of the laws while still keeping as much freedom and autonomy as possible. Only laws regarding public safety should be enacted. Locke proposes that the three functions of the government (executive, legislative, and judicial) should be separated and the powers held by different people or groups.

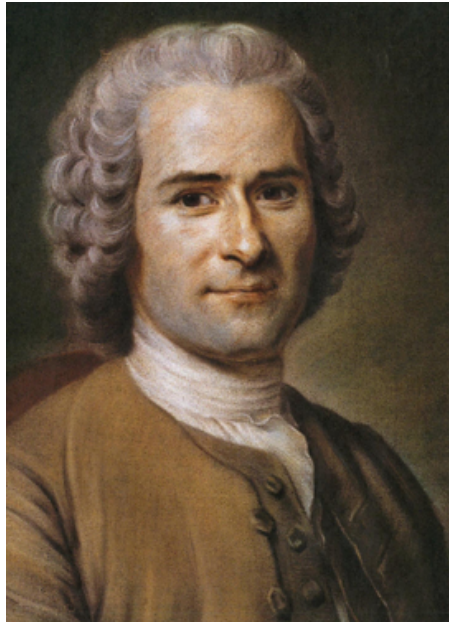
**“Every man having been born free and master of himself, no one else may under any pretext whatever subject him without his consent. To assert that the son of a slave is born a slave is to assert that he is not born a man.”**

### Interactive 1.6 The Spirit of Laws



*Click here to read and learn more!*





Jean Jacques Rousseau (1712-1778) was a Swiss philosopher who wrote *The Social Contract* in 1762. Unlike his predecessors, Rousseau believed that the social contract as it existed was not a voluntary pact entered into by the people. Instead, he believed that the common people had been tricked by the rich into giving up their freedom and then forced into a civil society that did not look out for their best interests.

“The social pact, far from destroying natural equality, substitutes, on the contrary, a moral and lawful equality for whatever physical inequality that nature may have imposed on mankind; so that however unequal in strength and intelligence, men become equal by covenant and by right.”

Rousseau did not support the idea of a representative government, however. He compared turning over one’s ability to rule oneself to slavery, and therefore advocated direct democracy. This made the idea of a large political unit almost impossible.

### **Interactive 1.7** The Social Contract



*Learn more by clicking here!*

# Sovereignty, Power, Legitimacy, and Authority

### QUESTIONS TO GUIDE INQUIRY

1. What are the political philosophies about the necessities and purpose of government?
2. Which philosophers had the most direct effect on the Founding generation?
3. How were the philosophies included in the Founding documents?

### TERMS, PLACES, PEOPLE

**Sovereignty**

**Popular Sovereignty**

**Power**

**Legitimacy**

**Authority**

Government has existed in some form since people started living together. In its earliest forms, leaders ruled due to strength, respect, and/or military ability. Later governments included leaders with a hereditary connection to a former leader, or who claimed the endorsement of gods, religious leaders, or landowners.

**Power** exists in many forms – at its simplest, it is the ability to do, act, or accomplish something. It is also the ability to determine and regulate the behavior of others and influence the outcome of events. Power becomes a more complex idea when it is combined with other concepts related to government.

Imagine you are living simply during the Stone Age. Someone bigger and stronger than you comes along and threatens you with their well-made weapons. They have power over you and you follow out of fear. Brute strength is one example of power without authority.

Authority is the power to give orders, make decisions, and demand obedience. Early leaders claimed authority from sources above the people such as religion, tradition, or the fact that a leader had conquered a former leader.

While authority is one ideal of an effective form of government, **legitimacy** of the government is another. Legitimacy is the belief that those who have **authority** should have it. For example, in a monarchy where leaders who ascend to the



position of ultimate authority have done so through hereditary succession, tradition, along with heritage, are acceptable means of obtaining authority. The leader has power and authority due to tradition and the idea that their ancestry could be tied to earlier kings. The leader had legitimacy because the people believed the leader had the rightful authority to rule.

In a democracy, it can be argued that those who have the authority to govern as a result of a vote of the people have a claim to legitimacy. Authoritarian governments that seize and maintain power without a vote of the people, it would seem, would be considered illegitimate.

Countries such as Burma and North Korea that have a very tight grip on almost every aspect of people's lives because of their ability to intimidate them into submission are clearly seen as illegitimate governments. However, legitimacy is not always an ideal that is easily to determine. What about authoritarian governments that hold elections--do elections guarantee legitimacy? Not necessarily. Elections in authoritarian governments are hardly free and fair. Media that is monopolized, opponents who are restricted, arrested, or otherwise threatened, and ballot boxes that are rigged are just some of the tactics used by authoritarian leaders to retain power. Therefore, the legitimacy of a government ultimately rests on something more subjective--whether large numbers of people in a country feel that their government is legitimate and is responsive to their needs.

A leader also has **sovereignty**--ultimate authority over a territory, with the absolute right to govern. A sovereign state is one that governs itself, independent of any foreign power, with the full authority to make war or peace and to form treaties or alliances with foreign nations. A brief explanation of a sometimes complicated concept is explained in the clip below:

### **Interactive 1.8** Explaining Sovereignty




*Learn more about this concept in this video.*

Aspects of these four concepts still exist in modern governments, but in somewhat different ways. For example, in the United States, legitimacy comes from the people. Our leaders are only in charge as long as they continue to fulfill the **social contract**. When someone is voted out of office, the people have lost their trust in that person, or believe another person can do a better job. The people of the United States are considered sovereign because they make the choice as to who will wield power as President and members of Congress, as well as state and local government officials. This is called **popular sovereignty** which is government based on the consent of the people. Our leaders have power and authority because the people have temporarily entrusted them with power that, at the national level, stems from the United States Constitution. Other nations distribute their power, authority, legitimacy, and sovereignty in different ways, as outlined by the examples in the chart below.

### Interactive 1.9 Right of Self Determination



*How does the situation in this video represent power, legitimacy, authority, and sovereignty?*

	Power	Authority	Sovereignty	Legitimacy
<b>United States</b> 	Persons elected by the people 	US Constitution, laws of the US 	People of the United States 	Public belief that President/ Congress have the right to rule because they were chosen by the people indirectly or directly 
<b>Iran</b> 	Supreme Leader 	Religious law 	Guardian Council of the Constitution 	Public belief in the religion, tradition 
<b>Great Britain</b> 	Parliament and Prime Minister 	British law, "unwritten" constitution 	Parliament 	House of Lords: tradition House of Commons: elected by the people 
<b>China</b> 	Politburo Standing Committee of the Chinese Communist Party 	National People's Congress 	Chinese Communist Party 	Tradition, government's ability to improve the economy 



# Purposes and Uses of Constitutions

## QUESTIONS TO GUIDE INQUIRY

1. What are the political philosophies about the necessities and purpose of government?
2. Which philosophers had the most direct effect on the Founding generation?
3. How were the philosophies included in the Founding documents?

## TERMS, PLACES, PEOPLE

Constitution

Constitutional Government

Limited Government

Unlimited Government

What is a **constitution**? It seems like a simple question, but it is more complex than it might first appear. Constitutions can be written, partly unwritten, or completely unwritten. Constitutions can be single documents, multiple documents, or combinations of documents, customs and traditions. Generally, constitutions lay out the way government is organized and functions, and includes any guarantees of liberties and freedoms for citizens. Just because a country has a constitution does not mean it has a **constitutional government**. To be considered a





constitutional government, the constitution must limit the government's power and give the citizens a way to enforce the limits.

In a **limited government**, the rights of citizens are ensured and minorities are protected against oppression by majorities. The Constitution establishes limits and rules for the government to follow. It also lists **individual rights** that cannot be violated. Citizens have freedom and live their lives with few restrictions, but government must reach consensus which can take time.

An **unlimited government** is one where the government does not guarantee an individual's natural rights. One person or group can get a great deal of power easily. People's lives are restricted with few freedoms, but it is easy for the government to get things done.

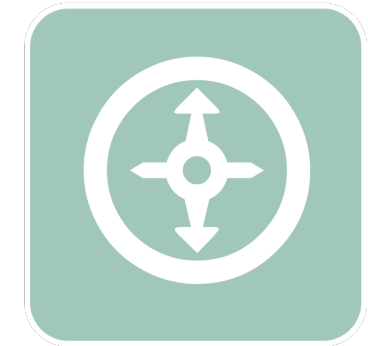
An example of a limit on government is the idea that the people can choose through elections who will govern them and the chosen leaders are subject to removal on a regular basis. In an unlimited government, the leader can hold power for an indefinite period of time without restriction on how power is used. Another limit on government is a Bill of Rights listing prohibited actions of government. These rights are based upon the theory of natural rights which states that people are born with certain rights that cannot be taken away.

### Interactive 1.10 Federalists and AntiFederalists



*Learn more by clicking here!*

### Interactive 1.11 Rights - Constitution USA with Peter Sagal



*What is a right, and where does it come from? A right is a power or privilege that is recognized by tradition or law. Natural or human rights are inherent to human nature; they are not given by government, but neither does government always protect them. Click here to learn more.*

Student Activity: Explore the Michigan Constitution and find similarities and differences between it and the US Constitution. Why is the Michigan Constitution so much longer than the US Constitution? What are some of the topics covered by the Michigan Constitution?

### Interactive 1.12 The Michigan Constitution





# Systems of Government

## QUESTIONS TO GUIDE INQUIRY

1. What are the political philosophies about the necessities and purpose of government?
2. Which philosophers had the most direct effect on the Founding generation?
3. How were the philosophies included in the Founding documents?

## TERMS, PLACES, PEOPLE

Federal

Confederation

Articles of Confederation

Unitary

unicameral

expressed powers

implied powers

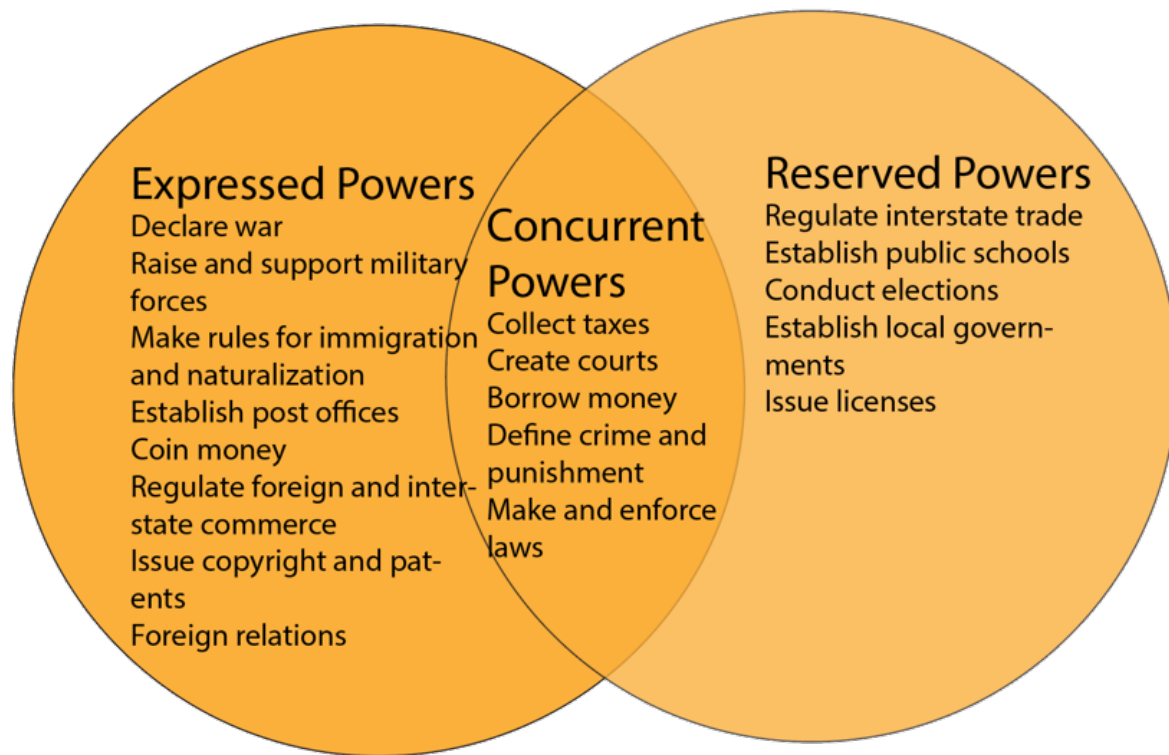
inherent powers

concurrent powers

When the United States declared independence from Great Britain on July 4, 1776, the established government was a **confederation** as laid out in the **Articles of Confederation**. It established a “firm league of friendship” among the several states. Each state maintained its “sovereignty, freedom, and independence” as well as all powers not specifically delegated to the United States Congress. The original Congress was **unicameral**,--delegates were chosen annually, and each state had only one vote. There was no national executive and no national judiciary, although the Congress did choose a “president” from among its members. That person served as the chairman, but only had power within the Congress.

The government under the Articles of Confederation had few powers compared to our current national government, and there were also a number of problems and limitations it faced.

After just less than ten years under the Articles of Confederation had been enacted, Congress called on the States to send delegates to a meeting in Philadelphia to revise the Articles. The delegates quickly agreed that a confederation was too weak a structure of government to deal with the many issues faced by the new nation, but a **unitary government** was not considered either. The Founders created a system that was somewhere in the middle, with a strong central government balanced by strong, independent states that each had their own powers.



### Interactive 1.13 Models of Federalism



Learn more about the different models of Federalism by clicking [here](#).

A **federal** system gives certain powers to the national government that are best performed for the entire nation, such as coining money, declaring war, and establishing post offices. The states had powers they kept from the confederal system, called reserve powers, that were better suited to being carried out by the individual states. There are also shared

powers, called **concurrent powers**, such as collecting taxes, borrowing money, and defining crimes and punishments.

The powers that are specifically listed in the Constitution are called the **expressed powers**. The national government has other powers suggested by the Constitution called **implied powers**. Many of these can be traced to the expressed powers even though they are not specifically spelled out. For example, the national government has claimed the ability to prohibit racial discrimination on trains, buses, and other transportation due to their power to regulate interstate commerce. Additionally, the national government has **inherent powers**, which are those that all national governments have as a result of being a sovereign government, such as the power to acquire territory and grant diplomatic recognition to other nations.





# Forms of Democracy

## QUESTIONS TO GUIDE INQUIRY

1. What are the political philosophies about the necessities and purpose of government?
2. Which philosophers had the most direct effect on the Founding generation?
3. How were the philosophies included in the Founding documents?

## TERMS, PLACES, PEOPLE

Parliamentary

Presidential

Direct Democracy

Representative Democracy

Republic

Referendum

Democracy can be defined as the “rule of the people”; it is a form of government where the citizens hold political power and exercise that power by voting directly or by voting through their elected representatives.

The United States and all other nations considered democracies today operate as representative democracies. In this type of democracy, the citizens elect government officials to make and carry out laws. A **representative democracy** is sometimes also called a **republic**. In a republic, governmental power comes from the people who elect officials to do the work of government for a limited time. However, there is a major difference between a democracy and a republic that is worth noting here. In a democracy, the majority rules without consideration of the needs of the minority. In a republic, one of the duties of government is to protect the rights of the minority against the tyranny of the majority.

In a **direct democracy**, the citizens meet to make decisions about laws and public policies. There are few examples of direct democracy today and throughout history due to the fact that it is cumbersome and difficult to conduct successfully in groups of any large size. The ancient Athenians participated in a direct democracy for a limited time, but the number of people

**Interactive 1.14** The Federalist 10



*Learn more in this video!*



who qualified as citizens (free male citizens age 18 and older) made up only 10-20% of the total population. A few areas in Switzerland utilize direct democracy in its purest form, but that is the only place that it is currently used.

Within the United States, several states have components of direct democracy, including the **referendum**, recall, and initiative. A referendum is citizen-initiated petition process to repeal a portion of, or an entire law, as passed by the legislature. A recall is a citizen-initiated petition process to hold an election to remove an elected official prior to the end of his/her term. An initiative is a citizen-initiated petition process to either enact a law or make a change to a state constitution. Citizens of Michigan can utilize all three, including both types of initiative. You will learn more about these mechanisms in chapter 5.

Democracies can be further defined by how they divide legislative and executive power. In a **parliamentary** democracy, the citizens choose the legislative branch which then selects the executive from among its members. The executive can be removed by a vote of “no confidence” by the remaining members of parliament. Nations utilizing this form of government include Canada, Australia,

Germany, and the United Kingdom. A **presidential democracy** exists when the citizens choose the legislative branch and separately choose the chief executive. The powers of the two branches are separate, and the executive can veto acts of the legislature which in turn can override that veto, usually only via a supermajority. Nations utilizing this form of government include Mexico, Argentina, South Korea and the United States.

#### Interactive 1.15 The Federalist Papers

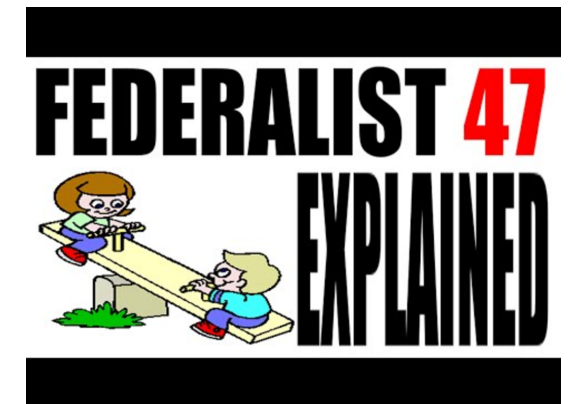


*Select Federalist Paper #10, and then #51 at this website.*

#### Interactive 1.16 The Federalist 10



#### Interactive 1.17 The Federalist 47





## Chapter 2

# How Well are we Living Up to the Ideals and Principles Established at the Founding?

What are the historic roots for foundational values of American constitutional government?

What countries, documents, and events did founders use as resources for creating a constitution?

Which events in America shaped the road to a constitutional government?

*We the People*  
insure domestic Tranquillity, provide for the common defence, and our Posterity, do ordain and establish this 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.  
Section 3. The Senate shall be composed of two Senators from each State, chosen by the Legislature of the State for which they are elected, and they shall hold their Offices for six Years, and each Senator shall have the Qualifications requisite for Senators of the most numerous Branch of the State Legislature.  
Section 4. The Times, Places and Manner of holding the Elections of Senators and Representatives, shall be regulated by the Laws of the United States, but in no Case shall they be before the first Monday of October following the next Year to the next Election of the President.



## Section 1

# Philosophical and Historic origins of American government

### QUESTIONS TO GUIDE INQUIRY

1. What are the historic roots for foundational values of American constitutional government?
2. What countries, documents, and events did founders use as resources for creating a constitution?
3. Which events in America shaped the road to a constitutional government?

### TERMS, PLACES, PEOPLE

Magna Carta

English Bill of Rights

Natural/ Individual Rights



This image represents the "Committee of Five" presenting a draft of the Declaration of Independence to the Continental Congress. Though it was likely that not all of the men pictured were in a single room at the same time- they did all debate, approve, and help shape the document. Artist John Trumbull painted this image that now hangs in the US Capitol Rotunda, and is also featured on the back of a two dollar bill

[https://en.wikipedia.org/wiki/Declaration\\_of\\_Independence\\_\(Trumbull\)#/media/File:Declaration\\_independence.jpg](https://en.wikipedia.org/wiki/Declaration_of_Independence_(Trumbull)#/media/File:Declaration_independence.jpg)



## Philosophical and Historic Origins of American Government

The Declaration of Independence is key to understanding American government. Written in June and July of 1776, by the Committee of Five (Thomas Jefferson of Virginia, John Adams of Massachusetts, Benjamin Franklin of Pennsylvania, Robert Sherman of Connecticut, and Robert R. Livingston of New York), the document was forged in a time of crisis. (\*\* Place Interactive 1.1 near here) American colonists were engaged in a war on their own soil against their mother country, England, who possessed the most disciplined military in the world. This document was like none previously seen.

As you read, think about the value of the Declaration of Independence. Why do some Americans consider the Declaration of Independence one of the most important documents in the country, while others don't recognize its value?

### Interactive 2.1 The Declaration of Independence



*Read the full Declaration of Independence here:*

### Interactive 2.2 The Declaration of Independence



*Watch and listen to parts of the Declaration being read.*



Do you agree that the Declaration of Independence is one of the most important documents? If not, what other documents would you consider of higher importance?

Ratified by the delegates of the second Continental Congress on July 4th, 1776, the Declaration of Independence outlines key ideals and principles that the American founders deemed necessary in a just government. Some of these principles are ideas most Americans today know by heart, such as:

- “all men are created equal”
- “endowed by their Creator with certain unalienable rights”
- “life, liberty, and the pursuit of happiness”

Other equally important, but lesser-known phrases also explain these principles:

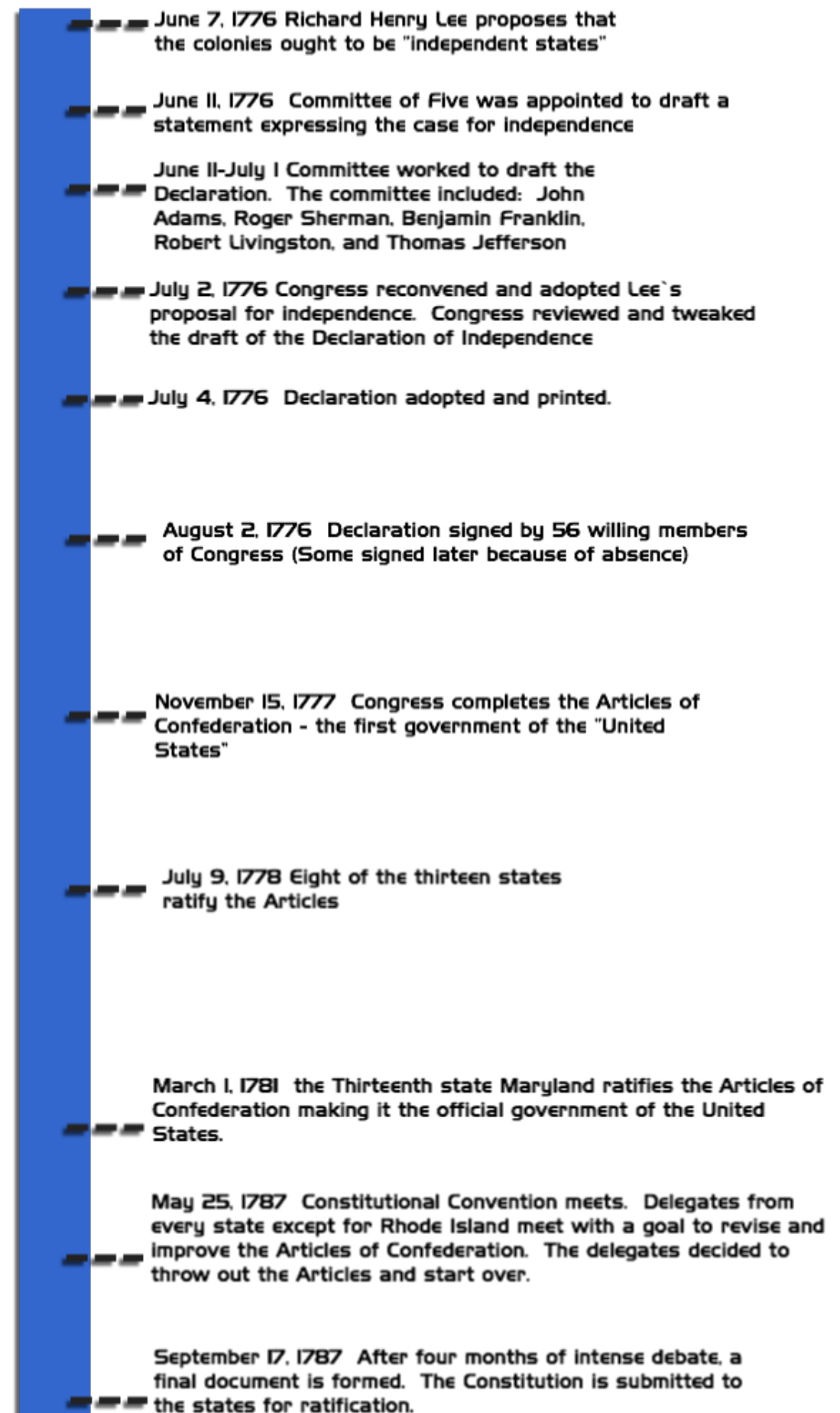
- “to secure rights governments are instituted among men,”
- “deriving their (government) power from consent of the governed”



- “That whenever any Form of government becomes destructive of these ends, it is the Right of the People to alter or to abolish it and to institute a new government”
- “Do, in the Name, and by Authority of the good people of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States”
- “With firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes, and our sacred Honor”

While the Declaration contains passionate writing by America’s founders in a time of crisis, it is much more than just a document. The Declaration of Independence was a proclamation to the world. In addition to a list of grievances from the governed to the king, it declared truths that ARE STILL relevant today, over 200 years later, and remain a pillar in the foundation of American government.

The Declaration of Independence is not the origin of the story of the United States. The Declaration, and the ideas contained within, had inspiration from many other sources. The purpose of this section is to look at these sources that influenced the writing of the Declaration of Independence, and political thought during the founding period of American history.



Some sources had a heavy and direct influence upon certain founders. For example, while drafting the Declaration of Independence, Thomas Jefferson relied on John Locke's ideas like unalienable rights of life, liberty, and pursuit of happiness.

The ideas and beliefs discussed below helped shape and define how colonists viewed the role and necessity of government and created the building blocks of the American Constitution and government that you know today.

One way to view the sources of political thought is to categorize them into three general "E" groups:

1. Examples of government practices the founders used from other countries
2. Enlightenment philosophers' ideas
3. Colonial Experiences from the first settlements and colonies in North America through the beginning of revolutionary war

### Examples from other nations

America did something never attempted before when it declared independence. However, many of the founders' ideas about government were concepts that had been previously been incorporated by other governments throughout the world. The founders gathered ideas from reading works by philosophers and analyzing EXAMPLES from other governments they admired. For

example, the ancient civilizations of Greece and Rome experimented with the ideas of citizen participation in government. America adapted the ideas of Greek democracy and the Roman Republic. They also adopted many governing ideas and rights from England.

From Ancient Rome (509 BC-27 BC) the founders learned about the idea of a republic, or a government where citizens elect leaders to make decisions. In the Roman government, citizens participated in their governing process by voting in public assemblies for committees or consuls. Citizens also voted each year for two consuls who would lead the government. A Senate





advised the consuls and helped make decisions. Ancient Rome did not have a written constitution like America does today, but its guidelines and principles were passed down through precedent-a practice America uses in judicial system today.

The founders learned about the idea of democracy by studying ancient Greece (507 B.C.-323B.C.) In the city-state of Athens, a system was set up with three branches. One of those branches used direct democracy . Citizens voted directly on laws and government matters. Not all individuals were eligible to vote. It is estimated that approximately 15% of the citizens were eligible.

Voter criteria in ancient Greece:

1. Adult Male
2. Own land
3. Not a slave

Similarly, at the founding of America many, including African Americans and women were denied the right to vote. Today, however, the majority of American citizens are eligible to vote.

A third nation that influenced American founders was their mother country, England. Many founders knew about England's government and political traditions as most were born "Englishmen", even if they were born in the colonies. The founders read William Blackstone's Commentaries on English law

to understand the government and legal system. In addition to Blackstone's writing, the American founders looked to written documents, and agreements from England to gain a fuller understanding of limited government and citizens' rights.

Two prime examples are the **Magna Carta** and **English Bill of Rights**:

- Magna Carta 1215 - The Magna Carta, or great charter, established the relationship between the king and the nobles in England. This document limited the monarchy, established the guarantee of trial by jury and established due process for the nobles. These guarantees helped to define a clearer legal system and protect the rights of England's citizen
- English Bill of Rights 1689- Passed by Parliament as "An Act Declaring the Rights and Liberties of the Subject and Settling the Succession of the Crown," this document established or extended many rights of "Englishmen" not just nobles including:
  - the Crown needed Parliament's approval for raising money (taxes)
  - Free elections for Parliament
  - Freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned

- Excessive bail ought not to be required, nor excessive fines imposed nor cruel and unusual punishment inflicted.

The Founders also learned from the existing governments of the lands they had occupied. A New York Times Article describes these influences here:

“In the mid-16th century, five northeastern Indian tribes - Mohawk, Seneca, Onondaga, Oneida and Cayuga - formed the Iroquois Confederacy, which was later joined by the Tuscarora tribe. They adopted a constitution, incorporating concepts of checks and balances and separation of power that impressed future Americans as Washington, Franklin and other Founding Fathers. Indeed, historians maintain that many principles of the Iroquois Confederacy’s constitution were woven into the United States Constitution”.

Benjamin Franklin, in a 1751 letter to James Parker, acknowledged the inspiration from this union. Many years later, in 1988, the United States Congress affirmed the importance of the Iroquois Confederacy in the 100th Congress Concurrent Resolution 331 declaring:

### **Interactive 2.3** Washington Talk Briefing



*Learn more about the Iroquois Constitution and how it influenced the founders here.*

“Whereas the original framers of the Constitution, including, most notably, George Washington and Benjamin Franklin, are known to have greatly admired the concepts of the Six Nations of the Iroquois Confederacy; Whereas the confederation of the original Thirteen Colonies into one republic was influenced by the political system developed by the Iroquois Confederacy as were many of the democratic principles which were incorporated into the Constitution itself”

### **Interactive 2.4** Letter from Franklin



*In this letter, Benjamin Franklin, whose famous statement “Join or Die” later galvanized colonial union and the fight for independence from the British, states that his inspiration for this came from the six tribes of the Iroquois Nation, for whom union was also advantageous.*

### **Interactive 2.5** Link to Senate Resolution



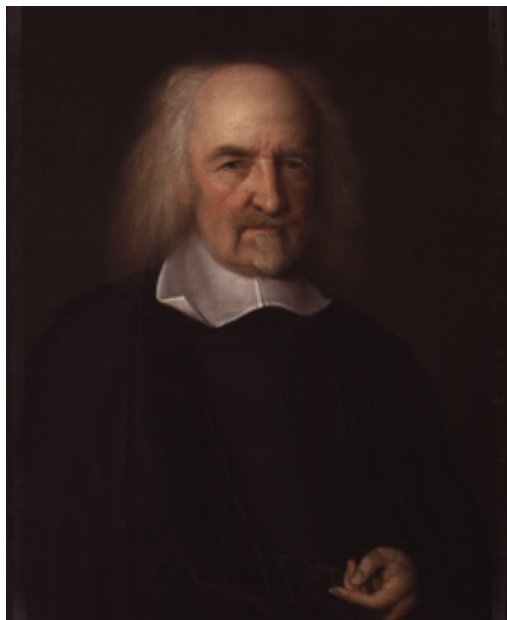
*Resolution which acknowledges the contribution of the Iroquois Confederacy of Nations to the development of the United States Constitution.*



While examples from other nations, their governmental structures, and agreements served as a source of inspiration to American founders, so did the writings about government and philosophy that were available to them.

## Enlightenment Philosophers

Inspiration for the American founders also came through ENLIGHTENMENT writers from Europe. Political writing was prolific from 1650-1800. Enlightenment writers focused on topics like: natural rights, liberty, social contract, just governments. These philosophers are also discussed in Chapter 1. As a quick review, here are four of the philosophers that the founders relied upon most heavily:



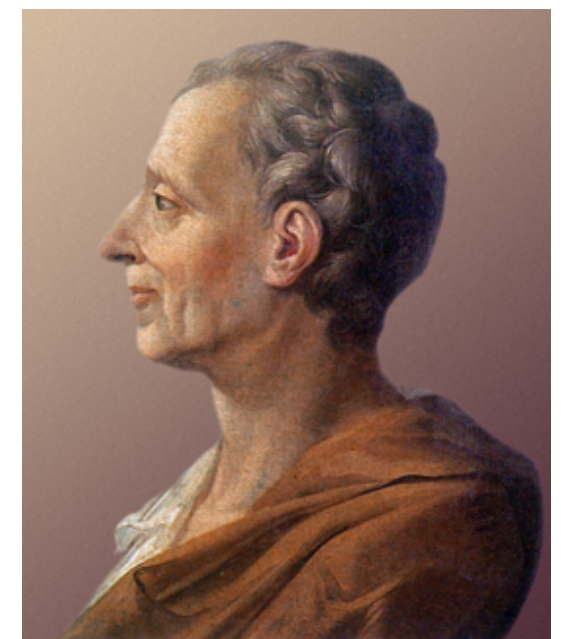
Thomas Hobbes' *Leviathan* 1651- English enlightenment thinker who first described the idea of social contract. Hobbes described life without government as “nasty, brutish, and short.” Men enter into social contracts with an ultimate sovereign to belong in a civil society, which promotes security and order.

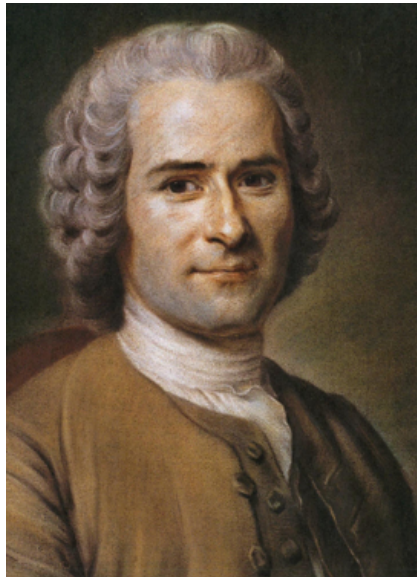
John Locke's *Two Treatises of Government* 1689- Locke wrote of his theory of natural law and natural rights. Additionally, he argues governments that are tyrannical are not



legitimate, and therefore, citizens should revolt against the government and establish a new, just government. Locke also wrote about living in a state of nature, in which all men are equal. These free and equal people enter into a social contract to protect their natural rights including life, liberty, and property.

Baron de Montesquieu's *Spirit of the Laws* 1749- French enlightenment writer who argued, among other ideas, that in order for political liberty to be maintained, the power of government needed to be separated. The executive, legislative, and judicial functions of government should be assigned to distinctly different bodies, so that attempts by one branch of government to overreach its power might be restrained by the other branches.





Jean Jaque Rousseau's The Social Contract 1762- Rousseau outlines how a government could exist in such a way that it protects the equality and character of its citizens. Rousseau believed that "man is born free" but "everywhere he is in chains." The role of government should be to secure freedom for its people. If a government failed to do this, it had no right to exist.

## Interactive 2.6 Major Political Thinkers

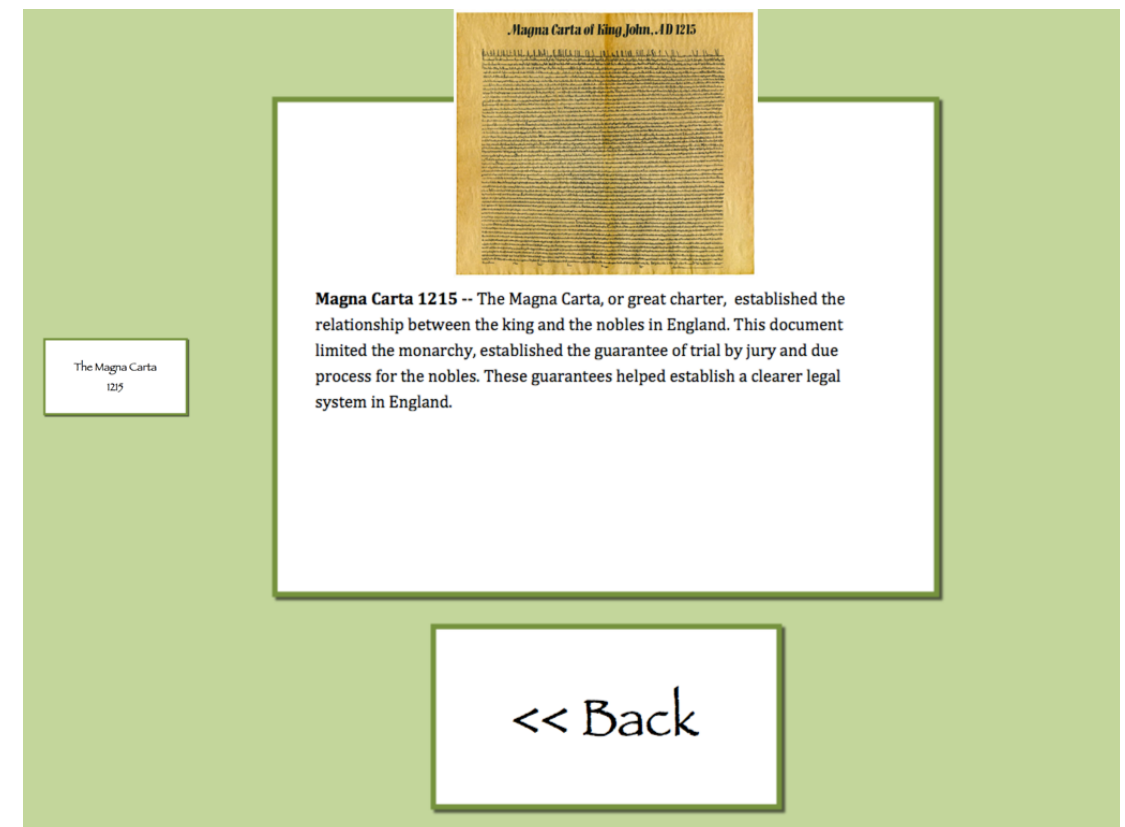


*While these are four contributors, the founders read the works of dozens of philosophers. To explore more about political philosophers please click here:*

## Colonial Experience

A final category which inspired the founders was colonial EXPERIENCES. These experiences included a variety of events including: establishing colonial governments with charters, protests and writings of colonists, declaring independence, and a first attempt at a constitution that limited government.

## Interactive 2.7 Interactive Timeline



*Explore Colonial Experiences with this clickable timeline*



## Conclusion

The founders had deep and rich sources of political knowledge and experience when drafting the United States Constitution. These principles and ideas are the foundation of the United States of America and they are also values that citizens expect to see upheld today.

### **Interactive 2.8** Seven Basic Principles



*Review by clicking here!*

# America: From Rebellion to Ratification

## QUESTIONS TO GUIDE INQUIRY

1. What are the historic roots for foundational values of American constitutional government?
2. What countries, documents, and events did founders use as resources for creating a constitution?
3. Which events in America shaped the road to a constitutional government?

## TERMS, PLACES, PEOPLE:

Framers

U.S. Constitution

Constitutional Convention

The Great Compromise

The Three-Fifths Compromise

Englishmen established the first permanent European settlement in North America at Jamestown in 1607. It wasn't until 160 years later that the colonies joined together to declare independence. How and why did a group of thirteen colonies, scattered along the eastern seaboard of North America, ban together to become united? Consider this through a scenario:

Imagine this: Your family gives you your own bedroom and gives you control over that space. In your new room, you can go to bed and wake up when you'd like and you can decide who enters your space.

Then one day, after a few years of having control over your room, your family decides they need to resume some control of your room, so they start imposing rules like: your bed must be made daily or you will be fined; you must pay a small amount of money each week to sleep in your bed; you must allow your parents to spend hours at a time in your room just "hanging out." Though you love your family, their continued presence can be overwhelming.



How would you feel in this scenario?



Most likely, you would feel like your parents went back on a promise and you would feel like your freedom was being restricted. Colonists faced some similar feelings after the British government made itself more of a presence following the French and Indian War in 1763. To understand the debates that formed the United States Constitution in 1787 and the foundation of the nation, it is essential to take a quick look at the cause and process of independence.

### **Interactive 2.9** The Constitutional Convention



*Follow the link here for an interactive version of the Howard Christy painting of the Constitutional Convention you will be able to scroll over a person to see his name and state.*

Here is a quick timeline to explore the road to revolution and to becoming a nation:

Starting point: After a victory in the French and Indian war in 1763, Britain faced large war debt and looked to the North American colonies as a source of money. This led to a series of actions by the king and Parliament that angered Americans.

1763

Proclamation of 1763: Forbade colonists from settling west of a line drawn along the Appalachian Mountains.

1764

Sugar Act: Parliament places a tax on French and Spanish Molasses.

1765

Quartering Act: The British further anger the American colonists with the Quartering Act, which requires the colonies to provide housing for British soldiers.

Stamp Act: This was Parliament's first direct tax on the colonists. It taxes newspapers, almanacs, pamphlets, broadsides, legal documents, dice, and playing cards.

Stamp Act Congress: Delegates from 9 colonies met in New York as the Stamp Act Congress. The colonists state that they remain loyal to the king but that they must not be taxed without their consent or the consent of their representatives.

1766

Repeal of the Stamp Act: Parliament repealed the Stamp Act because of colonial protest.

1767

Townshend Acts: To help pay the expenses involved in governing the American colonies, Parliament passes the Townshend Acts, which initiated taxes on glass, lead, paint, paper, and tea.

1768

British Troops Arrive in Boston: British authorities request help from British troops after constantly being harassed by protesting colonists.

1770

Boston Massacre: After an angry mob of colonists harass British soldiers, the troops fire their muskets into the crowd killing 5.

1772

Committees of Correspondence: Samuel Adams calls for a Boston town meeting to create committees of correspondence to communicate Boston's position to the other colonies. Similar committees are soon created throughout the colonies.

1773

Tea Act: By reducing the tax on imported British tea, this act gives British merchants an unfair advantage in selling their tea in America. American colonists condemn the act and many plan to boycott tea.

Boston Tea Party: When British tea ships arrived in Boston Harbor, many citizens want the tea sent back to England without the payment of any taxes. The royal governor insists on payment of all taxes. On December 16, a group of men disguised as Indians boarded the ships and dump 342 containers of tea into the harbor.

1774

Coercive Acts/Intolerable Acts: In response to the Boston Tea Party, Parliament passed several acts to punish Massachusetts. One of them includes the closing of Boston Harbor.

The First Continental Congress: Twelve of the thirteen colonies send a total of fifty-six delegates to the First Continental Congress. Only Georgia is not represented. One accomplishment of the Congress is the Association of 1774, which urges all colonists to avoid using British goods. They also agree to form militias.

1775

Lexington and Concord: British troops plan to destroy American ammunition at Concord. When the Boston Committee of Safety



learns of this plan, it sends Paul Revere and William Dawes to alert the countryside and gather the Minute Men. On April 19, Minute Men and British troops meet at Lexington, where several Americans are killed. The British march on to Concord and destroy some ammunition, but soon find the countryside swarming with militia. At the end of the day, many are dead on both sides but the British retreat to Boston.

George Washington is named commander-in-chief: On June 10, John Adams proposes that Congress consider the forces in Boston a Continental army and suggests the need for a general. He recommends George Washington for the position. On June 15, Washington is nominated to lead the army; he accepts the next day.

Olive Branch Petition: Congress issues a petition declaring its loyalty to the king, George III, and stating its hope that he can prevent further hostilities against the colonies. Four months later, King George III rejects the petition and declares the colonies in rebellion.

1776

Congress Declares Independence: A committee is appointed to draft a declaration of independence and Thomas Jefferson is chosen to write it. On July 2, Congress votes in favor of independence and on July 4, the Declaration of Independence is

approved. Copies are sent throughout the colonies to be read publicly.

In setting up a new government, the Founders feared a strong central government. They did not want to create a system that allowed for the tyranny they experienced under the King and Parliament of England. Because of this fear, the Founders established a weak alliance of the states, organized under the Articles of Confederation. Almost immediately following ratification of the Articles of Confederation, it became evident that the government was so weak it was inefficient and unable to function. In 1786 a group of farmers organized a revolt called Shays' Rebellion. This revolt in Massachusetts of unpaid veterans from the Revolutionary War, pushed the national Congress to realize the need to revise the Articles of Confederation.

### **Interactive 2.10** Empire of Reason



*Watch the first few minutes of this introduction by Cokie Roberts to a 1980's film, Empire of Reason, which reenacts the founding debates. She discusses the tense relationships of the states under the Articles of Confederation.*

Many of the early American leaders recognized the need for a new effective government. Passionate writings called for a new government.

Below, read some of the detailed excerpts of a letter from James Madison to George Washington, or read the full letter here:

### **Interactive 2.11** Madison's Letter to Washington



*Read the full letter here.*

As you read, think about how similar Madison's ideas are to the government under which we currently live. Also keep in mind, the ideas presented were vastly different than the Articles of Confederation government under which Madison was living.

undergo the discussion of the Convention, and formed some outlines of a new system..."

- "I have sought for middle ground, which may at once support a due supremacy of the national authority, and not exclude the local authorities wherever they can be subordinately useful. I would propose as the groundwork that a change be made in the principle of representation. [Not having each state have only one vote]"

- "Having been lately led to revolve the subject which is to

- "I would propose next, that in addition to the present federal powers, the national Government should be armed with positive and compleat [sic] authority in all cases which require uniformity; such as the regulation of trade, including the right of taxing both exports & imports, the fixing the terms and forms of naturalization.."

- "[Without a new government] The States will continue to invade the National jurisdiction, to violate treaties and the law of nations & to harass each other with rival and spiteful measures dictated by mistaken views of interest."

- "The national supremacy ought also to be extended as I conceive to the Judiciary departments."

- "A Government composed of such extensive powers should be well organized and balanced. The legislative department might be divided into two branches; one of them chosen every years by the people at large, or by the Legislatures; the other to consist of fewer members, to hold their places for a longer term, and to go out in such a rotation as always to leave in office a large majority of old members"

- "A National Executive must also be provided."

- "To give a new System its proper validity and energy, a ratification must be obtained from the people"



Delegates representing the states met in Philadelphia to revisit the Articles of Confederation, and make the government stronger. A few of the delegates, like Madison were determined to create a stronger central government and draft an entirely new constitution by which to govern the United States of America. To suggest the creation of a new government, one that had a more prominent role for the central government was an unpopular idea. Many Americans were still resistant to a central authority having significant power over their lives. The thought of a powerful government appeared too similar to the authoritarian rule they had experienced the King of England prior to the Revolutionary War.

Presented on this page is a side-by side-comparison of the first and second government of the Independent United States:

<b>Articles of Confederation</b> <i>Created November 11, 1777</i> <i>Ratified March 1, 1781</i> <i>Replaced by the Constitution</i>	<b>Constitution</b> <i>Created September 17, 1787</i> <i>Ratified June 21, 1788</i> <i>Bill of Rights Ratified December 15, 1791</i>
Only a legislative branch existed, there was no executive or judicial branch.	Created a three-branch system to institute a system of checks and balances between the legislative, executive and judiciary.
No power to collect taxes from the states.	Congress granted the power to impose taxes to provide for public goods.
Congress had no power to regulate trade, and so states would sometime discriminate against each other, creating unfair trade relations.	Congress granted the power to regulate trade between the states and with other countries.
Each state had equal representation regardless of population in the unicameral legislature.	Congress was divided into two chambers, the Senate giving equal representation to both small and large states, and the House of Representatives basing representation off of the population of the state.
Very difficult to amend the Articles as it required unanimous agreement from all 13 states.	Amendments were to be proposed by 2/3 of both chambers, and approved by 3/4 of the states.
The passage of laws required nine of the 13 states to agree.	Laws require a simple majority from both houses, and presidential approval.
Congress did not have to power to coin money, and so states had their own currencies.	Congress was granted the sole power to coin money.
The Articles of Confederation was a "league of friendship," with the states standing superior to the national Congress. States often ignored laws passed by Congress.	The Constitution created a federal system of government where power was shared between the national and state governments, but ultimately the national laws reigned supreme. This united the country instead of having individual states creating unique legal system unrecognizable to the other states.

The Constitutional Convention

In May of 1787, fifty-five delegates from twelve of the thirteen states gathered in Philadelphia. This group of men, from various age groups, occupations, and states, came together to discuss the state of the national government. They debated the needs of their states and suggestions on how to improve the government. As they debated it became clear to some that simply revising the Articles of Confederation would not be a good enough fix to the problems they were experiencing. So, the men at the convention, often called the **Framers**, formed a new government and began drafting a new Constitution. Some decisions were easy. For example, no one debated the need to increase the power of the national government. However, few agreed on how much power to give the national government or how best to limit the power. Some of the biggest debates were over these topics: how to best represent big and small states, whether slaves should be counted for representation, whether imports or exports should be taxed, and how to best elect the president.

Big versus Small: The Great Compromise

Delegates from Virginia began the debate by introducing their plan for representation. Virginia was the most populous state in the union and they wanted the new government to change the way states were represented in the national Congress. The Virginia Plan proposed a two chamber (bicameral) Congress, to which representatives would be elected from each state.

However, instead of every state receiving equal representation, the Virginia Plan based representation on population. This meant that larger states like Virginia and Pennsylvania would receive more representatives, and smaller states like Delaware and Rhode Island would receive very few.

Articles of Confederation	Virginia Plan A.K.A. "Large-State Plan"	New Jersey Plan A.K.A. "Small-State Plan"	Constitution "The Great Compromise" over Representation
Unicameral	Bicameral	Unicameral	Bicameral
Each state had equal representation	Each chamber would have representation based on the population of the state	Equal representation for each of the states	House of Representatives Representation based on the population of the state with each state guaranteed at least one Congressman Terms: 2 years Minimum Age: 25
Small states liked that the Articles gave them equal power to the more populous states.	Large states liked this plan because it gave them more power.	Small States liked this plan because they didn't have to worry about being outnumbered by the more populous states	Senate Equal representation with each state receiving 2 Senators Terms: 6 years Minimum Age: 30



Here is a summary of other issues that were debated:

Problem	Opposing Sides	Solution
<b>Taxes for imports and exports</b>	<b>Northern State vs. Southern States</b> <ul style="list-style-type: none"><li>• The Northern states wanted <u>tariffs</u>(taxes on trade) to protect their industries from foreign competition.</li><li>• The Southern states didn't want tariffs because <u>there</u> economy relied heavily upon trade.</li></ul>	The <b>Commerce Compromise</b> gave a solution by imposing tariffs on imported goods and no tariffs on exported goods.
<b>Should slaves count as part of a state's population for representation?</b>	<b>Southern States vs. Northern States</b> <ul style="list-style-type: none"><li>• Southern states wanted slaves to count for the purpose of representation but not taxation</li><li>• Northern states wanted slaves to count for the purpose of taxation but not representation</li></ul>	The <b>Three-Fifths compromise</b> agreed to count slaves as 3/5th of a person for the purpose of setting direct taxes on the states and to determine representation in the legislature.
<b>How should the president be elected?</b>	Some delegates believed the president should be elected directly by the people.  Others believed the general population could not be trusted with such a decision.	The <b>Electoral College</b> is established. The people would vote indirectly and representatives to the electoral college would vote directly

When debates wrapped up in September of 1787, most of the delegates to the convention agreed with the document and were satisfied with the compromises it contained. Thirty-nine of the fifty-five delegates signed the document. The next step to make the document official and give it the power to form the government of the United States was to send it to the people in each state for ratification. At the time “the people” who had a voice in government was still limited to mostly white men who owned property. This process was contrary to that which was laid out in the Articles of Confederation which required the approval of all of the states.. The next section will look at the process of ratification and the debates and compromises that happened along the way.

The following is from James Madison's Notes of Debates in the Federal Convention of 1787 from Monday, September 17, 1787:

“Whilst the last members were signing [the Constitution] Doctor. FRANKLIN looking towards the President's Chair, at the back of which a rising sun happened to be painted, observed to a few members near him, that Painters had found it difficult to distinguish in their art a rising from a setting sun. I have said he, often and often in the course of the Session, and the vicissitudes of my hopes and fears as to its issue, looked at that behind the President without being able to tell whether it was rising or setting: But now at length I have the happiness to know that it is a rising and not a setting Sun.”

Washington's chair during the Constitutional Convention

<http://www.ushistory.org/more/sun.htm>

# Making it Official: Ratification of the Constitution

## QUESTIONS TO GUIDE INQUIRY

1. What are the historic roots for foundational values of American constitutional government?
2. What countries, documents, and events did founders use as resources for creating a constitution?
3. Which events in America shaped the road to a constitutional government?

## TERMS, PLACES, PEOPLE

Ratification

Federalist

Anti-Federalist

The Federalist Papers

Bill of Rights



Following the Convention's adjournment in September 1778, the next step to making the document official and giving it the power to form the government of the United States was to send it to the people for **ratification**.



According to Article VII of the proposed **U.S. Constitution**, in order to replace the Articles of Confederation, “The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.” Each state needed to hold its own ratification convention.

The founders knew the new government would have little chance of surviving without the support and ratification of all states, especially the most populous states like Virginia and Massachusetts. Many of the ratification debates took place in the pages of newspapers and pamphlets. The two sides of the debate were the **Federalists** and the **Anti-Federalists**. The Federalists supported the new stronger government that would be formed by the Constitution, while the Anti-Federalists believed the new government would easily evolve into tyranny.

**Interactive 2.12** Carol Berkin - Federalists and Antifederalists



*Watch this video overview of the two sides: Carol Berkin: Speaking on Federalists vs. Anti-Federalists*

Writing in support of the Constitution, Federalists James Madison, Alexander Hamilton, and John Jay joined forces and collectively wrote 85 essays under the pseudonym Publius. In the 2015 Broadway musical, Hamilton, the song “Non-Stop” describes the essays as “a series of essays anonymously published defending the document to the public.”

The essays are an organized defense of the document, which describes to the public the necessity of a new government as a whole, and defends specific provisions. For example, in Federalist 51, Publius wrote about the need for a strong government by saying,

**“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. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place, oblige it to control itself.”**

A more specific clause of the Constitution is addressed in Federalist 50, in which Publius discusses how Congress members are accountable to their constituents by stating:

**Interactive 2.13** Non-Stop (Original Broadway Cast Recording)

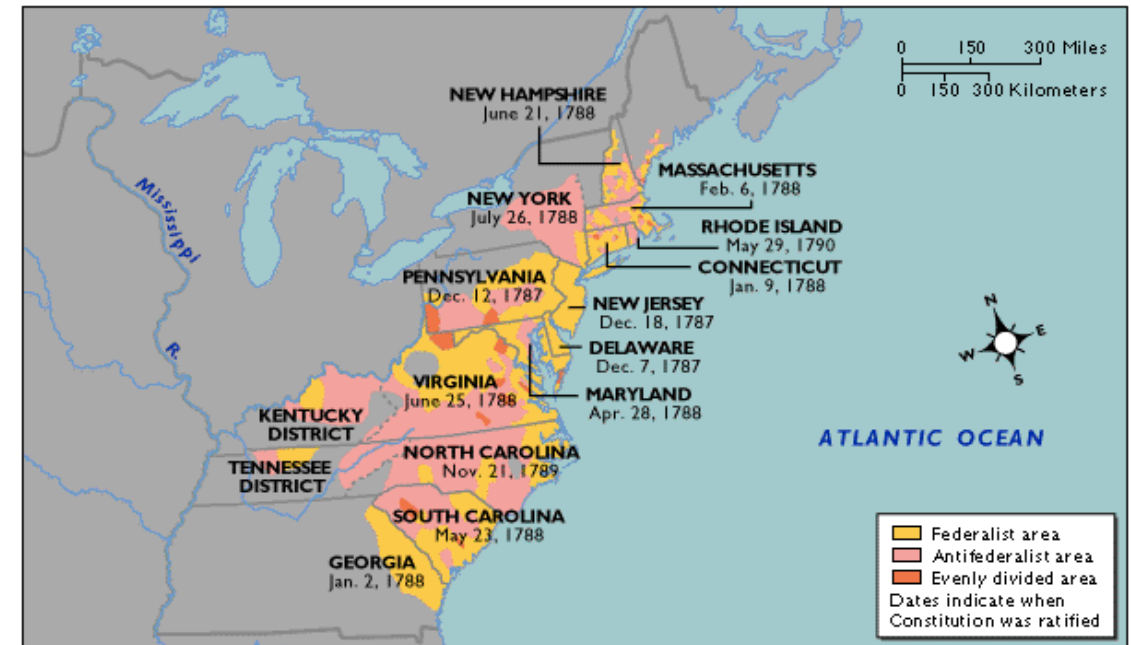


“The members of the legislative department . . . are numerous. They are distributed and dwell among the people at large. Their connections of blood, of friendship, and of acquaintance embrace a great proportion of the most influential part of the society . . . they are more immediately the confidential guardians of their rights and liberties.”- The Federalist Papers Federalist No. 50, February 5, 1788

The Anti-Federalists also used writings to promote their arguments. Instead of a cohesive group writing in unison, the essays were written by individuals who represented citizens from a variety of states and economic classes. These writers, of which at least one was a woman, used pseudonyms such as: Cato, Brutus, Federal Farmer, Sydney, Columbian Patriot. An excerpt from Sydney’s (Robert Yates) letter hits on the heart of the Anti-Federalist argument that a strong central government will become oppressive to the people and needs limitations, such as a **Bill of Rights**:

“[W]hat is to limit the oppression of the general government? Where are the rights, which are declared to be incapable of violation? And what security have people against the wanton oppression of unprincipled governors? No constitutional redress is pointed out, and no express declaration is contained in it, to limit the boundaries of their rulers.”

#### Federalist/Antifederalist



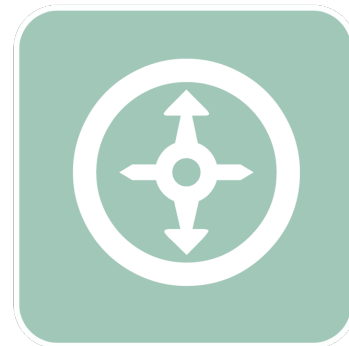
Map of Federalist and Anti-Federalists [http://www.apushist.kenwackes.net/5B\\_How\\_the\\_Constitution\\_Came\\_to\\_Us.html](http://www.apushist.kenwackes.net/5B_How_the_Constitution_Came_to_Us.html)



Ratification conventions were different in each state. In some states, like Delaware, ratification faced little opposition; in other states, ratification was a long and hard fought battle, like in New York where ratification was won with a mere three votes. After New Hampshire became the ninth and final state necessary for ratification, the Anti-Federalists effectively lost the battle.

However, their fight was not in vain. The addition of a Bill of Rights was a compromise that came out of the Massachusetts ratifying convention. The Federalists agreed to introduce and approve a Bill of Rights at the first meeting of the new congress. The Bill of Rights includes many essential rights and freedoms that are often the most well known and defended parts of the constitution.

### **Interactive 2.14** Timeline of Ratification



*See more essays here*

Here is a timeline of the ratification conventions and votes :

September 28, 1787: The Congress agrees to send the Constitution to the states for debate and ratification.

December 7, 1787: Delaware ratifies. Vote: 30 for, 0 against.

December 12, 1787: Pennsylvania ratifies. Vote: 46 for, 23 against.

December 18, 1787: New Jersey ratifies. Vote: 38 for, 0 against.

January 2, 1788: Georgia ratifies. Vote: 26 for, 0 against.

January 9, 1788: Connecticut ratifies. Vote: 128 for, 40 against.

February 6, 1788: Massachusetts ratifies. Vote: 187 for, 168 against.

March 24, 1788: Rhode Island popular referendum rejects. Vote: 237 for, 2708 against.

April 28, 1788: Maryland ratifies. Vote: 63 for, 11 against.

May 23, 1788: South Carolina ratifies. Vote: 149 for, 73 against.

June 21, 1788: New Hampshire ratifies. Vote: 57 for, 47 against.

Minimum requirement for ratification met-- Constitution is officially ratified

June 25, 1788: Virginia ratifies. Vote: 89 for, 79 against.

July 26, 1788: New York ratifies. Vote: 30 for, 27 against.

August 2, 1788: North Carolina convention adjourns without ratifying by a vote of 185 in favor of adjournment, 84 opposed.

November 21, 1789: North Carolina ratifies. Vote: 194 for, 77 against.

May 29, 1790: Rhode Island ratifies. Vote: 34 for, 32 against.



This political cartoon, showing a progression of future pillars being erected, appeared in The Massachusetts Centinel with a message supporting unity. January 30, 1788



Image source: <http://teachingamericanhistory.org/ratification/federalpillars/>



## Federalist Anti-Federalist Overview

Category	Federalist	Anti-Federalist
Key figures	Alexander Hamilton, James Madison, John Jay, Benjamin Franklin, George Washington	George Mason, Patrick Henry, John Hancock, George Clinton, Richard Henry Lee, Mercy Otis Warren
Images		
Publications/ pen names	<i>The Federalist</i> papers, <u>Publius</u>	Federal Farmer, Cato, Brutus, <u>Centinel</u>
A quote from the literature of the group	"WE HAVE seen the necessity of the Union, as our bulwark against foreign danger, as the conservator of peace among ourselves, as the guardian of our commerce and other common interests, as the only substitute for those military establishments which have subverted the liberties of the Old World, and as the proper antidote for the diseases of faction, which have proved fatal to other popular governments, and of which alarming symptoms have been betrayed by our own." Federalist ( <a href="#">No. 14</a> )	"I have the highest veneration of those <u>Gentlemen</u> — but, Sir, give me leave to demand, what right had they to say, <u>We, the People</u> . My political curiosity, exclusive of my anxious solicitude for the public welfare, leads me to ask who <u>authorised</u> them to speak the language of, <u>We, the People, instead of We, the States?</u> States are the characteristics, and the soul of a confederation. If the States be not the agents of this compact, it must be one great consolidated National Government of the people of all the States." Patrick Henry Virginia Ratifying convention
Political Beliefs	In order for a government to work—it needed to have some strength and energy. The union would fail without a strong central government	In order for government to remain in check—it needed be watched closely by the people—wanted strong state governments with a weaker central government
Who should rule	Thought that elites were most fit to govern as they had the best education	Believed ordinary people should have great input into government
Distrustful of	The common people—fear of tyranny of the majority or mob rule	Elites- thought they were corrupt and would make laws that benefit only them
Who were they mostly	Property owner, landed wealthy, well-to-do, socialites	Small farmers, shopkeepers, laborers, merchants
Strongest desire	Ratify the constitution	Don't ratify the constitution- it doesn't do enough to limit the government

- 1. What are the historic roots for foundational values of American constitutional government?**
- 2. What countries, documents, and events did founders use as resources for creating a constitution?**
- 3. Which events in America shaped the road to a constitutional government?**

## Civil Rights



This chapter will prepare you to answer the question: how well are we living up to the ideals and principles established at the founding? As you read through this final section, start to form your response.



The Preamble, the opening statement to the US Constitution, sets forth the goals which the new government would strive to achieve:

**“We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.”**

The first goal, to form a more perfect union, includes a key word: more. The framers of the Constitution desired that the nation and “We the People” continually strive to improve, to be “more perfect. At the founding of the nation’s government, there were groups who were not represented. Excluded groups included: natives, blacks, women, and immigrants, to name a few. Part of the process to become more perfect is to address the lack of equality of people living within the nation.

One way a nation can continually improve and strive to be “more perfect” is to look at the rights of its citizens. John Locke believed the main reason governments form is to protect rights of its citizens. This section will look at rights through the lens of various populations and their respective **civil rights** movements. These groups as well as several others have found it necessary to take action in order to ensure recognition of their basic civil rights.



Civil Rights are rights that belong to people because of their citizenship. These include a right to political, social, and economic equality.

Examples of civil rights violations include:

- Political rights of women were violated with the lack of access to voting prior to 1920
- Political rights of African Americans were violated prior to 1965 Voting Rights Act because many states and counties in the south instituted unpassable literacy tests and poll taxes to keep African Americans from voting.
- Social rights were violated by laws, such as Jim Crow laws, that prevented African Americans from sitting in restaurants, at the front of the public transportation busses, and even blocked their access to city pools and parks.
- Social rights of Indigenous people were violated by laws that made it expressly illegal for them to practice their religion prior to 1978

What civil right does Langston Hughes reference in the poem below? Use evidence from his poem to support your answer

I, TOO, SING AMERICA  
I, too, sing America.  
I am the darker brother.  
They send me to eat in the kitchen  
When company comes,  
But I laugh,  
And eat well,  
And grow strong.  
Tomorrow,  
I'll be at the table  
When company comes.  
Nobody'll dare  
Say to me,  
"Eat in the kitchen,"  
Then.  
Besides,  
They'll see how beautiful I am  
And be ashamed--  
I, too, am America.

- Langston Hughes, 1925





This section examines the Civil Rights movements of African Americans, women, and Indigenous Peoples. This is not representative of all groups who have sought to gain political, economic, and social equality as it is impossible to chronicle every part of each movement, so the information below offers highlights of the fight for civil rights, but is not an exhaustive history. Please reference the summary charts in the pages ahead for an overview of each movement.

### **African American Civil Rights Movement**

The use of slaves in America is almost as old as European settlement on the North American continent. In 1619, the first African slaves were brought to Jamestown, Virginia. Much of the economic success of America as a new nation can be attributed to the use of free labor. But this free labor came at a cost. Men, women, and children were ripped from their homelands in Africa and sailed across the Atlantic Ocean in subhuman conditions. They were then sold to the highest bidder at auction. It is estimated that 12.5 million African slaves were brought to the new world and enslaved before the institution of slavery became illegal following the Civil War in 1865.

In 1790, John Newton told Parliament that a captive could generally be bought in Africa for £3 and sold at auction in the Caribbean for £25. Auctions or scrambles were the most popular way to sell slaves. There they were subjected to inspections using the most intimate and humiliating examinations, as if they were

animals at market. Children were separated from parents without any regard for the emotional ties between them as documented in accounts by Mary Prince and Frederick Douglass.”

After the Civil War, the 13th, 14th and 15th Amendments were passed and ratified. These amendments freed slaves, defined citizenship and guaranteed equal protection under the law for all people and gave black males the right to vote. However, one hundred years after being granted the right to vote with the 15th Amendment, many African Americans still did not have access to this basic, yet essential, political freedom. In addition to limited access to voting, African Americans, especially in the South, faced daily discrimination in the 1950’s and 1960’s. Schools in over 20 states were legally segregated, meaning black and white children were assigned to go to different, often unequal schools. The black schools were typically inadequate and underfunded. Also, many southern cities, including Birmingham

### **15th Amendment**

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have the power to enforce this article by appropriate legislation.

Alabama, made it illegal for African American children to play in city parks. Public drinking fountains were separate for black and white people. The criminal justice system also treated African Americans differently. In one case, an African-American teenager named Emmett Till was brutally murdered by two white men for flirting with a white woman in Mississippi. Even though the evidence was clear and there were many eyewitnesses, an all-white jury found the two men not guilty. Later both defendants told a magazine they had indeed abducted and killed Emmett Till, however, the constitutional protection of double jeopardy prevented another trial.

### Interactive 2.15 Emmett Till Chronology



*Learn more about Emmett Till at this website.*

To address the inequities facing African Americans, many groups worked to organize and address the social and political oppression. The African American Civil Rights Movement became the largest social movement of the 20th century. In simple terms, their goal was to secure equal access and the basic rights and privileges of U.S. citizens.





African American Civil Rights Movement	
Peak Years	1954-1965
Goals	<ul style="list-style-type: none"> <li>• End racial segregation and discrimination</li> <li>• Desegregate schools and other public facilities</li> <li>• Access to jobs and housing</li> <li>• Gain access to voting in the south by removing barriers to voting like literacy tests</li> <li>• General equality</li> </ul>
Tactics	Court cases Civil Disobedience Non-violent protests Speeches Boycotts Sit-ins Marches (like March on Washington for Jobs and Freedom) Freedom Rides
Opposition	KKK, white "segregationists" mainly in the south. White Citizens' Council
Outcomes	<ul style="list-style-type: none"> <li>• <b>Brown vs. Board of Education</b>- ruled "there is no place for separate but equal in public education." Effectively overturned Plessy v. Ferguson.</li> <li>• <b>Civil Rights Act of 1964</b>- banned discrimination based on race, color, religion, sex, or national origin</li> <li>• <b>Voting Rights Act of 1965</b>- eliminated literacy tests and other disqualifying factors that kept blacks from voting in the south</li> <li>• <b>Civil Rights Act of 1968</b>- ends discrimination in housing</li> </ul>
Key leaders/ organizations documents and speeches	Martin Luther King, Jr., Rosa Parks, Frederick Shuttlesworth, Ralph Abernathy, Thurgood Marshall,  National Association for the Advancement of Colored People ( <a href="#">NAACP</a> ) Southern Christian Leadership Conference ( <a href="#">SCLC</a> ) Student Nonviolent Coordinating Committee ( <a href="#">SNCC</a> ) Congress on Racial Equality ( <a href="#">CORE</a> )
Similar Group with different goals	Malcom X, Stokely Carmichael with Black Power, Black Panthers-- some favored a violent approach. Also supported black supremacy or black nationalism, which advocated separating races to avoid oppression Read more about the similarities and differences here: <a href="http://ndia.no/en/node/109405">http://ndia.no/en/node/109405</a>
The struggle continues with...	<ul style="list-style-type: none"> <li>• Maintaining even access to voting</li> <li>• Striving for equal economic opportunity, utilizing affirmative action policies.</li> <li>• African Americans have the highest incarceration rates, murder rates, and single parent families.               <ul style="list-style-type: none"> <li>◦ Ask yourself: Is there a lack of equal opportunity that causes these percentages be so high? According to NAACP- "African Americans now constitute nearly 1 million of the total 2.3 million incarcerated population"</li> </ul> </li> <li>• According to a 2015 CBS poll only 51% of Americans believe the goals of the Civil Rights movement have been reached: <a href="http://www.cbsnews.com/news/have-the-goals-of-the-civil-rights-movement-have-been-achieved/">http://www.cbsnews.com/news/have-the-goals-of-the-civil-rights-movement-have-been-achieved/</a></li> </ul>

The most widely recognized leader of the African American Civil Rights Movement was Reverend Martin Luther King Jr. He, along with the Southern Christian Leadership Conference organized protests and demonstrations across the southern part of the nation. The group preached a message of nonviolence; they held sit-ins at lunch counters, and marches to demonstrate the unfair treatment and laws towards African Americans in the south. A first major success was the Montgomery Bus boycott where Rosa Parks was arrested for sitting in a section of the bus reserved for white people. For over a year, African Americans and Civil Rights supporters walked miles to work, or avoided the bus through carpooling. The efforts of protesters paid off. On December 20, 1956, over a year after the protest started, the law requiring racially segregated seating on buses was ordered by the U.S. Supreme Court to be in violation of the 14th Amendment.

Nonviolence was so central to the Civil Rights Movement that some supporters of the Civil Rights movement signed a commitment card containing words like the ones below:

Birmingham, Alabama Commitment Card:

I HEREBY PLEDGE MYSELF--MY PERSON AND MY BODY--TO THE NONVIOLENT MOVEMENT. THEREFORE I WILL KEEP THE FOLLOWING TEN COMMANDMENTS:

1. MEDITATE daily on the teachings and life of Jesus.
2. REMEMBER always that the nonviolent movement in Birmingham seeks justice and reconciliation-not victory.
3. WALK and TALK in the manner of love, for God is love.
4. PRAY daily to be used by God in order that all men might be free.
5. SACRIFICE personal wishes in order that all men might be free.
6. OBSERVE with both friend and foe the ordinary rules of courtesy.
7. SEEK to perform regular service for others and for the world.
8. REFRAIN from the violence of fist, tongue, or heart.
9. STRIVE to be in good spiritual and bodily health.
10. FOLLOW the directions of the movement and of the captain on a demonstration.

King and other demonstrators were often jailed for their participation in demonstrations. In fact, filling the jails was the goal of the 1963 Children's March in Birmingham, Alabama. There were so many demonstrators arrested, mostly children, that the

jails couldn't house anymore. So, the courts sent the kids to local fairgrounds until release. While there kids slept on cots, and sang freedom songs to encourage each other.

Later that year, King led a March on Washington for Jobs and Freedom. From the steps of the Lincoln Memorial he delivered his "I Have a Dream" speech with powerful statements that have lived on in the hearts and minds of Americans. In one compelling part of the speech, King encouraged the 250,000 in attendance sharing:

"And so even though we face the difficulties of today and tomorrow, I still have a dream. It is a dream deeply rooted in the American dream.

I have a dream that one day this nation will rise up and live out the true meaning of its creed: "We hold these truths to be self-evident, that all men are created equal."

I have a dream that one day on the red hills of Georgia, the sons of former slaves and the sons of former slave owners will be able to sit down together at the table of brotherhood.

I have a dream that one day even the state of Mississippi, a state sweltering with the heat of injustice, sweltering with the heat of oppression, will be

### **Interactive 2.16** I Have a Dream Speech



*Listen to Dr. Martin Luther King deliver the I Have a Dream Speech*



transformed into an oasis of freedom and justice.

I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character.

I have a dream today!”

Another example of how marches and protests were used as tactics was the Selma Montgomery march. At the march, activist and now Congressman John Lewis clarified the mission of the march and the Civil Rights Movement in general by saying, “We are marching to our state capitol to dramatize to our nation and to the world our determination to win first-class citizenship.” The African American civil rights movement was a powerful showing of popular sovereignty in action.



## Women's Rights Movement

In July 1848, about 300 women and men gathered in Seneca Falls, New York, to discuss women's rights. Under the leadership of Elizabeth Cady Stanton, some in attendance signed a document titled the Declaration of Sentiment and Resolutions. This document laid out some of the biggest complaints and goals of the women as they formed to secure more rights. It included phrases such as:

- “We hold these truths to be self-evident: that all men and women are created equal”
- The history of mankind is a history of repeated injuries and usurpations on the part of man toward woman, having in direct object the establishment of an absolute tyranny over her.
- He has never permitted her to exercise her inalienable right to the elective franchise.
- He has compelled her to submit to laws, in the formation of which she had no voice.
- He has taken from her all right in property, even to the wages she earns
- He has so framed the laws of divorce, as to what shall be the proper causes of divorce; in case of separation, to whom the guardianship of the children shall be given; as to be wholly

regardless of the happiness of women—the law, in all cases, going upon the false supposition of the supremacy of man, and giving all power into his hands.

- He has denied her the facilities for obtaining a thorough education—all colleges being closed against her.
- He has endeavored, in every way that he could to destroy her confidence in her own powers, to lessen her self-respect, and to make her willing to lead a dependent and abject life.



Image source: <https://griid.files.wordpress.com/2012/07/picture-25.png>



From 1848 until 1920, women worked tirelessly to secure rights. The initial focus of social, economic, and political equality was narrowed to a focus on securing the right to vote (suffrage). Organizations within women's rights movements had different goals. Some organizations thought they should work state by state to gain suffrage at the state level, while others, like the Congressional Union, sought national suffrage only. The groups employed many tactics, some as simple as giving speeches and proposing laws at the state level. Others were more radical, including protests held at the White House.



Image source: [http://www.americalibrary.gov/assets/jb/jazz/jb\\_jazz\\_sufarrst\\_1\\_m.jpg](http://www.americalibrary.gov/assets/jb/jazz/jb_jazz_sufarrst_1_m.jpg)

One leader, Alice Paul, went to extreme measures, participating in a hunger strike to raise awareness for her cause. She had to be force fed in prison following her arrest for protesting. Although women still strive for equality today, the major victory of the Women's Rights Movement was the passage and ratification of the 19th Amendment in 1920.

Women's Rights Movement	
Peak Years	1848-1920
Goals	<ul style="list-style-type: none"> <li>Gain suffrage, or the right to vote, for all eligible women in the United States <ul style="list-style-type: none"> <li>Two groups (NWSA and AWSA) merged in 1890 to gain membership and momentum as the National American Woman Suffrage Association (NAWSA)</li> <li>Later Congressional Union/ National Woman's Party formed</li> </ul> </li> <li>Remove social and institutional barriers that limited women's rights to education,</li> <li>Desired economic rights to own property</li> </ul>
Tactics	<ul style="list-style-type: none"> <li>Speeches, education women</li> <li>Paul and the National Women's party had more militant tactics- picketing, mass rallies, and marches to raise awareness</li> <li>Hunger strike in prison (Alice Paul)</li> <li>Writing</li> </ul>
Opposition	<ul style="list-style-type: none"> <li>Men</li> <li>Women who felt a woman's role was to remain the the private sphere and allow men in the public sphere</li> </ul>
Outcomes	<p>State suffrage for women in some states. The earliest examples: Wyoming 1869, Colorado 1893, Utah 1896, and Idaho 1896</p> <p>1917-- Jeannette Rankin of Montana is the first woman to be elected to the nation's Congress.</p> <p>19th Amendment passed in 1919 and Ratified in 1920-- provided full voting rights for women nationally.</p>
Key leaders/ organizations/ documents and speeches	<p>Elizabeth Cady Stanton Lucretia Mott Susan B Anthony Carrie Chapman Catt Alice Paul Lucy Stone</p> <p>American Woman Suffrage Association- AWSA (Stone) National Woman Suffrage Association- NWSA (Stanton and Anthony) In 1890-- National American Woman Suffrage Association (NAWSA)</p> <p>"Declaration of Sentiment, Grievances, and Resolutions"</p>
Still trying to achieve	<ul style="list-style-type: none"> <li>Equal pay for equal work</li> <li>Increased time for maternity/ paternity leaves</li> <li>An equal Rights Amendment never passed -- can we show this page as a graphic:</li> <li>The ERA fails to be ratified by the states</li> <li><a href="http://www.equalrightsamendment.org/states.htm">http://www.equalrightsamendment.org/states.htm</a></li> <li></li> </ul>

## Civil Rights for Indigenous Peoples

Perhaps the population who has endured the longest struggle for civil rights in the United States is the one native to North America. From the time the first explorers and colonists landed in North America, there has been tension surrounding the rights of Indigenous peoples. Indigenous peoples in North America have continually faced violence, disease, and war. They have also faced policies which brought racism, oppression, and genocide. One of the harshest policies was Andrew Jackson's 1830 Indian Removal Act, which was responsible for the removal of over

100,000 Indigenous peoples from the land of their ancestors. The Cherokee lost over 4,000 of their people during just one of these forced marches. Not only were Indigenous peoples forcibly removed from their land, they were also denied the right to live in certain places. Three years after the Indian Removal Act, a law was passed prohibiting Indigenous peoples from even residing in the state of Florida.



### IN THEIR OWN WORDS

*Which is proper, Indian, Native American ... or neither?*

No other population in the United States has more scrutiny around its identity than the indigenous peoples to North America. "Native American" and "Indian" are two widely used terms, but in actuality, both are incorrect. "Indian" is a misnomer that is 500 years old, that stems from early European explorers looking to find trade routes to the east. Upon "discovering" North America, men like Christopher Columbus named all people he encountered "Indians" because he was looking for India. The term has been so ingrained in politics, social use and even legal jargon, that it has become synonymous with indigenous peoples throughout the western hemisphere, from Argentina to Alaska.

Many tribes today call themselves Indians. "Native American" has been adopted in the last two decades in the United States, as a more politically correct term. But, this name too has its flaws. Saying the people are "Native" is correct, but labeling the lands as "America" is not all accurate.

The lands of North America had distinct, tribal designation before the arrival of Europeans. The indigenous peoples were indeed native to these lands but areas which they lived on had different names, all of which depended on the tribe that called that area home. Calling these lands as "America" denies the tribes' previous claims to these lands. Many indigenous people in the United States prefer to be called by their tribal name. This, too, can be confusing, as tribes sometimes go by different names and belong to a larger group. For example, the Odawa (or Ottawa) are indigenous to the Great Lakes. Many Odawa feel they belong to a larger group, the Anishnaabek. The Anishnaabek is comprised of the Odawa, Ojibway and Potawatomi. Not all Odawa feel this way, or even call themselves Odawa; some prefer Ottawa.

It comes down to personal identification in the case of tribes in the United States and how the tribes, and their populations, identify themselves. •





## Genocide?

Genocide, the deliberate killing of a large group of people, especially those of a particular ethnic group or nation, is a term that defines the actions taken against Indigenous peoples through various policies and their impact. Entire populations were almost wiped out completely. In the Plains, the tribes were devastated by wholesale slaughter of buffalo, the main source of food, shelter, clothing, and considered spiritually significant. Additionally, countless wars have been waged against tribes within the U.S., resulting in some tribes becoming extinct. Furthermore, forced removal and the loss of land and resources has also been devastating. At one time in this country's history Indigenous people comprised 100% of the population. During the 1920's, however, Indigenous peoples faced near extinction, totaling a population of only 250,000. Today, Indigenous peoples account for approximately 1% of the population.

Chief Sitting Bull, an early leader for Civil Rights for Indigenous Peoples described his mission by stating: "We are poor... but we are free...No white man controls our footsteps. If we must die... we die defending our rights."

Challenges that people have fought, and continue to fight, to rectify through a civil rights movement include:

- Racial discrimination

- Violence/ killing of leaders
- Economic disparity
- Indian Boarding Schools
- Lack of citizenship until 1924
- Denial of educational opportunities
- Denial of religious freedom- 1880 law outlawed Indian religions
- Loss of indigenous land ownership
- Loss of access to and control of natural resources, treaty agreements that are not upheld by the US government, religious discrimination,
- Forced sterilization of indigenous women in 1970's

Tribes in the United States have a long history of facing and confronting the U.S. government's inability to uphold the obligations written into the treaties signed with the tribes. Treaties signed in the 19th century, transferred millions of acres of land from various tribes to the United States. In return for these lands, tribes were to receive services, reservations, rights and monies for the lands ceded. The United States did not honor the vast majority of these treaties.

The United States entered into over 370 treaties with dozens of tribal nations across the country. The last treaties were concluded in 1883. Treaties between tribes and the United States were primarily centered on land acquisition for the government. Some treaties did end hostilities but the vast majority were centered on land. Many treaties had multiple tribes party to them. Each individual tribe negotiated to retain rights (or removal), lands, compensation for lands and services in exchange for the lands ceded to the government. Tribes had to navigate these turbulent negotiations amidst the backdrop of removal policies, wars, assimilation and population declines.

Treaty rights vary from tribe to tribe across the country. Some tribes made treaties very early, in the 1780s, while some were nearly a century later in the 1860s. Some tribes were forced off their lands and removed to Oklahoma and Kansas. These removed tribes' treaties are vastly different than tribes whom did not suffer forced removal. Coastal tribes have specifics about fishing, plains tribes about hunting and desert tribes regarding water rights. A common right all tribes have in their treaties is access to natural resources, tribal lands (reservations) and compensation for lands ceded to the United States. The Michigan tribes fought to have reservations, hunting and fishing rights, fair compensation for land and later in the 20th century, self-government. These rights are common with many other tribes across the country.

One of the most powerful means tribes fought to have their treaty rights honored was by exercising them. Many tribal communities continued to access natural resources, despite state and local officials denying them. Fishing is one of the activities that brought treaty rights to the forefront of the public's attention and forced the federal government to make decisions regarding tribes' rights under treaties. From Washington to Michigan, fishing was a lightning rod of controversy during the 20th century. Finally, in the 1970s and 80s, federal courts made rulings regarding native fishing rights. Many tribes won the right to fish, based on their treaties with the United States.

Some tribes would sue the United States for its failure to uphold its treaty obligations, such as tribes under the Indians Claims Commission. Other tribes would pursue federal acknowledgment as an federally recognized Indian tribe, thus establishing a trust relationship with the United States. The means by which tribes fought to have their treaty rights honored depended on the tribal community. The vast majority of the time, tribes had to exert a huge amount of time, energy and resources to have their rights upheld. For example, the Little Traverse Bay Bands of Odawa first signed treaty with the United States in 1836. It wasn't until 1994 that the United States reaffirmed its trust relationship with LTBB Odawa. The LTBB Odawa fought for 158 years to have this status reaffirmed.

Tribes today are still fighting to have their treaty rights recognized. Tribes are still fighting to have their federal status acknowledged. As the times progress, the means by which tribes do this becomes more sophisticated, as do the issues.

Eric Hemenway, Tribal Archivist, Little Traverse Bay Bands of Odawa Indians



## Interactive 2.17 Treaty Rights



*Learn more about tribal rights by clicking here*



Image with caption: Buck Chosa fishes in Keweenaw Bay. The commercial fishing rights of the Chippewa had been granted by an 1854 treaty and later upheld in 1971 by the Michigan Supreme Court. <http://www.history.com/topics/native-american-history/native-american-cultures/pictures/native-american-legislation/silhouette-of-a-great-lake-fisherman>

As tribes settled onto reservations, it became apparent that the land tribes were to occupy was not the most suitable for economic development. A lack of jobs and natural resources, coupled with racism and alienation from American society resulted in high poverty rates for tribal communities. To fight for their promised treaty rights, tribes during the early 20th century brought lawsuits against the United States, due to the negligence of the U.S. in treaty negotiations.

In the Great Lakes region, tribes have fought their own civil rights battles. These battles are unique from others because they are continually fighting to retain access to natural resources and land. For example, tribal fishing in the Great Lakes was contested by the State of Michigan starting from statehood in 1837. This issue was a civil rights issue that harmed the economic rights of Indigenous peoples. Michigan tribes worked together to gain legal access and the issue was resolved with a federal court decision in 1979, granting tribes the right under treaty to fish in the Great Lakes.

Native Civil Rights Movement	
Years	<p>Since beginning of colonization in America- present</p> <ul style="list-style-type: none"> <li>National Congress of American Indians founded in 1944</li> <li>American Indian Movement founded in 1968</li> </ul>
Goals	<ul style="list-style-type: none"> <li>NCAI goal- monitor federal policies and educate public, preserve rights under treaties and agreements</li> <li>AIM goal- <i>"to turn the attention of Indian people toward a renewal of spirituality which would impart the strength of resolve needed to reverse the ruinous policies of the United States, Canada, and other colonialist governments of Central and South America."</i></li> </ul>
Tactics	<ul style="list-style-type: none"> <li>Court cases</li> <li>Legislation for equality and recognition of treaty/ indigenous rights</li> </ul> <p>AIM- direct and militant confrontation with the US government</p> <ul style="list-style-type: none"> <li>Boycotts and occupations of 74 federal facilities including: <ul style="list-style-type: none"> <li>Trail of Broken Treaties-- week-long siege at the Bureau of Indian Affairs to make the BIA review 20 demands</li> <li>Wounded Knee Occupation- 71-day standoff at Pine Ridge Indian Reservation-- drew attention to mistreatment by federal and local agencies, and showed unsafe living conditions on reservations</li> </ul> </li> </ul>
Opposition	US Federal government
Outcomes	<ul style="list-style-type: none"> <li>Indian Citizenship Act 1924 extended citizenship and voting rights to all American Indians. Before this, natives could not vote, hold office, or participate in the federal government.</li> <li>Indian Civil Rights Act 1968 (Indian Bill of Rights) <ul style="list-style-type: none"> <li>Free speech, press, and assembly</li> </ul> </li> <li>Michigan Indian Tuition Waiver, 1976 <ul style="list-style-type: none"> <li>Waives the tuition costs for eligible Native Americans attending public community colleges or universities within Michigan</li> <li>Michigan's current guidelines here: <a href="http://www.michigan.gov/mdcr/0,1607,7-138--240889--,00.html">http://www.michigan.gov/mdcr/0,1607,7-138--240889--,00.html</a></li> </ul> </li> <li>American Indian Religious Freedom Act 1978 <ul style="list-style-type: none"> <li>Before this law it was expressly illegal for native people to practice their religion. Intense discrimination against non-Christian natives.</li> </ul> </li> <li>Indian Child Welfare Act 1978</li> <li>Native American Graves Protection and Repatriation Act 1990 <ul style="list-style-type: none"> <li>Allows tribes to have human remains and sacred items returned from museums and other holders.</li> </ul> </li> <li>Violence Against Women Act 2013 <ul style="list-style-type: none"> <li>Original law created in 1994 to help prosecute sexual and physical abuse against women</li> <li>Allowed for funding into investigation and prosecution of offenders</li> <li>2013 law was amended to include to the protection of native women on tribal lands and prosecution of non-natives on tribal lands.</li> </ul> </li> </ul>
Key leaders/ documents and speakers	<p>National Congress of American Indians (NCAI): N.B. Johnson, Ruth Muskrat Bronson</p> <p>Great Lakes leaders: Waunneta and Robert Dominic, John Case, Ted Holappa</p> <p>American Indian Movement (AIM) 1968: Dennis Banks, Clyde Bellecourt, Vernon Bellecourt</p> <p>Winona LaDuke- (read her address to the United Nations here: <a href="http://www.ratical.org/co-globalize/WinonaLaDuke/Beijing95.html">http://www.ratical.org/co-globalize/WinonaLaDuke/Beijing95.html</a>)</p> <p>Vine Deloria Jr.</p>
Still trying to achieve	<ul style="list-style-type: none"> <li>End discrimination, bullying, and stereotypes</li> <li>Misappropriation of names and culture</li> <li>End human trafficking on and around reservations</li> <li>Restrict access to sacred sites</li> <li>Full implementation of laws protecting rights</li> <li>Honoring of treaty agreements</li> <li>Protecting environment</li> <li>Addressing inter-generational trauma</li> <li>Health issues (suicide, substance abuse, obesity)</li> </ul>



Now it is time for YOU to decide.

After reviewing various civil rights movements, it is time for you decide:

“How well is America living up to the ideals and principles established at the founding?”

Consider some of these democratic ideals:

- “To form a more perfect union”
- "establish Justice, insure domestic Tranquility,"
- "promote the general Welfare, and"
- "Secure the Blessings of Liberty to ourselves and our Posterity"
- “all men are created equal”
- “endowed by their Creator with certain unalienable rights... life, liberty, and the pursuit of happiness”
- "That whenever any Form of government becomes destructive of these ends, it is the Right of the People to alter or to abolish it and to institute a new government"

Draft an answer to the question- “How well is America living up to the ideals and principles established at the founding? Make and support a claim. Be sure to convey precision, significance, and knowledge of your claim while pointing out the strengths and limitations of the claim.



## Chapter 3

# Is the Constitution Relevant and Effective in America Today?

Why did the founders choose a Federal system?

What are the guiding principles of the Constitution

How is the Constitution formally and informally amended?

How has federalism changed or evolved over time?

How are power and responsibility distributed, shared, and limited in the government established by the U.S. Constitution?

How has the interpretation of the Bill of Rights evolved over time?





## Section 1

# Foundational Values and Constitutional Principles

### QUESTIONS TO GUIDE INQUIRY

1. Why did the founders choose a Federal system?
2. What are the guiding principles of the Constitution
3. How is the Constitution formally and informally amended?
4. How has federalism changed or evolved over time?
5. How are power and responsibility distributed, shared, and limited in the government established by the U.S. Constitution?
6. How has the interpretation of the Bill of Rights evolved over time?

### Terms, People, Places

Rule of Law

Popular Sovereignty

Republicanism

Separation of Powers

Checks and Balances

Federalism

### Values and Principles

In *Democracy in America*, Alexis de Tocqueville referred to America as “The Great Experiment.” But what did he mean by saying that America’s constitutional democracy was an experiment? America was founded on key principles which, are the same principles that govern our nation today. America’s Founders initiated the experiment in democracy by trying out a new form of government, including the ideas that power should ultimately come from the people, that government power should be limited, and that individual liberties of all peoples should be protected.



In that land the great experiment of the attempt to construct society upon a new basis was to be made by civilized man; and it was there, for the first time, that theories hitherto unknown, or deemed impracticable, were to exhibit a spectacle for which the world had not been prepared by the history of the past.

-Alexis de Tocqueville

At the time of America's founding in 1776, many people living in the country were from countries in western Europe. The population also included both Africans forced into slavery, as well as Indigenous Peoples who lived on the continent at the time of European exploration and settlement. Today, America is much more diverse than in 1776. However, Americans, regardless of differences, need to understand the basic principles and values that originated in founding documents such as the Declaration of Independence as well as the Constitution, and its Bill of Rights. Americans agree, at least in the abstract, that we should uphold and protect the values of life, liberty, property, the pursuit of happiness, the common good, justice, and equality. We may disagree on the specifics of how these values should be protected, but we all have a fundamental investment in guaranteeing these protections from an authoritarian and abusive government.

### Limited Government

Constitutional scholars have different views of what constitutes the fundamental principles in the Constitution. Some claim that there are four "guiding principles," while others refer to seven "basic values." What is not disputed is that the Framers drafted the Constitution with the intent to specify what the government could and could not do. The Constitution was written to limit government power so that the people would be assured that it was not abused.

### Rule of Law

The Constitution is the highest law of the land. There are no special exceptions for anyone, no matter how rich or powerful they might be. No one is above the law--not even government officials. Sometimes rendered as "the supremacy of the law" the focus of the phrase is that those who govern must base their decisions on known principles or rules instead of allowing their own discretion to guide their decisions. The **rule of law**, one of the foundational principles of legitimate government, binds the nation together to ensure basic principles are maintained above all else. This is important as we are a large and diverse nation with very different cultures, politics, and backgrounds. The rule of law unites us to put our Constitution front and center of all political decisions.

**Popular Sovereignty** – simply put, is government based on the consent of the people. The government's source of authority is the people, and its power is not legitimate if it disregards the will



[https://en.wikipedia.org/wiki/Evidence#/media/File:Dublin\\_Castle\\_Gates\\_of\\_Fortitude\\_and\\_Justice\\_05.JPG](https://en.wikipedia.org/wiki/Evidence#/media/File:Dublin_Castle_Gates_of_Fortitude_and_Justice_05.JPG)  
PG



of the people. Government established by free choice of the people is expected to serve the people, who have sovereignty, or supreme power. At the founding of America, the colonists had just cast off rule by a monarch. The principle that the people had the power and controlled their government was important at the founding of America, and is arguably just as important two hundred plus years later.

**Republicanism** is the guiding political philosophy of the United States. At its founding, it was centered on limiting corruption and greed. It is based on the principle that all people should have a say in the operation of a country, but recognizes that every individual cannot be involved on a daily basis in every aspect of governing the country. Because of this, people delegate their authority to people whom they elect to serve their interests.

Representatives must be chosen by the people for them to have power.

**Separation of Powers** - In order to keep one branch of government from becoming too powerful, the Founding Fathers set up a national government that was separated into three distinct branches. One branch would be in charge of making the laws (the legislative branch), one branch would be in charge of enforcing the laws (the executive branch) and one would serve to interpret the laws through the power of judicial review (the judicial branch). Each of these three branches has its own responsibilities, but all were created as checks on the system.



**Checks and Balances** - The three branches of government (legislative, executive, and judicial), have specific powers granted to them that the other branches do not. When making laws, both of the legislative chambers must agree to a bill. This means that both the Senate and the House of Representatives must have a majority agreement for a bill to become law. If one chamber does not agree to pass it, the new law cannot be enacted. This is a check within just the one branch.

If both chambers do vote to pass a bill with a simple majority, then the President (executive) can choose to either sign the bill into law or veto it. This gives the executive branch the power to check the law making power of the legislative branch. However, an example of a “check within a check” is an override of a presidential veto by Congress, if a two-thirds (supermajority) of



both chambers in the legislative branch to vote in favor of the bill occurs.

It isn't over once a bill has been signed into law. Court cases can make their way through lower courts to the Supreme Court and laws can be upheld or overturned depending on the outcome of the Supreme Court's decision. Each branch has specific powers to bypass or affect the other branches to check that branch's power. This has a balancing effect because it makes sure that no one branch of the government has too much power. Just like the game of "Rock-Paper-Scissors," it wouldn't be much fun to play if one item always could overpower the other.

**Federalism** - Under the concept of federalism we define several levels of power. The level of the Federal Government is one that maintains many authorities such as relations with foreign countries. Concurrently, there are multiple state governments that oversee issues of concern to the people who reside in each respective state. And at the most local level, county and city governments oversee issues of concern to residents of smaller geographic areas such as cities and towns. Our Constitution clearly states that any powers not specifically granted to the federal government by the Constitution belong to the states themselves.

The national government is located in Washington D.C. The national Congress meets in the Capitol Building pictured above. State governments meet in their own capitals. Pictured above is



[https://en.wikipedia.org/wiki/Capitol\\_Loop#/media/File:Michigan-Capitol-2005.jpg](https://en.wikipedia.org/wiki/Capitol_Loop#/media/File:Michigan-Capitol-2005.jpg)

the Michigan Capitol Building located in Lansing, Michigan.

**Natural Rights/Individual Rights** -the theory of government responsible for the guarantee of individual rights originated from natural rights philosophy. The philosophy begins with the image of what life would be

### Interactive 3.1 Crash Course - Federalism



*Learn more about Federalism with this video.*



like in a state of nature--a situation where no government is present. You'll remember that in chapter 1 you learned about an important philosopher, John Locke, and his premise that in a state of nature all people are equal, free, and rational. Each individual possesses inalienable rights to "life, liberty, and property." Additionally, those who do not follow reason and respect the rights of others has the right to be punished. The purpose of government is to protect natural rights that each individual possesses.

The Bill of Rights to the Constitution were initially drafted as a way to resolve conflicts between the Federalists and Anti-Federalists, and further define many of the individual rights that American Citizens hold. You'll learn more about these in an upcoming section.

The Constitutional protections of our individual rights to life, liberty and property in the Fifth Amendment sounds great when we aren't forced to look at specific situations that can be interpreted by people differently. It would be difficult to find a person who would argue against a citizen's guaranteed rights to life, liberty and property. However, Constitutional principles can be molded to construct an argument to support opposing sides to just about any political argument.

For instance, the last clause of the fifth amendment, the Takings Clause, allows for eminent domain--the right of the government to expropriate private property for public use by requiring that just

compensation be paid if private property is taken for public use. The needs of a growing population for more and updated modes of transportation have triggered many additional acquisitions for constructing railroads or maintaining navigable waters. *Albert Hanson Lumber Company v. United States*, 261 U.S. 581 (1923), for instance, allowed the United States to take and improve a canal in Louisiana. On the surface, it might seem difficult to determine what might be controversial about this case. However, the owner of the canal, Albert Hanson argued that the federal government didn't need to seize the property in order to make improvements to the entire canal and the surrounding area.

Additionally, Hanson's attorney argued that the amount of money the government was willing to pay Hanson under rights of eminent domain was too low and was not close to the current market value.

Depending on whether or not you have a vested financial interest in utilizing canal access for your livelihood, the point is to recognize that depending on how one frames an issue, or which Constitutional principles to focus on, can alter how one may view a controversial issue. One may view liberty or life as more significant as a right in this case. But what typically stands the test of time is that we are all experts at choosing evidence and arguments to support our already strongly held beliefs. It is difficult to fully identify and acknowledge the viewpoints that contradict our own personally held beliefs.

# Preamble and the Legislative Branch

## QUESTIONS TO GUIDE INQUIRY

1. Why did the founders choose a Federal system?
2. What are the guiding principles of the Constitution
3. How is the Constitution formally and informally amended?
4. How has federalism changed or evolved over time?
5. How are power and responsibility distributed, shared, and limited in the government established by the U.S. Constitution?
6. How has the interpretation of the Bill of Rights evolved over time?

## Terms, People, Places

legislature

bicameral

The Constitution begins with a preamble, which reads as follows:

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.



Stop and Think - As you look at the words printed above, how many of the principles in the previous section do you see? Are they addressed anywhere above? Use your highlighter to mark up the preamble.

We the People of the United States – this opening line is dramatically different in tone than the Articles of Confederation which had preceded it. Consider this, the opening of the Articles:

To all to whom these Presents shall come, we, the undersigned Delegates of the States affixed to our Names send greeting. Whereas the Delegates of the United States of America in Congress assembled did on the fifteenth day of November in



the year of our Lord One Thousand Seven Hundred and Seventy seven, and in the Second Year of the Independence of America agree to certain articles of Confederation and perpetual Union between the States of New Hampshire, Massachusetts-bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia in the Words following, viz. “Articles of Confederation and perpetual Union between the States of New Hampshire, Massachusetts-bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.

In order to form a more perfect union – Some wanted to simply update the Articles rather than scratch the document completely. This line could mean many things depending on how it is read, but forming a “more perfect” union than the one which had come before was the ultimate goal behind the convention.

Establish Justice – You’ll learn more about the judicial branch in later sections and chapters of this resource, however – establishing justice meant more than just Article III. With a variety of events leading up to the convention, establishing justice was a priority for those working to build our system of government.

Insure domestic Tranquility – Hand in hand with establishing justice, was ensuring that things that had showcased the weaknesses of the articles – Shays’ Rebellion, the central

government’s inability to get things accomplished, bickering between the states – all of these things needed to be corrected to “insure domestic tranquility”

Provide for the common defense- Ensuring that the new nation could stand up for itself was another central idea that was showcased in the Preamble.

Promote the general Welfare – doing the best job possible for the greater good of the country as a whole and the people who live there...

And secure the Blessings of Liberty to ourselves and our Posterity – The entire Constitution is drafted to do this, to create an enduring system of government with all the tools necessary to promote the ideals of liberty from the forefathers, to those of you reading this online resource today.

Part of the Constitution	Structure and General Function of Each of the Parts	
1. Preamble	The Preamble acts as an introduction to the Constitution. The main goals that the founding fathers wanted to accomplish in their new government are laid out.	
2. The Articles	Article I - Legislative	The first three Articles of the Constitution spell out the powers of the three branches. The checks that each branch has over the other are also included in these articles.
	Article II - Executive	
	Article III - Judicial	
	Article IV	Issues regarding the states are addressed, including the rights of citizens from various states and the admission of new states to the United States.
	Article V	The various ways to amend the Constitution are discussed in Article V. This process typically includes both the national and state governments, required joint agreement between the two levels.
	Article VI	The Supremacy of the Constitution as national law is declared in Article VI.
	Article VII	Explains the process for ratifying the Constitution.
3. Amendments	Bill of Rights 1-10	Amendments are meant to "mend" or fix the Constitution to improve its function and protections. The first ten amendments to the Constitution were almost immediately added to placate the Anti-federalists who were worried about the creation of a strong national government. Basic individual rights that many citizens are familiar with are protected in these amendments.
	Amendments 11-27	Over the last two centuries, there have been many changes to our country. In order to help the Constitution adapt to significant changes amendments have been added (e.g. the ending of slavery, the suffrage of women, term limits for the presidency, direct election of senators, etc.). Many of these amendments

## The Legislative Branch

### Section 1:

While the preamble stands as an introduction to the larger document, the first Article sets up the legislative branch.

"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."

The legislative branch is composed of two houses, the Senate, and the House of Representatives. The main job for the legislative branch is to make laws. The composition of two houses was actually a compromise that took place at the Constitutional Convention. This practice is known as a **bicameral legislature**. A bicameral legislature is one in which the legislators are divided into two separate assemblies, chambers or houses.

### 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."



The House was intended to be “the people’s house.” And its members were elected directly by the voters in the states every two years. To be a Representative, you need to be 25 years old and a citizen of the state you seek to represent, as well as a citizen of the United States for a minimum of 7 consecutive years.



Highlight the text of Article I that specifically spells out the requirements for being a Representative

The House of Representatives	
Term Length	2 Years
Term Limits	Unlimited
Total Members	435
Minimum Age	25
Number per State	Minimum of 1 per state. Based on population of state.*
Official Title	Congressman or Congresswoman

\*Districts are drawn within a state according to its population. Population is determined by the United States Census that is completed every ten years. More populous states have more representation in the House of Representatives

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 free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. 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 one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse 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.

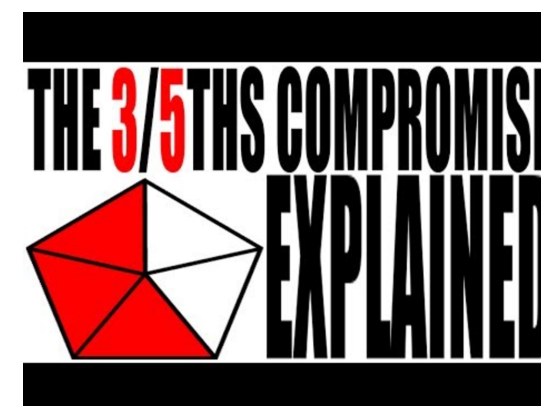
The number of representatives is dependent upon the population of the states. Every state has at least one House seat, with larger states having more. This is looked at and updated every 10 years after the national Census.

Many parts of this section of the Constitution have been revised by subsequent amendments, including the 13th amendment which abolished slavery, and the 14th amendment that

determines that representatives are determined according to the whole number of people in the states.

The House of Representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.”

### Interactive 3.2 The 3/5ths Compromise



*Learn more about the 3/5ths Compromise here.*



### Section 3

The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, 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 be chosen 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.

While Section 2 establishes the House of Representatives, Section 3 establishes a Senate with two senators from each state regardless of the size. In 1913, the 17th amendment was passed which established that senators would be directly elected by the people of the United States.



Highlight the text of Section 3 above that establishes two members of the senate for each state.

The Senate	
Term Length	6 Years
Term Limits	Unlimited
Total Members	100
Minimum Age	30
Number per State	Two per state
Official Title	Senator

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.

Just as a member of the House must be 25 years of age or older, a similar but slightly different age requirement exists in the Senate. To be elected a Senator you must be 30 years old, an inhabitant of the state in which you're seeking to represent, and a citizen of the United States for nine years.



Highlight the text in the excerpt from the Constitution above that establishes the requirements for being a Senator.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Vice President of the United States presides over the senate, however – they only have a chance to vote if there is a “tie”

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.

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.

There are other positions in the Senate and these are all chosen by the Senate themselves.

The House of Representatives may vote to impeach an elected official, and it is in the Senate where the trial will take place. For an impeachment to remove the individual from office, it requires a two-thirds vote. A convicted person can be barred from holding future offices.

#### 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, unless they shall by Law appoint a different Day.

The fourth section of Article I both establishes that elections are conducted by states, and that Congress will meet at least once every year – though the actual day changed with the passage of the 20th amendment.



### 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 Behaviour, 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 in their 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.

There are several things happening in Article 5 of the Constitution. The first section addresses qualifications for service, which is determined by the House and Senate. The next establishes that both chambers establish their own rules and will take care of disciplining their own members. The third part requires that all the information be open to the public and published regularly.

Today this includes an active website and video recordings of floor proceedings.

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 the same; 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.

Did you know that one of the perks of being a member of Congress includes that they are protected from criminal or civil liability while performing their Congressional duties? The first part of Section 6 outlines this. The second is an important one that maintains the checks and balances within government by making it impossible to be appointed to an executive or judicial office while holding a seat in Congress.

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 after such 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 for and 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.

This first portion firmly establishes that the House is responsible for originating tax bills, but that the Senate can amend and propose one.

The second part of Section 7 also firmly establishes a system of checks and balances. Once a bill has made its way through the legislative process, it has to go to the President to be signed into law. If the President does not sign it while Congress is in session it automatically becomes law. The final portion deals with language. It keeps Congress from trying to get around the legislative process by calling a bill something different like “order” or “resolution”.



Highlight the text in the excerpt from the Constitution above that outline a check or balance.



### 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 Defence 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 Offences 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, for the 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.

This section addresses enumerated powers. Congress has the power to tax and spend. They're supposed to provide for the nation's defense and welfare. An additional amendment introduced later (Amendment 16 – see section 7) permits

Congress to collect taxes to pay for government services.

Congress can also borrow money, manages commerce with foreign nations, and sets the standard for citizenship. In addition, Congress can create post offices, regulate copyright and patents, hold tribunals, punish piracy and felonies on open waters, declare war, raise and support armies, and make all the laws that are “necessary and proper” for governing the country.



Which of the duties of Congress listed above do you believe is the most important? Why?

#### 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.

Section Nine begins with a provision that was later made obsolete regarding the slave trade.

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.

Habeas Corpus refers to a protection of liberty where the Government must inform you of the charges against you, should you find yourself jailed for a crime. You’ll learn more about this later in the book.



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.

The second half of Section 9 outlines several real issues from the colonial perspective. First, Congress is not allowed to tax goods exported from state to state (or two a foreign country) and Congress is specifically forbidden from favoring one state over another when trade takes place. It is also set out in Section 9 that departments cannot spend money that Congress hasn't given permission for. Finally, it ends with a section on foreign

titles and gifts, mandating that federal officials turn over gifts from foreign nations to bar a conflict of interest.

#### 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 Revision and Controul 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.

With a strong focus on not having a national government that could become too powerful, Section 10 of Article I attempts to solidify some of the things the national government is able to do. States are not allowed to interfere in international trade, and cannot charge their own "duties" or taxes charged when entering a port. States are allowed to come together and solve a

collective problem together, but solutions across state boundaries are still subjected to congressional oversight and consent at times.

This is the longest article of the Constitution and clearly defines the powers and limits of Congress.



# The Executive Branch

## QUESTIONS TO GUIDE INQUIRY

1. Why did the founders choose a Federal system?
2. What are the guiding principles of the Constitution
3. How is the Constitution formally and informally amended?
4. How has federalism changed or evolved over time?
5. How are power and responsibility distributed, shared, and limited in the government established by the U.S. Constitution?
6. How has the interpretation of the Bill of Rights evolved over time?

Terms, People, Places

While the first Article of the Constitution outlines the duties and responsibilities of Congress, the second article takes a turn at establishing the powers and responsibilities of the executive branch, namely the President. In this section you'll read the text of Article II and learn about the responsibilities of the Executive Branch. This will also be explored in greater detail in a later Chapter.

### Section. 1.

The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

This first part of Section 1 is known as the “vesting clause” – put simply, one term of the office of the Presidency is four years. The very first President, George Washington, served two four-year terms in office before deciding it was time to step down. While not specifically mandated by Article II, every president following Washington served two terms in office until President Franklin D. Roosevelt was elected to an unprecedented third and fourth term. After he died in office, a new amendment was proposed. Eventually progressing through the ratification process, the 22nd Amendment, ratified in 1951, established a two-term limit for any President taking office after the current president's term had ended.

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

Every four years Americans head to the polls and cast a vote to elect the President of the United States. However, the process is not over and done once the second Tuesday in November comes and goes. Based on the outcome of the popular vote in each state, states must select electors who comprise the Electoral College to cast ballots for the winner of the popular vote in their state.

The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

This entire portion of Article II was overturned by the passage of the 12th amendment. It does however, say that the President and Vice President are chosen by electors who are picked by the state legislature. Since 1964 the number has been 538 – One hundred representing each senator, four hundred and thirty five representing each member of the House, and three electors chosen to represent Washington DC. More on this and the 12th amendment shortly...

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

In Article I you learned about the requirements to be a member of the House or Senate. There are similar requirements for holding the office of the President. To be the President you have to be 35 years old or older, a resident of the United States, and a natural born citizen.



In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

This portion of the Constitution was later overturned by a later amendment, the 25th Amendment. This amendment now supersedes this portion of the Constitution.

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Do you have a job while attending school? Have you ever gotten a raise? The President of the United States receives a salary for carrying out the duties of the job, and this part of the Constitution outlines that the salary cannot be raised (or lowered) during the President's time in office.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

This portion simply states that the President must take an oath of office prior to taking office. This is usually done at the Inaugural celebration in January in which the term begins.

### Section 2.

The President shall be commander in chief of the Army and Navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

The first part of Section 2 states that the President will serve as the Commander in Chief of the United States armed forces.

Further, it provides that while the President can make treaties, the Senate shares in this responsibility and that a two thirds vote is required before a treaty can be put into action. The President is also required to submit names for nominations to the Senate and

the court systems as vacancies occur. Finally, it also allows the President to make recess appointments, or appointments that occur when the Senate is not in session, which the Senate can then consider once the session has resumed.

### Section. 3.

He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

Every year the President gives a “State of the Union” address which covers a range of issues and status updates for the nation. It is Section 3 that requires this. In addition, Congress can be summoned into special session by the President should the need arise. If the need does arise, Congress can also be given a “time out” so to speak, and be adjourned by the President, but to date, this power has never been used by the President.



#### Section. 4.

The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

The last section of Article II spells out another check on the system of government known as Impeachment. Certain crimes such as treason and bribery are specifically listed as grounds for impeachment but because other crimes could deem impeachment necessary too, the term “high crimes and misdemeanors” is used. It is also important to note that all civil officers of the U.S. government, including the President and Vice President, may be removed from office. In other words, no government official is above the law. Several Presidents have been impeached or faced impeachment proceedings. Andrew Johnson was impeached while in office but was one vote shy of being removed from office. Richard Nixon resigned from office in 1979 rather than face an impeachment trial, and Bill Clinton was impeached by the house in 1998, though he was found not guilty by the Senate.

The office of the President of the United States is responsible for enforcing the laws passed by Congress. The President is often faced with many decisions that can shape the future of the United States. You’ll learn more about the Executive Branch in further chapters.

# The Judicial Branch

## QUESTIONS TO GUIDE INQUIRY

---

1. **Why did the founders choose a Federal system?**
2. **What are the guiding principles of the Constitution**
3. **How is the Constitution formally and informally amended?**
4. **How has federalism changed or evolved over time?**
5. **How are power and responsibility distributed, shared, and limited in the government established by the U.S. Constitution?**
6. **How has the interpretation of the Bill of Rights evolved over time?**

### Terms, People, Places

What does it mean to “interpret the Constitution?”

The Constitution was written over two-hundred years ago by people who had experienced very different challenges dealing with very different experiences than the times in which we are living. They had specific issues on their mind, or maybe even just in their subconscious, that affected the way the Constitution and its amendments were written. Constitutional scholars and justices whose job it is to interpret the Constitution, must battle through confusing language that doesn’t clearly resolve important legal questions. Therefore, many who have gone on to become justices within the judicial branch have studied the Constitution very thoroughly, which means they understand specific cases where the Constitution has been applied in a certain way, and also know quite a bit about the Founding Fathers who authored the Constitution. Understanding a person more intimately by reading their biography, or knowing about their lifestyle helps to give a broader understanding to someone’s intentions when they wrote something.

The Founding Fathers were purposely vague when they wrote certain parts of the Constitution because they didn’t want to drastically limit the power of the new government, or specifically define the rights of the people. Allowing some wiggle room for interpretation makes the Constitution flexible for the times, thus maintaining its relevance even today.



### Article III.

#### Section. 1.

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

The first section specifically sets up the Supreme and lower courts, providing the judicial branch with the power to hear and decide cases. Justices in the Supreme Court are appointed for life. Currently the number of justices on the Supreme Court is set at nine, but there is no limit or provision in the Constitution itself which sets this number. When the court was first established, there were six. The number went as high as ten before being set at nine in 1869.

It should also be noted that in contrast to the legislative and executive branches, there are no requirements listed in the Constitution for becoming a Supreme Court justice.

#### Section. 2.

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;— between a State and Citizens of another State,—between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

The first part of Section 2 distinguishes the type of cases that will come to the Federal courts.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

There are certain types of cases that can go immediately to the Supreme Court – specifically ones involving high ranking officials, and cases against a state as a whole. This section also specifies that people accused of crimes have the right to a trial by jury. This was viewed as such an important right that it received further emphasis in the Bill of Rights.

### Section. 3.

Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

The main focus of this section is treason. Highlight the portion of Section 3 above that defines what “treason” is. The section further specifies that in order to be convicted there must be at least two witnesses to the act or the accused person must confess to it.

The first three articles of the Constitution address the three branches specifically. You will learn more about the specific powers of the branches in future chapters that cover the legislative, executive, and judicial branches in more detail. However, it’s never too early to begin learning the basic checks that the branches have over one another in keeping any one branch from becoming too powerful. The three branches have powers that are unique to their own branch and are largely separate from each other. However, some of the specific powers of each branch require the approval or cooperation of another branch. The Constitution is extremely important in that it contains



specific clarification as to what the government can and cannot do. Despite the responsibilities and powers listed in the Constitution, there have been controversial situations where actions by the President, the courts, and Congress have been questioned as being unconstitutional. Some would argue that because society has changed with the passing of time, so too should the interpretation of some of these powers. Such changes can be worrisome because of the possibility of an imbalance in the sharing of power among the three branches. For example, some have argued that the executive branch, and the office of the President in general, has slowly accumulated more power for itself.

# Articles IV-VII

## QUESTIONS TO GUIDE INQUIRY

1. Why did the founders choose a Federal system?
2. What are the guiding principles of the Constitution
3. How is the Constitution formally and informally amended?
4. How has federalism changed or evolved over time?
5. How are power and responsibility distributed, shared, and limited in the government established by the U.S. Constitution?
6. How has the interpretation of the Bill of Rights evolved over time?

### Terms, People, Places

supermajority

## Article IV

### Section 1.

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Article IV Section 1 includes the “Full Faith and Credit” Clause which requires the states to respect the legal court decisions of other states. Congress has the power to dictate which rules will take precedent when two states have laws that come into conflict with one another. This wasn’t a common issue when the Constitution was first ratified, but as methods of transportation between states continued to improve, this clause became significant as many Americans regularly travel between states.



### Section 2.

The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

Article IV Section 2 is the “Privileges and Immunities” Clause, which provides protection to citizens of the United States at all times--even when travelling outside of the state in which they reside. When in a different state, citizens are entitled to the same rights and status as citizens who reside within that state. For instance, if you take a road trip to a neighboring state, the police can’t treat you differently because you have a license plate and driver’s license from a different state. There are two additional clauses in Section 2 of Article IV that specify that fugitives of various states travelling to other states have to be returned to the state in which they may have committed a crime for prosecution. Clause 3, specifically contains the “Fugitive Slave” Clause, and has since been nullified by the Thirteenth Amendment.

### Section 3.

New states may be admitted by the Congress into this union; but no new states shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the Congress.

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

Article IV Section 3 grants power to the federal government to create new states, and to control all territory controlled by the United States including parts of states as well as territories. The national government retains the right to decide how to handle new accumulations of land, such as the vast acreage acquired from the Louisiana Purchase. The federal government also has the power to determine how to handle territories, such as Puerto Rico and Guam. Additionally, the federal government has the right to maintain and set rules in national parks that fall within the borders of individual states, such as the Sleeping Bear Dunes National Lakeshore.

#### Section 4.

The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

Article IV of the Constitution includes four sections that primarily deal with issues between states and between the states and the federal government.

Article IV Section 4 contains the “Guarantee Clause,” so named because it guarantees each state to have a “republican form of government.” This means that every state has the right to elect their leaders. Also included is a guarantee by the national government to protect the states from foreign invasions or internal conflicts that would jeopardize the safety of Americans.

#### Article. V.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Amending the Constitution is a significant act as it requires a change to the document that guides our national governance. The amendment process is a two-step process that typically requires action from both Congress and state legislatures. It is therefore very difficult to amend the Constitution, and has only been done twenty-seven times in over two centuries.

#### Step 1 - Proposing an Amendment

To propose an amendment, two-thirds of both chambers of Congress must agree to the proposal. Or, two-thirds of the states may call a convention to propose an amendment.

#### Step 2 - Ratifying an Amendment

To ratify an amendment, three-fourths of the state legislatures must agree to adopt it.

The two-thirds or three-fourths requirements imposed by the Constitution are called “supermajorities.” Achieving a **supermajority** is a very difficult feat, explaining why there have only been twenty-seven amendments added to the Constitution, despite the fact that over 10,000 amendments have been proposed.



#### Article. VI.

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

#### Article VI – Supremacy of National Law

Article VI has three short clauses that address seemingly very different issues. The first clause pertains to national debts. This clause is largely unimportant today, but when the Constitution was drafted, the framers recognized that the new nation might still have outstanding debts and obligations. The Founders wanted to reassure all debtors that American was not going to excuse itself from its financial obligations after the replacement of the Articles of Confederation with the Constitution.

The second clause contains the “Supremacy Clause,” which establishes the Constitution as the highest law of the land that supersedes any state law. This was a significant declaration given the weakness of the federal government under the Articles of Confederation.

The third clause is related to the previous clause in that it requires elected representatives to swear an oath of allegiance to the Constitution. This includes both federally elected politicians as well as state elected public officials. This clause clearly asserts that the Constitution is the supreme law of the land, and that to serve this nation each person must put the Constitution and its values above any personal allegiances to a state or oneself.

#### Article. VII.

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

The Word, "the," being interlined between the seventh and eighth Lines of the first Page, The Word "Thirty" being partly written on an Erasure in the fifteenth Line of the first Page, The Words "is tried" being interlined between the thirty second and thirty third Lines of the first Page and the Word "the" being interlined between the forty third and forty fourth Lines of the second Page.

## Article VII – Constitutional Ratification

To ratify something means to formally approve it--usually through the process of voting. While the Constitution took a lot of time and compromise to create, there was no guarantee that it was going to be adopted by the states. According to the Articles of Confederation, to change the Articles, all thirteen of the states had to agree to the change. However, to help speed up the process and improve the likeliness that the Constitution would be successfully ratified, the Framers reduced the necessary number for ratification to nine. After almost an entire year, the Constitution was officially ratified with final state vote of approval coming from New Hampshire on June 21, 1788.

Order	State	Date Ratified
1	Delaware	December 7, 1787
2	Pennsylvania	December 12, 1787
3	New Jersey	December 18, 1787
4	Georgia	December 31, 1787
5	Connecticut	January 9, 1788
6	Massachusetts	February 6, 1788
7	Maryland	April 26, 1788
8	South Carolina	May 23, 1788
9	New Hampshire	June 21, 1788
10	Virginia	June 25, 1788
11	New York	July 26, 1788
12	North Carolina	November 21, 1789
13	Rhode Island	May 29, 1790



# The Bill of Rights

## QUESTIONS TO GUIDE INQUIRY

1. Why did the founders choose a Federal system?
2. What are the guiding principles of the Constitution
3. How is the Constitution formally and informally amended?
4. How has federalism changed or evolved over time?
5. How are power and responsibility distributed, shared, and limited in the government established by the U.S. Constitution?
6. How has the interpretation of the Bill of Rights evolved over time?

## Terms, People, Places

double jeopardy

self incrimination

due process

After the drafting of the Constitution had concluded, the delegates knew that ratification could prove difficult, especially since the original purpose of the convention had been to amend the Articles of Confederation--not to create an entirely new document. The Articles of Confederation required approval by Congress and confirmation by all thirteen state legislatures. The delegates knew that approval of the Constitution by Congress and all thirteen state legislatures would probably not happen; after all, Rhode Island hadn't even sent delegates to the convention. Drawing upon the premise of the social contract theory, James Madison developed the plan for ratification. The Constitution would be presented at state conventions where delegates who had been elected by popular vote could debate and approve passage of the new form of government. You've already learned a little about the Federalists and AntiFederalists in Chapter 2. To gain the votes of the Antifederalists, a bill of rights was drafted. This section outlines each of the ten amendments of The Bill of Rights, and provides important details about each one.

### Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

The first amendment establishes a protection of religious freedom in the United States, by prohibiting Congress from establishing one religion over another. The first amendment also protects freedom of speech, guarantees a free press, and protects the right to peacefully assemble.

Amendment II

A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

The interpretation of the Second Amendment has caused some controversy in America. Like any other part of the Constitution, it is open to interpretation. Much of the debate has centered upon how extensive individual rights are when it comes to owning weapons. People who have specific opinions already developed on either side of the gun debate tend to interpret the amendment to support completely opposing views.

Some would argue that this amendment guarantees individuals the right to own guns, emphasizing the second half of the amendment: “the right of the people to keep and bear arms, shall not be infringed.” This reading emphasizes that an armed people are able to maintain the “free state” by being able to challenge the government with their personally held arms. Others would point to the beginning part of the amendment which references “a well regulated militia,” suggesting that individuals only have the

Religions	Percentage of the U.S. Population that Affiliates with that Religion
Christian Denomination	70.6%
Evangelical Protestant	25.4%
Mainline Protestant	14.7%
Historically Black Protestant	6.5%
Catholic	20.8%
Mormon	1.6%
Orthodox Christian	0.5%
Jehovah’s Witness	0.8%
Other Christian	0.4%
Jewish	1.9%
Muslim	0.9%
Buddhist	0.7%
Hindu	0.7%
Other World Religions	0.3%
Unaffiliated	22.8%
Atheist	3.1%
Agnostic	4.0%
Nothing in Particular	15.8%
Don’t Know	0.6%

SIDEBAR: This chart from the Pew Research Center, created in 2014 as part of their Religious Landscape Study shows just a slice of the diverse makeup of religion in the United States:



right to own guns so far as they are part of a sort of military organization, such as the National Guard, which would then help to protect the nation during a time of foreign threat.

Regardless of which side of the debate you might tend to lean toward, in this continued debate over the extent to which the Second Amendment guarantees gun rights, what is certain is that the Founding Fathers could probably not have predicted the significant changes in weapons technology that would take place. Aside from technological changes, there have also been significant political changes that have taken place in the last two centuries. As a whole the citizenry is not as concerned as it once was with the national government constantly maintaining a standing army.

### **Applying the Right to Keep and Bear Arms**

United States v. Miller (1939) An Arkansas federal district court charged Jack Miller and Frank Layton with violating the National Firearms Act ("NFA") when they transported a double barrel 12-gauge shotgun through interstate commerce. In part, Miller and Layton argued that the NFA violated their Second Amendment right to keep and bear arms. The district court agreed and dismissed the case.

District of Columbia v. Heller (2008) Provisions of the District of Columbia Code made it illegal to carry an unregistered firearm and prohibited the registration of handguns, though the chief of

police could issue one-year licenses for handguns. The code also contained provisions that required owners of lawfully registered firearms to keep them unloaded and disassembled or bound by a trigger lock or other similar device unless the firearms were located in a place of business or being used for legal recreational activities.

Dick Anthony Heller was a D.C. special police officer who was authorized to carry a handgun while on duty. He applied for a one-year license for a handgun he wished to keep at home, but his application was denied. Heller sued the District of Columbia. He sought an injunction against the enforcement of the relevant parts of the code and argued that they violated his Second Amendment right to keep a functional firearm in his home without a license. The district court dismissed the complaint. The U.S. Court of Appeals for the District of Columbia Circuit reversed the decision and held that the Second Amendment protects the right to keep firearms in the home for the purpose of self-defense, and the District of Columbia's requirement that firearms kept in the home be nonfunctional, violated that right.

McDonald V. City of Chicago (2010) Several suits were filed against Chicago and Oak Park in Illinois challenging the gun bans in those cities after the Supreme Court issued its opinion in the District of Columbia v. Heller case. In that case, the Supreme Court held that a District of Columbia handgun ban violated the Second Amendment. The Court reasoned that the law in question

was enacted under the authority of the federal government and, thus, the Second Amendment was applicable. In the cases against the cities of Chicago and Oak Park, plaintiffs argued that the Second Amendment should also apply to the states. The district court dismissed the suits. On appeal, the U.S. Court of Appeals for the Seventh Circuit affirmed, or agreed with the district court.

#### Amendment III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

The Third Amendment has not been incorporated to the States by any Supreme Court case because it has not been a relevant issue. The protection from having to house soldiers in one's private homestead has not been legally challenged by an individual because the government hasn't effectively forced residential homesteads to take in soldiers. The addition of this amendment to the Constitution was largely a reaction to the British policies witnessed during the Revolutionary War, where British Redcoats had infiltrated a majority of each city that they occupied.

#### Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

#### Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

#### Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.



Over the past half-century, this amendment has come to be more loosely interpreted to imply that one is afforded some protection of privacy within their own home. While not entirely pertinent to modern times, some cases have used the Third Amendment to defend the right to have protections against government invasion of privacy of one's personal property.

## Amendments IV-VI

The Fourth, Fifth, and Sixth amendments deal with criminal law issues. The fourth protects individuals from illegal searches and seizure of their property and has been cited in many Supreme Court Cases--some even involving rights of students while at school. In the case, *New Jersey v. T.L.O.*, a high school student's purse was searched by a school administrator when it was suspected that she had cigarettes with her. School officials did find cigarettes but also found marijuana and a list of students who owed her money. In a juvenile court, T.L.O. argued that her Fourth Amendment rights against unreasonable searches and seizures had been violated. The court sided with the school, and T.L.O. took her case to the New Jersey Supreme Court, which later found that the search was unreasonable and the evidence could not be used. The Supreme Court overturned this decision saying the district did not violate their rights and that students did not have the same rights as adults..

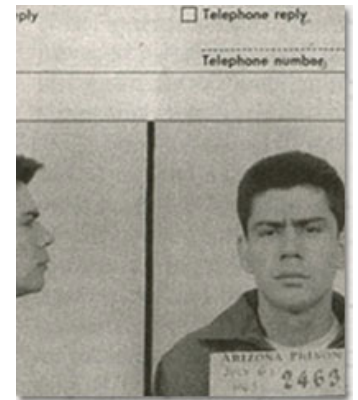
The Fifth Amendment includes several very important protections that are related to the protection of one's natural rights: the right to life, liberty and property. They include: **double jeopardy**, **self incrimination**, and **due process**.

Self-incrimination - The 5th Amendment protects you from having to self-incriminate, or admit to your own guilt. When asked questions by the government, you can remain silent, or "plead the Fifth," a reference to the Fifth

Amendment to prevent from appearing guilty. Most people can complete the Miranda Rights once they are started: "You have the right to remain silent. Anything you say will be used against you in a court of law." There is more to it than that, but the first part has to do with the Fifth Amendment protection from self-incrimination. The Miranda Rights were given their name from the case of *Miranda v. Arizona* (1965).

Double jeopardy - Once found not guilty of a crime, criminal charges for the same crime cannot be brought against you. Whether or not new evidence comes out, you are exempt from having to face the same charges again. This is only if you are found not guilty of a crime. If there is a hung jury, or you have been found guilty you may face another trial for the same crime.

## Interactive 3.3 Miranda Rights



*What are your Miranda rights and why are they called that? Learn more here!*

## Interactive 3.4 The Murder of Emmett Till



*Learn more here.*

The murder of Emmett Till by accused murderers Roy Bryant and J. W. Milam is an interesting case that establishes the extent to which one is protected from being prosecuted for the same crime twice. The following link is a magazine article showcasing an interview with Bryant and Milam discussing the murder of Till after they had been found not guilty.

A person may also be brought to trial over the same crime twice, even if found not guilty in a criminal trial. There are two major branches of law, criminal law and civil law. In a criminal case a person stands to lose their liberty, meaning they can be forced to serve jail or prison time, or perhaps be sentenced to death. Because the stakes are so high, the standard of evidence is very difficult. To convict someone in a criminal trial, they must be proven guilty “beyond a reasonable doubt.” In a civil trial the defendant only stands to lose property, so the standard of proof is much lower. To win a civil case, one must only provide a “preponderance of the evidence” suggesting that the defendant is liable for damages. Sometimes there is reason to take someone to court over civil issues related to a criminal trial. This may appear to violate the stipulations of double jeopardy, but because these legal actions are taking place in two separate branches of the law, it is Constitutional. For instance, O.J. Simpson was accused of murdering Nicole Simpson and Ronald L. Goldman in 1994, but acquitted of the crime in 1995 in a criminal trial. Despite being found not guilty, O.J. Simpson was sued in civil court for

the “wrongful death” of Nicole Simpson and Goldman, and lost the case, owing millions of dollars in punitive damages.

Due Process Clause - Due Process--two words that seem so simple, but what do they mean? Historically, due process meant that government officials must follow recognized procedures.

The Due Process Clause very clearly states that one cannot have their property taken from them, their liberty restricted, or lose their life without “due process of law.” The due process of law means that a person has been given all of their legal rights leading up the loss of any of these rights. If a person stands to lose any of these rights, they should have the right to present their side of the story with a fair trial before forfeiting their life, liberty or property.

Takings Clause and Eminent Domain - The Takings Clause gives the government the right to take your personal property so long as two requirements are met: 1) you are paid a fair amount for your property; and 2) the property is used for public use such as a school or new road. In



[https://en.wikipedia.org/wiki/Holdout\\_\(real\\_estate\)#/media/File:Edith\\_Macefield%27s\\_house.jpg](https://en.wikipedia.org/wiki/Holdout_(real_estate)#/media/File:Edith_Macefield%27s_house.jpg) This image reminiscent of the movie “Up” shows the real life house of Edith Macefield who refused to sell her home to a land developer.

Kelo v. New London Connecticut ( 2004) the Supreme Court held that taking private property to promote economic development is a “public use,” extending the meaning of public use.

The Sixth Amendment protects individual rights when a person is accused of a crime. Criminal charges are brought forward by the government. Many cases that deal with criminal charges start with the phrase, “The People” versus, or “The State” versus, because crimes are seen as an act committed against society. Even if the crime only had an individual victim, the fact that there was an innocent victim is perceived as an affront to all of society. Regardless of the crime, whether petty or more serious, when one is accused of a crime, they are to be assumed innocent until proven guilty. The Sixth Amendment lays down much of the groundwork for that assumption.

The guarantee of a “speedy and public trial,” while not very specific, is the goal of the legal system to make sure that the accused isn’t kept from going about his or her business for a long time while confronting charges in some backroom. Most people have obligations that would make a long drawn out court process painful, emotionally and financially. Taking time off work, or from taking care of a loved one, or other dependents, even for short periods of time can be very costly. Furthermore, the point of a public trial is to make sure that the general population can bear witness to the proceedings to make sure that no one is abused by the system. Recent documentaries, such as the series “Making a

Murderer,” have highlighted the importance of transparency in prosecuting the accused. It is important for us as citizens to be conscientious observers of our legal system to make sure that justice is actually being served. This is why we are also sometimes called on to serve as jurors in such trials. Jury duty may be inconvenient from a timing standpoint, but it is likely a responsibility of citizenship that you would appreciate if you were ever to be wrongfully accused of a crime.

A trial is the method by which one’s innocence was to be maintained. In the American court system there are two sides to the criminal procedure, the defense and the prosecution. It is the responsibility of the prosecutor, who represents the government bringing charges up against the defendant, to prove beyond a reasonable doubt that the accused is guilty of a crime. The defense simply attempts to maintain their innocence and establish reason to doubt their guilt. Trials also include a judge who oversees the proceedings. The role of the judge is to make sure that all parties involved in the trial are acting appropriately. The Sixth Amendment guarantees the right to arguably one of the most important elements of a trial, and that is the right to a jury. A jury is responsible for hearing the arguments and evidence brought forward by both parties, and then determining innocence or guilt on the charges against the accused. The purpose of having a jury present is to protect the average citizen from being bullied by an educated and elitist legal system. It is also imperative that the jury be impartial, meaning that jurors don’t



have any prejudices coming into the trial. As a juror, one is supposed to be a blank slate that only determines innocence or guilt after hearing all of the facts of the case. This sometimes can be an issue as cases receive attention from the media, which can influence those who watch the news. We all are also subject to our own prejudices based on our life experiences and values. This is why lawyers representing both the accused and the state are able to remove potential jurors that demonstrate biases that would undermine the fairness of the trial.

The Sixth Amendment also guarantees that one is to be informed of the charges and evidence that will be used against him or her in the trial. This is so the defense has adequate knowledge and time to prepare a strong defense without being blindsided. It also gives the defense time to challenge certain items of evidence on the grounds that the evidence might have been illegally obtained and thus should be ruled inadmissible.

The last brief clause of this amendment also guarantees legal counsel to the accused. This means that those who stand accused have the right to a lawyer, in other words, a legal defense. For a long time in the U.S., this meant that those who could afford an attorney had the right to use one. However, if one didn't have the money available to afford an attorney, they had to represent themselves in court. Representing yourself in court is a difficult feat considering the confusing jargon and procedures to which many are unfamiliar. In one of the most monumental

Supreme Court Cases, *Gideon v. Wainwright*, the extent to which an accused's right to have an attorney was challenged. Ultimately the court decided, overturning previous court decisions on the matter, to guarantee legal counsel regardless of your ability to pay. This case resulted in significant changes to the criminal court system and has caused ripples that have continued to affect the courts over half a century following the 1963 Supreme Court decision. All of these rights give the benefit of the doubt to the accused and place the burden of proof on the prosecutor's side.

#### Amendment VII

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the

The Seventh Amendment, is the section of the Bill of Rights that guarantees a jury trial for civil cases in the federal courts. However, this type of case is usually not heard anymore in the federal court system. This amendment pertains to one's rights in the civil court system, which is different from the criminal court system in that it pertains to disputes between two parties and the government is not involved as a prosecutor. The two sides in such a trial consist of: the plaintiff (the person suing for some sort of relief), and the defendant (the person being blamed for the harm). In a civil trial, one only stands to lose property, not one's life or liberty as in the criminal court system. Because the stakes

are not as high in civil courts, the standard of evidence for winning is not as high. The plaintiff must present a preponderance of the evidence to win a case against the defendant. Winning a case in civil court usually means that one is awarded money or some other type of property.

In order to sue someone in civil court, the dispute must involve an asset valued at twenty dollars or more. The fees associated with suing someone usually make it so that the amount would have to be significantly more to make it worth taking someone to court. Similarly, to the Sixth Amendment, the Seventh Amendment guarantees the right to a jury in civil cases. If a jury is not present, the trial is considered to be a bench trial where only a judge oversees the case and determines the outcome. Most of the daytime court shows like “Judge Judy” or “Judge Joe Brown,” are such examples. However, in cases where there is a lot of money or property at stake, it might be in one’s best interest to have a jury present to determine the outcome. A group of citizens might be more partial to siding with what seems socially appropriate as opposed to a single judge who might only look at the law as it is written. Juries in civil cases can also recommend the amount of damages to be awarded to either side.

#### Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Punishment and rehabilitation are a part of our justice system, but as illustrated by medieval punishments and other historical episodes, sometimes the treatment of the guilty can be barbarous. For instance, torture is something that the Constitution protects our citizens against. It’s also important that bail, or the ability to temporarily get out of jail leading up to trial, is set at an appropriate amount. Bail is typically set according to crime as well as to the likeliness of the accused to flee. The Eighth Amendment was intended to make sure that our justice system was enlightened, and found the most modern and sophisticated methods to handle the incarcerated.

Punishment and rehabilitation are a part of our justice system, but as illustrated by medieval punishments and other historical episodes, sometimes the treatment of the guilty can be barbarous. For instance, torture is a form of punishment for which the Constitution forbids. It is also important that bail, or the ability to temporarily get out of jail leading up to trial, is set at an appropriate amount. Bail is typically set according to the type of crime to which the accused is charged as well as to the likeliness of the accused to flee. The Eighth Amendment was intended to make sure that the justice system was enlightened, and found the most modern and sophisticated methods to handle those incarcerated.

Those who study the history of jails and prisons in America categorize these methods both historically and based on the treatment of inmates. There is much controversy on how the incarcerated serve their sentences. Some people believe that the criminal justice system is much too lax on prisoners, that harsher and longer sentences in more austere institutions will lower crime rates by discouraging people from committing crime in the first place. Others argue that our justice system is unfair in who it targets, and doesn't do a good enough job rehabilitating inmates so they can effectively enter society following their sentence. This debate is illustrated by the debate over the use of the death penalty, or capital punishment. The Supreme Court has made many recent changes to the legal use of the death penalty as well as the sentencing of minors to life in prison.

#### Amendment IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

The Ninth Amendment doesn't appear to explicitly protect any rights or provide for any limitations on government. When the Constitution was first being debated by the Federalists and Antifederalists, one of the arguments the Federalists made was that the Constitution should be ratified "as-is" without a Bill of Rights. They argued that by trying to list all of the rights that were to be protected some would be left out. The government

could take advantage of such an omission and abuse those rights. The Ninth Amendment was to counteract such an omission.

In today's language, the Ninth Amendment basically states that just because a specific right might not have been explicitly listed, it doesn't permit the government to take it away. This amendment, in conjunction with other amendments, has worked to further protections of privacy for citizens. Nowhere in The Bill of Rights is the "right to privacy" guaranteed. Therefore, if the national government hasn't by law granted itself the power to invade one's privacy for legal reasons, the individual citizen has a reasonable assurance to a right to privacy.

#### Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Written in the same spirit as the Ninth Amendment, the Tenth Amendment states that where there is no legal stipulation against something, the right of the states and the people to exercise that right is granted.



# Amendments 11-27

## QUESTIONS TO GUIDE INQUIRY

1. Why did the founders choose a Federal system?
2. What are the guiding principles of the Constitution
3. How is the Constitution formally and informally amended?
4. How has federalism changed or evolved over time?
5. How are power and responsibility distributed, shared, and limited in the government established by the U.S. Constitution?
6. How has the interpretation of the Bill of Rights evolved over time?

Terms, People, Places

As the Nation grew and prospered over the course of two hundred years, additional changes to the Constitution have become necessary. While over 10,000 have been proposed, the Constitution currently contains 27 amendments which include the first 10 amendments you have already read about, known as The Bill of Rights. The remaining amendments represent a mix of necessities that have occurred over time.

### AMENDMENT XI

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

The Eleventh Amendment is the first amendment to the Constitution that occurred in reaction to a Supreme Court decision. It stemmed out of a problem between a man named Alexander Chisholm and the State of Georgia. Chisholm was the executor of an estate which had not received payment for debts incurred by the State of Georgia during the Revolutionary War. The case eventually made its way to the Supreme Court where the court sided with Chisholm, requiring Georgia to pay. The Eleventh Amendment was proposed after that, and seeks to protect states from being sued by citizens of other states.

## AMENDMENT XII

The Electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate; -- the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; -- The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. [And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in case of the death or other constitutional disability of the President. --]\* The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

Imagine for a moment that you were elected President of the United States. Now imagine that you didn't have a say in who would be the Vice President. Prior to the passage of the Twelveth Amendment, that is exactly what happened. The electoral college, established by Article II of the Constitution initially selected two candidates – one for President, and the runner up for Vice President. Not surprisingly that wasn't always welcome news for either person involved. Because of this amendment to the Constitution, a Presidential candidate selects a candidate for Vice President, and the electors vote for both on the same party's ticket.

## AMENDMENT XIII

### Section 1.

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

### Section 2.

Congress shall have power to enforce this article by appropriate legislation.

One of the things that remained unresolved at the Constitutional Convention was the issue of slavery. Furthermore, because of the Tenth Amendment which addresses rights of states, an additional amendment to the Constitution was needed to resolve the long standing debate over slaves. Proposed in 1864, passed by the House in January of 1865, and ratified in December of the same year, this amendment abolished slavery across the entire United States.

## AMENDMENT XIV

### Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

### Section 2.

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age,\* and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

### Section 3.

No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

### Section 4.

The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

### Section 5.

The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.



The Fourteenth Amendment established citizenship as being anyone “born or naturalized in the United States.” It also includes a “due process” clause that has allowed the Supreme Court to apply The Bill of Rights to the states. Equal protection of the law is also established in the Fourteenth Amendment.

#### AMENDMENT XV

##### Section 1.

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude--

##### Section 2.

The Congress shall have the power to enforce this article by appropriate legislation.

The Fifteenth Amendment was the third “Reconstruction” amendment to the Constitution as it was ratified during the period of Reconstruction following the Civil War. The Fifteenth Amendment protects the right to vote for all citizens, but was specifically written to address issues African Americans faced when heading to the polls.

#### AMENDMENT XVI

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

Every year people pay taxes on the money that they make as part of a job or trade. While the amount people should pay may be contested in every political race, the Sixteenth Amendment was put into place after the Supreme Court declared federal income tax laws unconstitutional. This is another amendment that was both proposed and ratified to overturn a Supreme Court decision, authorizing an income tax specifically in the Constitution.

### AMENDMENT XVII

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

As political parties continued to grow and change, the practice of having state legislatures elect U.S. Senators was challenged and eventually overturned by the passage of the Seventeenth Amendment. This amendment makes the election of senators match the way representatives are elected to the House of Representatives--by a direct vote of the people.

### AMENDMENT XVIII

#### Section 1.

After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

#### Section 2.

The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

#### Section 3.

This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

Throughout American history, calls for the prohibition of alcohol have sounded. In 1919, an amendment officially ending the sale of alcohol in the United States was officially ratified and became the law of the land for fourteen years. The Eighteenth Amendment was repealed by the passage of the Twenty First Amendment in 1933.

## AMENDMENT XIX

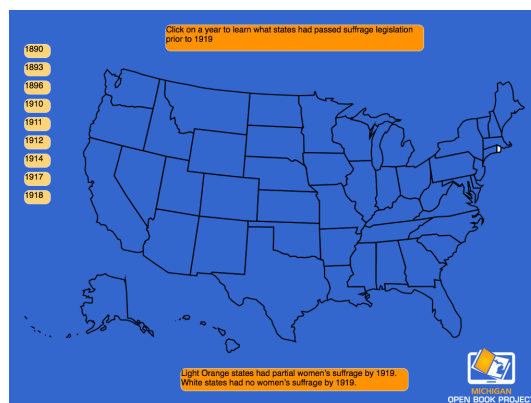
Passed by Congress June 4, 1919. Ratified August 18, 1920.

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

Nowhere in the Constitution were women forbidden from voting for public office, however – this was not a practice that was uniform among all the states. (Add voting widget in here) The Nineteenth Amendment effectively made it legal for women to vote in every state, rather than the ones that had passed laws allowing them to do so.

### Interactive 3.5 Women's Suffrage Clickable Map



*Explore when women received the right to vote prior to the passage of the 19th Amendment.*

## AMENDMENT XX

### Section 1.

The terms of the President and the Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

### Section 2.

The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

### Section 3.

If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

### Section 4.

The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

### Section 5.

Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

### Section 6.

This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.



The Twentieth Amendment limited a practice known as “Lame-Duck” and is often called the Lame Duck Amendment. It limits the period of time that lame duck members of Congress (those who had either not run for reelection or lost) stay in office after an election is held. With its passage, it moved up the date of inauguration for the office of the President, as well as the start dates for Congress. It also outlines a plan for secession should the President and/or Vice President be unable to assume their duties due to death or other reasons.

#### AMENDMENT XXI

##### Section 1.

The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

##### Section 2.

The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

When the Eighteenth Amendment passed, it became the law of the land. Defeating the ban on the sale of alcohol known as prohibition took fourteen years and a constitutional amendment. By 1933, however, times had changed; the Twenty First Amendment repealed Prohibition.

#### AMENDMENT XXII

##### Section 1.

No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

##### Section 2.

This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

Prior to the Twenty Second Amendment, there were no limits on the term of the Presidency. George Washington, our nation’s first president had set an unwritten custom of only serving two terms in office. That all changed during the 1930s and 40s, when Franklin Delano Roosevelt was elected an unprecedented four times. Following Roosevelt’s death in office in 1945 during his fourth term and a shift in political power, the Twenty Second

Amendment was proposed and passed in 1951 which limited a sitting President to two terms in office.

#### AMENDMENT XXIII

##### Section 1.

The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

##### Section 2.

The Congress shall have power to enforce this article by appropriate legislation.

Washington D.C. was initially set up as its own independent territory in order to keep the seat of the nation's power separate from the rest of the states. When it was established, there was no expressed way for people who lived there to vote. It took almost two hundred years, but in 1964, with the passage of the Twenty Third Amendment, people living in the District of Columbia were granted three votes in the electoral college.

#### AMENDMENT XXIV

##### Section 1.

The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

##### Section 2.

The Congress shall have power to enforce this article by appropriate legislation.

While the Fifteenth Amendment guaranteed citizens the right to vote in elections, there were still some practices particularly in the deep South that discouraged people, in particular – African Americans from practicing their rights. Poll taxes were sometimes charged as a way to deter voters who didn't have the financial means to pay to vote. The Twenty Fourth Amendment outlawed the practice of requiring citizens to pay a fee to vote in national elections.

## AMENDMENT XXV

### Section 1.

In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

### Section 2.

Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

### Section 3.

Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

### Section 4.

Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

The Twenty Fifth Amendment attempted to clarify language about who becomes President should the person elected be unable to complete the duties of the office. The amendment defines the order of succession; for example, if the office of the President were to become vacant, the Vice President ascends to the Presidency. The amendment also allows the President to appoint a new Vice President if that office becomes vacant, pending approval from both the Senate and the House.

## AMENDMENT XXVI

### Section 1.

The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

### Section 2.

The Congress shall have power to enforce this article by appropriate legislation.

The Twenty Sixth Amendment lowers the voting age in federal and state elections to 18, thus allowing people to vote at a younger age which was uniform from state to state.



## AMENDMENT XXVII

No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.

The Twenty Seventh Amendment was not ratified until over 200 years after it was proposed. The purpose behind it was to ensure that members of Congress can't set their own wages without a check on the system. Any change in Congressional pay cannot take place until after the next election is held – presumably giving the American people an opportunity to weigh in (via their vote) on how much that raise is deserved.

**Interactive 3.6** How a C Grade Paper led to a constitutional amendment



*Learn more about the bizarre history of the 27th Amendment with this article from Constitution Daily.*

## Chapter 4

---

# How Has the Meaning of Citizenship Changed Over Time?

---

What does it mean to be a citizen?

What changes in the laws have impacted citizenship in the United States?

What is dual citizenship?



# The Meaning of the Constitution

## QUESTIONS TO GUIDE INQUIRY

1. What does it mean to be a citizen?
2. What changes in the laws have impacted citizenship in the United States?
3. How has citizenship been expanded to include more groups of Americans than ever before?

### Terms, Cases, and People:

citizen  
Dred Scott v. Sandford  
dual citizenship  
Fourteenth Amendment  
Indian Citizenship Act  
jus soli  
jus sanguines  
permanent resident  
undocumented immigrant



Kofi Annan once remarked, "No one is born a good citizen; no nation is born a democracy. Rather, both are processes that continue to evolve over a lifetime..."

As you learned in the beginning chapters, the Framers' ideas about government were influenced by their study of history, political philosophy and their own experiences. The concept of **citizenship** was not a new one in the United States.

In the ancient city-state of Athens, citizenship was granted to property owning men of certain classes and even freed slaves. While women, slaves and some foreigners were protected under the law, they did not enjoy the rights of those granted full citizenship. Check out this video about Athenian citizenship.

Citizenship was also important in ancient Rome, where almost all men, except slaves, were considered citizens and participated actively in their government...at least until the fall of Rome.

Unlike Athenians, American citizens have the right to determine

### **Interactive 4.1** Athenian Citizenship



*Learn more about citizenship in Athens in this video. (Requires internet connection)*



what role, if any, they will play in our political process. But what exactly does it mean to be a citizen in the United States? Why is citizenship so important to the American political tradition? How has the meaning of citizenship evolved in the United States?

A citizen is someone who is entitled to the legal rights granted by a state, and who is obligated to obey its laws and to fulfill certain duties. Living in the United States does not mean that someone is automatically a citizen. Permanent residents, people who have been lawfully admitted to the United States, are also granted certain legal rights and protections even if they are not citizens. For example, residents can live and work anywhere in the United States, attend public schools, join our armed forces and can also qualify for some Social Security benefits as well.

Typically, people who are granted permanent resident status are immigrants who are related by birth or marriage to U.S. citizens or possess important job skills needed in the United States. Unlike citizens, permanent residents may not be able to hold public office or vote in elections. Why should someone consider becoming a citizen if they are not? Check out a list of all of the privileges of citizenship in the United States.

#### **Interactive 4.2** Roman Citizenship



*Learn more about Roman Citizenship at this website.*

Except for voting or holding public office, permanent residents in the United States enjoy all the rights of American citizens. Residents were guaranteed constitutional rights under the due process and equal protection clauses of the Fourteenth Amendment, because these two key provisions apply not only to citizens, but to all persons. In fact, in *Yick Ho v. Hopkins*, a unanimous Court held that equal protection clause did apply to resident aliens.

Undocumented immigrants, those who do not have legal status to live or work in the United States, currently number about 11.5 million people and have ignited public debate about immigration reform in the United States. These immigrants still have legal responsibilities, such as obeying the law and paying taxes and males still need to register for military service. In 2014, thousands of unaccompanied minors fled Central America, crossing over into the United States. Find out more about why children were making this difficult journey on their own by watching this

#### **Interactive 4.3** Citizenship



*Check out a list of all the privileges of citizenship in the United States.*

#### **Interactive 4.4** Voice of America



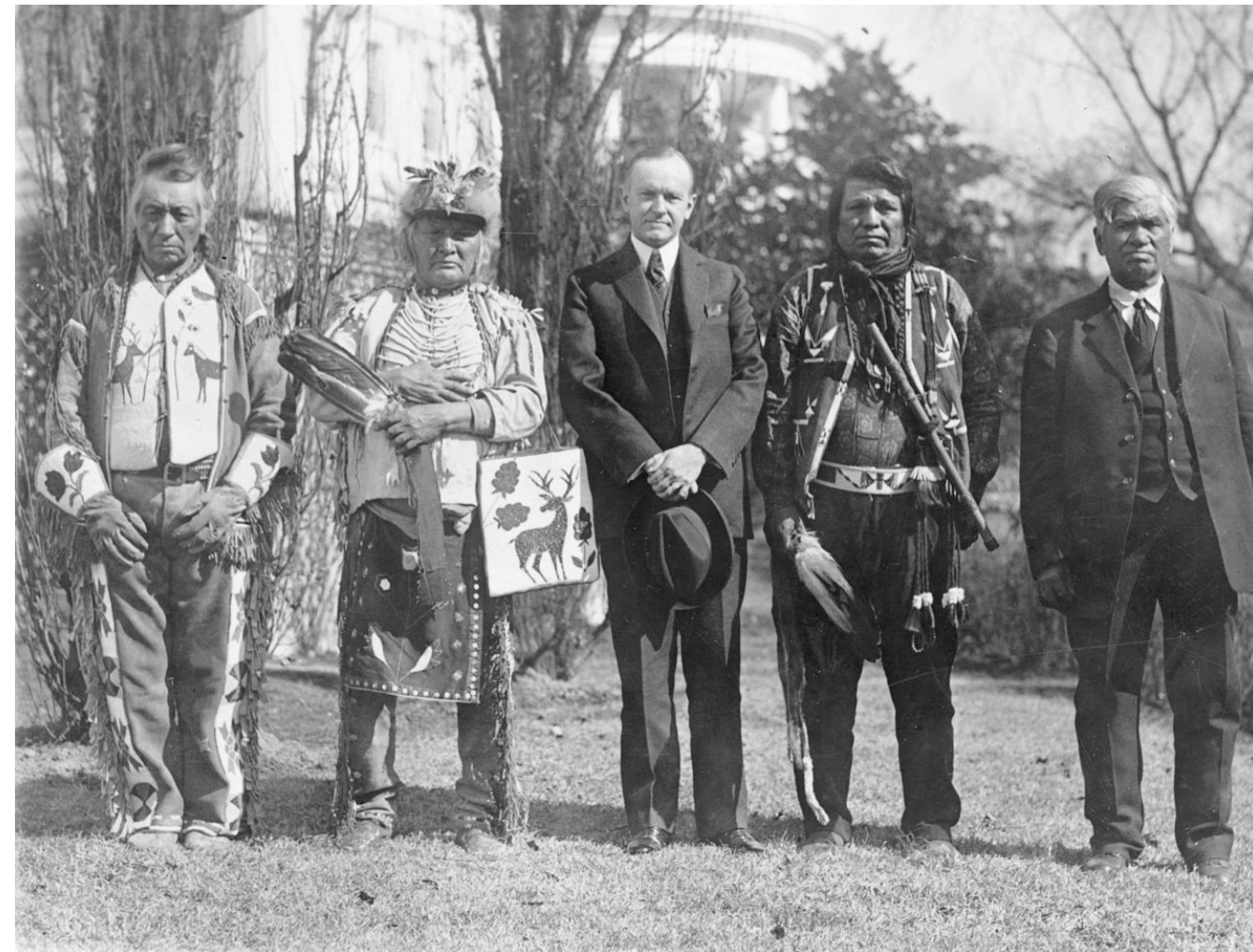
*Find out more about why children were willing to make this difficult journey on their own by watching this video.*

video. As a result, President Obama approved a plan to allow these children to apply for refugee status requiring that undocumented children must receive a court hearing before being deported.

While the United States' Constitution included phrases regarding "citizens of the State" and a "citizen of the United States" when drafted in 1787, it did not define what a citizen is or what citizenship would mean. The delegates at the Constitutional Convention could not agree on the definition of national citizenship, because they would have had to determine whether slaves and free African-Americans were citizens of the United States. So, the definition of national citizenship was to be decided not by the national government, but by the states.

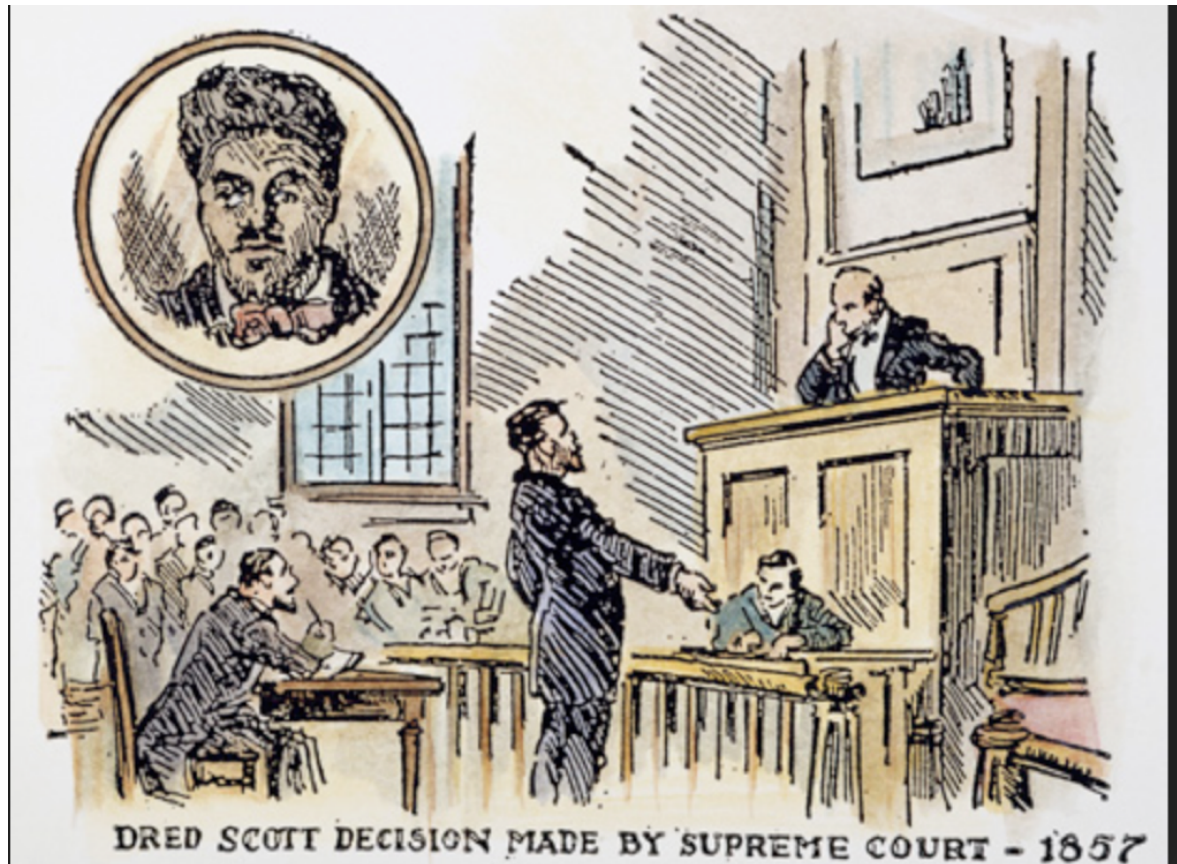
In the time between the American Revolution and the writing of the Constitution, some states required property ownership or religious qualifications for citizenship. Most states also passed residency requirements while some only allowed "free whites" to become citizens. Native Americans were not recognized as citizens, but rather wards of the government until the Indian Citizenship Act was passed in 1924. This law granted Native Americans citizenship to both the United States and to the states where they lived; however, most were still denied the right to vote by many state laws until 1957. For example, Arizona denied tribal members the right to vote because they argued that they were "wards of the government," and Utah denied voting rights

because they claimed that tribal members were only residents of their own nations and not residents of the State of Utah.



As early as 1850, the Michigan Constitution contained provisions that would allow tribal members to become citizens of the State of Michigan as long as they could demonstrate they were "civilized." Regrettably, it was still easy to exclude Native Americans from state citizenship, because the criteria was still discriminatory.





The national government's first real test regarding citizenship came in 1857. In *Dred Scott v. Sandford*, Scott, an enslaved African American born in Virginia, was declared not to be a citizen and therefore could not sue for his freedom in federal court. Chief Justice Roger Taney argued that the Framers never meant to include slaves under the protections of the Constitution.

Not until the passage of the Fourteenth Amendment in 1868 would the Constitution define national citizenship. Written by Senator Jacob M. Howard from Michigan, Section 1 states: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." The citizenship clause provides

for two types of citizenship: national and state.

The Fourteenth Amendment is based on the concept of **jus soli**, a Latin term meaning "law of the soil" or "right of birthplace." This idea means that any child born in the United States, no matter the citizenship status of his or her parents, is a citizen of the United States. Since Congress was granted the delegated power "to establish a uniform rule of naturalization" in Article I, Section 8, Clause 4, Congress has also passed laws that U.S. territories, such as Puerto Rico and the Virgin Islands, are also considered part of U.S. soil. Children born of foreign diplomats living in the United States are excluded from citizenship, because they are "not subject to the jurisdiction of the United States" as stated in the Fourteenth Amendment. They can be considered permanent residents.

**Interactive 4.5** Study.Com  
- Dred Scott



*For a more in depth overview of the facts related to this case watch this video.*





The United States is not the only nation that gives citizenship to people simply by being born on the nation's soil.

Citizenship in the United States is also determined by the concept of jus sanguinis - "law of the blood" which means that a child inherits the citizenship of its parents. In 1898, in *United States v. Wong Kim Ark* the Supreme Court was asked to determine whether a child born in the United States to parents of Chinese descent was a U.S. citizen by birth. The court ruled that the government cannot deny citizenship to anyone born within the United States, including Wong Kim Ark.

Still, the Fourteenth Amendment does not define all of the details regarding citizenship in the United States. Congress has passed additional laws clarifying birthright citizenship in Title 8 of the U.S. Code.

#### **Interactive 4.6** Citizenship Rights Around the World



*The United States is not the only nation that gives citizenship to people simply by being born on the nation's soil. Check out this interactive map to see what other countries also confer birthright citizenship:*

#### **Interactive 4.7** Supreme Court Cases



*Learn about other Supreme Court cases that have ruled on issues regarding citizenship by clicking here to see cases ranging from 1875 to 2008.*

#### **Interactive 4.8** Ways to Become a Citizen



*Read this to learn more about the various ways a person can be born a citizen.*



Although the law seems simple, it can get complicated. Senator Ted Cruz, a candidate who sought the Republican Presidential nomination, faced criticisms about whether he would meet the Constitutional requirement of being a "natural-born" citizen to qualify as President of the United States if elected to office.

Although Senator Ted Cruz renounced his Canadian citizenship, **dual citizenship** is possible. It means that someone may be a citizen of two or more countries. The following countries permit dual citizenship: Canada, France, Mexico, Australia and the United Kingdom to name a few. Japan requires that a Japanese national holding dual nationality to choose when they turn twenty years old. Germany and India do not permit dual citizenship.

Check out the following regional maps to see which countries around the world allow dual citizenship.

At one time the United States banned dual citizenship until the ban was struck down by the Supreme Court in 1967.

So, let us move on to learn how people become citizens if they are not born in the United States or are not granted automatic citizenship through their parents.

### Interactive 4.9 Dual Citizenship Around the World



Infographic courtesy of MoveHub. <http://www.movehub.com/blog/dual-citizenship-around-the-world-map>

*View this interactive infographic to learn more about dual citizenship around the world.*

# Becoming a Citizen of the United States

## QUESTIONS TO GUIDE INQUIRY

1. How does someone become a citizen in the United States?
2. What requirements must be met to become a citizen?
3. Should the naturalization process be changed?
4. Can citizenship be taken away?

## TERMS, PLACES, PEOPLE

naturalization

Naturalization Act of 1790

Alien and Sedition Acts

denaturalization

expatriation

green card

Oath of Allegiance

If you have always lived in the United States, you might not have thought about what it would be like to come here as an immigrant and navigate the path to citizenship.

To get a feel for how young immigrants might feel about coming here, visit this site. Read the stories of these young immigrants and watch their videos to hear firsthand about how they feel about being here in the United States. What new understandings might you have after hearing their stories?

Let's bring this closer to home. Who is coming to Michigan? Open this link, click on Michigan and look at the immigration data for our own state.

The goal in this section will help you gain a greater understanding of how people become citizens of the United States, the criteria they must meet to apply for citizenship and how citizenship might be taken away.

Congress passed its first rule for **naturalization** in the Naturalization Act of 1790. This rule simply stated that "free white persons" living in the United States for two

**Interactive 4.11** Meet Young Immigrants - Scholastic.com



**Interactive 4.10** State Migration Policies



*Let's bring this closer to home. Who is coming to Michigan? Open this link, click on Michigan and look at the immigration data for our own state.*



years could be granted citizenship as long as they exhibited good moral character and swore allegiance to the Constitution.

Five years later, Congress changed the rule to increase residency to five years, and tweaked the wording to read that the person applying must be “attached to the principles of the Constitution...”, and renounce all allegiance to any foreign nation.

Naturalization laws became stricter in 1798. The Alien and Sedition Acts declared that noncitizens had to reside in the United States for at least fourteen years to qualify for naturalization and even authorized the President to deport noncitizens who were citizens of foreign countries with which the United States was at war. Eventually, the 14-year residency requirement was dropped to five years where it has remained. Recent changes in the laws now make it easier for non-citizens serving in the military to become naturalized citizens.

For a more complete timeline of the different laws regarding naturalization and immigration from 1790 to the 21st century, check out this resource by the Migration Policy Institute.

Today, most foreign citizens become citizens of the United States by making their way through the multi-step naturalization process. Let’s examine the criteria that a noncitizen must meet before they even can apply for naturalization. An applicant must meet all of the following criteria:

- Be at least 18 years of age;
- Be a lawful permanent resident (green card holder);
- Have resided in the United States as a lawful permanent resident for at least five years;
- Have been physically present in the United States for at least 30 months;
- Be a person of good moral character;
- Be able to speak, read, write and understand the English language;
- Have knowledge of U.S. government and history; and
- Be willing and able to take the *Oath of Allegiance*.

#### **Interactive 4.12** Major US Immigration Laws, 1790-Present



*For a more complete timeline of the different laws regarding naturalization and immigration from 1790 to the 21st century, check out this resource by the Migration Policy Institute.*

In the previous section, you learned that a permanent resident is someone who is lawfully in the United States and has applied for this status. No person can qualify for naturalization unless they hold permanent resident status and possess a green card: a legal document showing a permanent resident has the right to live and work legally in the U.S.

After reviewing the criteria for

naturalization, do you think any of the criteria should be changed? Why or why not?



**Interactive 4.13**  
Immigration Nation



*To learn more about the different ways that people can legally reside in the United States, play the interactive game Immigrant Nation created by ICivics here. (NOTE: Requires Flash)*

**Interactive 4.14**  
Immigration Nation



*To learn more about the different ways that people can legally reside in the United States, play the interactive game Immigrant Nation created by ICivics here. (NOTE: Requires Flash)*

Once a person meets the above criteria they can formally apply for naturalization by filling out the 21-page application from the USCIS, the N-400 form. Take a look at the form and pay attention to what needs to be completed. What information must someone share to apply for citizenship?

With the application, an applicant must pay a \$700.00 filing fee.

To help non-citizens through the naturalization process, the USCIS has produced a video. Watch the video to learn about the entire process.

As you learned in the video, part of the process includes an interview. During the interview, officials need to determine that the applicant can read, write and speak English. This is also the time when the applicant for citizenship takes the Citizenship Test demonstrating their knowledge of U.S. government and history. The USCIS officer can ask up to 10 questions from a list of 100 questions. To pass the exam, 6 of the 10 must be answered correctly.

**Interactive 4.15** N-400 Form



**Interactive 4.16** Becoming a US Citizen - A Video Overview from USCIS





A 2012 survey by Xavier University concluded that only one-third of Americans could pass the civics portion of the U.S. citizenship test, while the immigrant pass rate is 97.5%.



The Oath of Allegiance is as follows:

"I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the

United States when required by the law; that I will perform noncombatant service in the Armed Forces of the United States when required by the law; that I will perform work of national importance under civilian direction when required by the law; and that I take this obligation freely, without any mental reservation or purpose of evasion; so help me God."

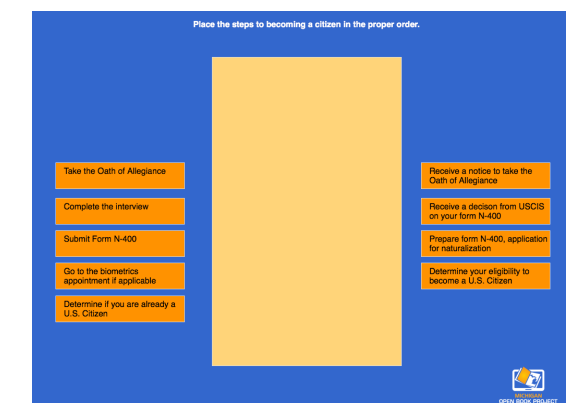
Some argue that the wording of the Oath should be changed while others believe that all Americans should be required to take the Oath of Allegiance when they register to vote. Would you support any of these changes? Why or why not?

Here's the 10-Step process. Pretend you have to go through the naturalization process. Put the following 10 steps in the correct order so that you can become a naturalized citizen.

Once you are a citizen- either through birthright or through naturalization - it is something that is guaranteed. Chief Justice Earl Warren, writing in a dissenting opinion in 1958, stated:

"Citizenship is man's basic right, for it is nothing less than the right to have rights" and that "a government of the people cannot

### Interactive 4.17 Becoming a Citizen



*Place the steps in the correct order.*



take away their citizenship simply because one branch of that government can be said to have a conceivably rational basis for wanting to do so.” (Perez v. Brownell). In other words, he reminds us that citizenship status is so important that government must not be able to strip people of their citizenship without good reason.

A person can, however, lose their citizenship status. How? Government can denaturalize, or revoke, a person’s citizenship if they commit certain actions. A person can also voluntarily give up their American citizenship if they do one of the following actions:

1. Become a naturalized citizen in another country
2. Take an oath of allegiance for another country
3. Serve in the armed forces of another country that is at war with the United States
4. Accept a job with a foreign government if (a) one has the nationality of that foreign state or (b) a declaration of allegiance is required in accepting the position;
5. Formally renounce U.S. citizenship
6. Be convicted of an act of treason.

Giving up American citizenship is a very serious thing to do and once you do it, you won’t get it back. Congress passed a law in

1868 that provided Americans with the right to voluntarily give up their citizenship. This process is called **expatriation**.

In 2015, the United States saw a record number of people who renounced their American citizenship. Can you think of reasons why someone might be willing to renounce their citizenship?

Citizenship can also be revoked if a naturalized citizen commits fraud or misrepresents facts during the naturalization process. In these instances, people are guaranteed due process rights and a federal court must determine if a violation of the law has occurred. Read this story about Grace Li whose citizenship was revoked in 2014.

Now that you understand how one becomes a citizen, there are important rights and responsibilities that come with citizenship. You will find out what those are in the next section.

## **Interactive 4.18** Relinquished Nationality



*Check out the list of Americans who have renounced their citizenship. What trends, if any, do you see when you look at Americans who have given up their American citizenship?*

## Section 3

# Rights and Responsibilities of Citizenship

### QUESTIONS TO GUIDE INQUIRY

1. What are the personal, political, and economic rights of citizens in the United States?
2. What are the responsibilities connected with citizenship? Why are they important?

### TERMS, PLACES, PEOPLE

Buckley v. Valeo (1976)

Inalienable rights

Personal rights

Political rights

Economic rights

Positive rights

Negative rights

Texas v. Johnson (1989)

Universal Declaration of Human Rights

West Virginia v. Barnette (1943)

Personal responsibilities

Civic responsibilities

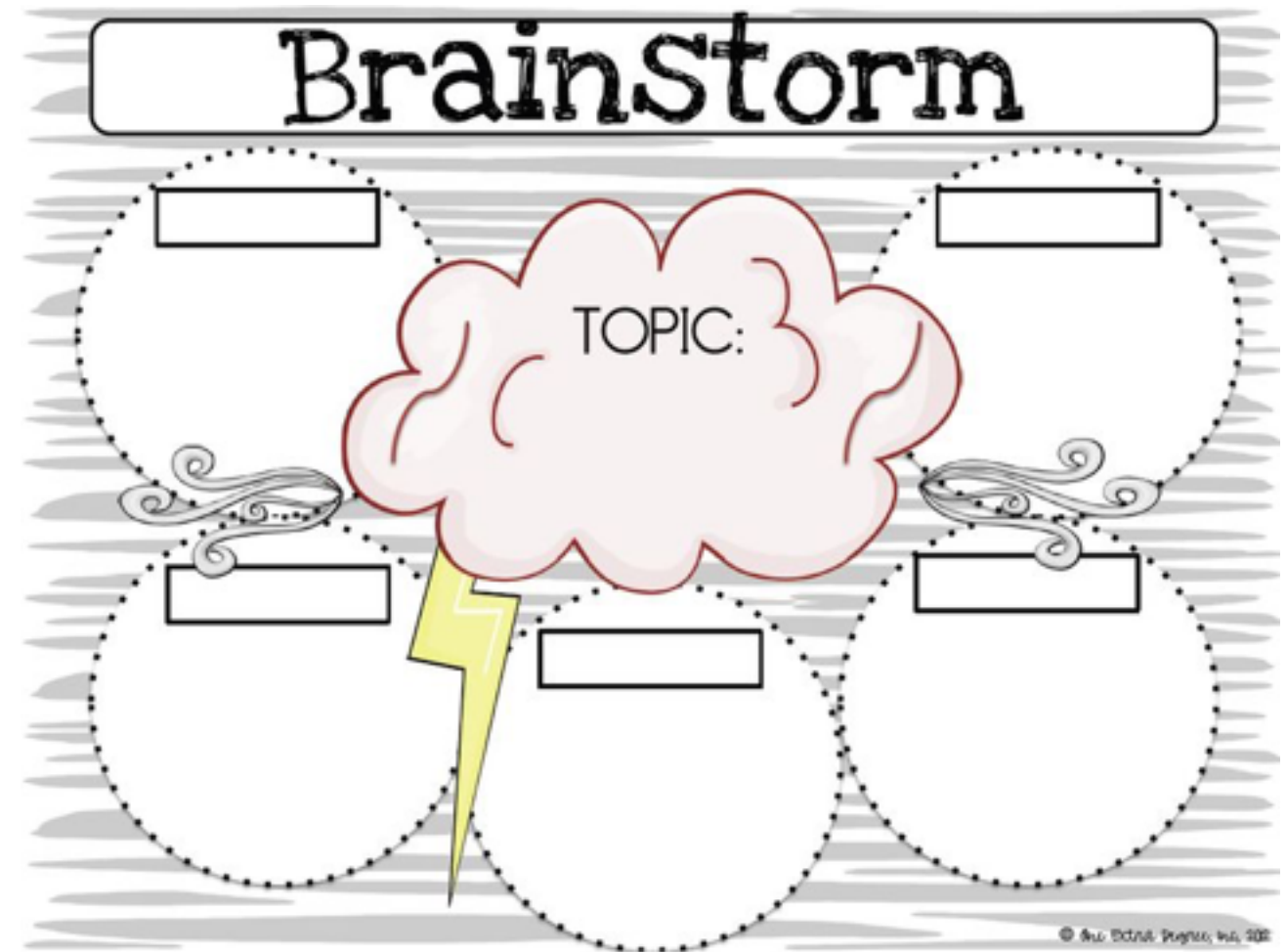


“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.”

These iconic words, expressed in the Declaration of Independence and influenced by natural rights philosopher, John Locke, remind us of the social contract that people have with their government. It is government's duty to secure rights, and if it fails, then "...it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security." You learned that the rights listed in the excerpt above are considered inalienable rights - rights that you are inherently born with and cannot be given up or taken away.

It is essential today for citizens to understand their specific rights in order not only to benefit from exercising those rights, but also to recognize and to resist when those rights might be infringed upon by government at all levels. Additionally, it is also important for us to understand that there is a relationship between both rights and responsibilities. How can we have the right to a trial by jury if we don't meet our obligation and serve on a jury when that jury summons comes in the mail?

In this section we will explore not only the types of rights that Americans possess, but the different obligations and responsibilities that come with these rights.



Before we begin, take a moment and brainstorm a list of all of the rights that you believe people have in the United States today.

How might these rights be categorized or grouped together? Are some rights more important than others? Where do these rights come from? Which of these rights, if any, are protected in the U.S. Constitution? The Michigan Constitution?



In order for American constitutional democracy to work, citizens must have an understanding of the origin and evolution of our rights if we are expected to continue to make sure our rights are protected. But, the idea of rights can mean different things. This section traces the different types of rights that exist and how they might apply to your life right now.

Back in Chapter Two you were introduced to some documents that were created to try to prevent the abuse of power on government's part and to protect the rights of people. Both the Magna Carta (1215) and the English Bill of Rights (1689) are examples of documents that listed specific rights of individuals and groups that were to be recognized by government leaders. Need a refresher? Watch this video on the Magna Carta.

#### **Interactive 4.19** The Magna Carta



*Need a refresher? Watch this video on the Magna Carta.*

Once the American colonies issued the Declaration of Independence, these new states also wrote their own constitutions. Almost all of the states began their constitutions with bills or declarations of rights. They felt that the guarantee of rights was so important that they put them at the front of their constitutions. Take some time now and visit this interactive chart.

Roll your mouse over the different state documents. You will then see which specific rights were listed in each state's declaration of rights.

One way of looking at rights is through the lens of whether a right can be classified as a negative right or a positive right. Negative rights can be described as rights that expressly limit the power of government. They tell government what they cannot do to limit people's rights. The rights found in Magna Carta and in our Bill of Rights, are, for the most part, negative rights. They restrict government action instead of encouraging it. Where there is wording that says, "Congress cannot..." that's a good indication that it is a negative right. For example, Congress cannot make a law to establish religion as written in the First Amendment.

On the other hand, positive rights are rights that require government to do something - to take positive action to guarantee rights. Rather than restricting government from doing something, positive rights require government to do something.

The Fourth Amendment requires government to protect us from unlawful searches and seizures by requiring government officials to have valid warrants based on probable cause. Positive rights can also go beyond requiring government to take steps to protect our rights, but also take positive action to help promote the

#### **Interactive 4.20** Declaration Interactive



wellbeing of its people. Unlike the earlier documents, the Universal Declaration of Human Rights contains examples of positive rights, such as the right to marry or the right to an education.

In 2012, U.S. Supreme Court Justice Ruth Bader Ginsburg went to Egypt on a trip and was interviewed about whether Egypt should use the U.S. Constitution as a model to develop their new Constitution. Her response, which caused some controversy, was that a better document to look to might be the South African Constitution because it was ...”a deliberate attempt to have a fundamental instrument of government that embraced basic human rights,...” She claimed that South Africa had included positive rights, such as freedom from discrimination - rights that the U.S. Constitution had not included.

Another way to categorize rights focuses on their types.

The first type of rights are often described as personal rights.

Personal rights, generally, are those rights that allow a person to choose to do what he or she wants as long as it does not infringe on the rights of others. These rights are usually within our private

realm where government should not intrude. Revisit your list from earlier in this section. Which rights would you consider personal rights?

The most commonly acknowledged personal rights include rights such as freedom of belief and conscience, right to privacy, the right to live where you want, and the right to travel where you want. They also include freedom to associate, or hang out, with whomever you choose. You can choose your friends without government

officials interfering with your choices.

In other words, these rights can be summarized as the right to be let alone.

An example of the Court protecting students’ rights to believe what they

want can be seen in the case *West Virginia v. Barnette* (1943).

The West Virginia State Board of Education passed a policy that required teachers and students to salute the flag, and if they did not, they could be deemed “insubordinate” and punished. The Supreme Court struck down the policy and decided that requiring

#### Interactive 4.21 Positive and Negative Rights

The diagram is a blue rectangle divided into two yellow boxes. The left box is titled 'Positive Rights (Drag all here)' and contains four orange text boxes: 'The people shall have the right to freely assemble together.', 'No soldier shall, in time of peace, be quartered in any house without the consent of the owner.', 'No one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.', and 'Every person has a right to bear arms for the defense of himself and their state.' The right box is titled 'Negative Rights (Drag all here)' and contains four orange text boxes: 'Everyone has the right to rest and leisure, including the reasonable limitation of working hours.', 'Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.', 'No one shall be subjected to arbitrary arrest, detention, or exile.', and 'Everyone has the right to leave any country, including his own and return to his country.' At the bottom right of the diagram is a small logo for 'OPEN BOOK PROJECT'.

*Can you tell the difference?*



students and teachers to recite the Pledge of Allegiance was unconstitutional. The Court claimed that government could not “force citizens to confess by word or act their faith in matters of opinion.”

Political rights, or those rights that guarantee our freedom to engage in the political process in the United States, are also important to our understanding of rights in the United States.

Without these rights, we would not be allowed to participate in our representative democracy. Some political rights include:

- Freedom to vote
- Freedom to exercise political speech and attend rallies
- Freedom to run for public office
- Right to petition government
- Freedom to support political candidates



The United States Supreme Court has decided cases clarifying our political rights. For example, in *Texas v. Johnson* (1989) the Court ruled that Mr. Johnson’s burning of the American flag was considered a form of political expression and protest and was protected under the First Amendment - even if the audience disagreed with the message Mr. Johnson was portraying.

Another way in which the Supreme Court has protected our political rights is by ruling on issues related to campaigns. In 1976 in *Buckley v. Valeo*, the Supreme Court said that government did not have the right to determine how much money someone running for political office could spend on their own campaign. Restricting someone’s ability to spend money was considered a violation of their freedom of speech rights under the First Amendment.

The last category of rights are economic rights. Economic rights are enshrined in our American political culture. The Fifth Amendment’s provision - “No person shall...be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation” - shows how important our economic rights are to our liberty in the United States.

Economic rights include the right of people to buy property and sell property, and use their private property as they see fit without unreasonable government interference. People also have the right to seek a job where they please and to change jobs if they



want. Also, people have the right to join labor unions if they choose, and can enter into contracts with others.

State and federal governments have passed laws that protect people's intellectual property, such as copyrights and patents.

When we illegally download music, movies or video games, we are hurting the economic rights of those who created these products. The Supreme Court in *MGM Studios v. Grokster* (2005) ruled that companies that distributed file-sharing software allowing others to infringe on copyright could be held liable.

Generally, we have the right to participate in any lawful economic activity without government restriction. However, some believe that the government should take a more active role in promoting economic equality in the U.S. Congress passed the Equal Pay Act of 1963 (EPA) to try to erase wage disparities based on gender. The EPA provides that the employer may not pay lower wages to employees of one gender than it pays to employees of the other gender, employees within the same establishment for equal work at jobs that require equal skill, effort, and responsibility, and that are performed under similar working conditions. Fifty-three years later, a woman still makes 79 cents for every dollar made by a man. Should government take more action to ensure equal pay? Should equal pay be considered an economic right?

President Barack Obama signed into law on January 29, 2009 the Lilly Ledbetter Fair Pay Act, which extended the amount of time



that people could bring a lawsuit against an employer for employment discrimination in compensation. This law is also another example of checks and balances in action since this presidential action overturned a 2007 Supreme Court ruling in *Ledbetter v. Goodyear Tire and Rubber Company* which put strict time restrictions on filing complaints for persons who might have suffered pay discrimination in the workplace.

Now that you have a better understanding of the different kinds of rights, we will explore the responsibilities that come with citizenship. As citizens, we cannot simply focus on our rights without recognizing that there are certain obligations that accompany our rights.

Influenced by philosophers such as Montesquieu and Rousseau, the Founders emphasized the idea that citizens need to contribute to the society and exercise civic virtue. To the Founding generation, becoming an American was primarily a matter of allegiance to the political ideas of the nation. Good citizenship implied a moral responsibility for good conduct and an acceptance of the nation's political principles. This is our implicit consent to the social contract; there are times when we need to set aside our own personal interests to exercise our obligations as citizens.

Citizens have both personal and civic responsibilities. Personal responsibilities can generally be described as those obligations that a person assumes for themselves - taking on responsibilities based on the choices we make in life. These are obligations we make to ourselves and our families. Here are some examples of personal responsibilities:

- Taking care of oneself
- Accepting the consequences of one's decisions and actions
- Acting on moral principles
- Considering the rights of others
- Behaving in a civil manner

- Supporting one's family

On the other hand, civic responsibilities are those duties that each person has to society. They are the responsibilities of being a good citizen. Here are some examples:

- Obeying the law
- Paying taxes
- Respecting the rights of others
- Being informed & paying attention to issues
- Monitoring political leaders
- Deciding whether and how to vote
- Participating in civic groups
- Serving as a juror
- Serving in the Armed Forces

Are these responsibilities legal or moral? Some of them are required by law, or statute, while others might simply be considered moral duties that good citizens should practice.

While many countries, such as Israel, Italy, Russia, and Finland, require some of their citizens to participate in military service, the United States does not require military service unless during a military draft. However, all males in the United States are legally required to register for selective service as dictated by the Selective Service Act when they turn 18 years old. Visit the Selective Service System's website to find out more about this law and how you (if you are male) register for Selective Service.

This may soon include females as well. In April 2016, the House Armed Services Committee approved an annual defense bill that included a provision requiring women to also register with Selective Service.

Some nations, such as Australia and Belgium, legally require all citizens to vote, but there is no legal requirement to vote in the United States. Since we have the right to vote, however, it is our responsibility to vote intelligently, informing ourselves of the issues and candidates. Thomas Jefferson once wrote that "information was the currency of democracy," and without information, we cannot cast a thoughtful ballot. Jefferson was also a strong proponent of a public education system so people could become an informed electorate.

Some of the responsibilities listed above do not only apply to those who are legal citizens, but also are required of all people who live in the United States. For example, a person must be a citizen to participate on a jury in the United States. However, if a

noncitizen is summoned for jury duty, the person is still required to appear to the court to explain his or her citizenship status or risk facing penalties that might include deportation out of the United States.

Many claim that for our representative democracy to survive and thrive, citizens must understand the system and find their place in it. However, sometimes, these personal and civic responsibilities can conflict with each other. One example is jury duty. While a person is legally required to report for jury duty, doing so might interfere with his or her ability to go to work and make money to provide for his or her family.

Review the two types of responsibilities above. Write about a situation or scenario that illustrates how these two types of responsibilities might come into conflict with each other.



# THE DIVERSITY OF YOUTH ENGAGEMENT

## Section 4

Despite references to a single “youth vote,” CIRCLE’s analysis of American youth reveals diverse backgrounds and experiences, leading to a variety of forms and levels of political engagement. This infographic explores the results of a cluster analysis of American youth in 2008 and 2010. Graphs show each cluster’s level of engagement across five forms of participation.

# Participating in Civic Life

VOTED

VOLUNTEER

DONATE

DISCUSS POLITICS

COMMUNICATE VIA  
INTERNET OFTEN

## QUESTIONS TO GUIDE INQUIRY

1. Does constitutional democracy require citizen participation?
2. What are the different ways people can participate in civic life?
3. Are all forms of participation effective?

## TERMS, PLACES, PEOPLE

Civic virtue

Common good

Civic engagement

Civil disobedience

Social capital

Former U.S. Ambassador to the United Kingdom, Walter Annenberg, once remarked that “citizenship is every person’s highest calling.” Americans have a right to determine what level of involvement, if any, they want to play in the political processes in their communities, states and national governments.

In Chapter Two, you explored various civil rights movements to extend the rights of various groups, such as women, Native Americans, and African Americans. You were asked to consider how well America is living up to the ideals and principles established at the nation’s founding. Now, it is time to consider the different ways that people might participate in the American experiment of self-government. So why ARE some people more involved than others in participating in civic life? How might people participate and are some forms of participation more effective than others?

## Interactive 4.22 The 10 Commandments of Citizenship



*Let’s begin by listening to this podcast by former U.S. House of Representatives member Lee Hamilton. In 2008, he shared what he calls The Ten Commandments of Citizenship.*

Hamilton insists that for any real change to occur in government it must begin with us, and that being a responsible citizen takes commitment on our part to be civically engaged.



Many people who hear terms like civic engagement or civic duty, think of voting. Many teenagers express that they do not believe they

can make any difference in their communities, state or nation, because they are simply too young to vote. This, however, could not be further from the truth. Civic engagement refers to the ways in which people participate in the life of their communities or improve the conditions and quality of life for others using political and non-political processes. Given this definition, anyone - no matter their age- can join groups to make their community a better place.

Americans have a rich history of being involved and working with others to improve their society. Classical republicanism emphasized people exhibiting **civic virtue**, or putting aside their

own personal interests to work toward the common good. French historian Alexis de Tocqueville visited the United States in the 1830s and was impressed that Americans formed voluntary associations to solve community problems and take care of one another.

In his book, *Democracy in America*, he described how freedom of association helped Americans to organize themselves into groups to address concerns rather than relying on the government to solve problems. He observed that Americans were “public spirited” and aware they were responsible for helping to achieve the common good.



#### Interactive 4.24 Tocqueville



*Want to retrace his journey across America? Go [here](#) and follow the CPAN School Bus that stopped at the same locations he did to explore issues he raised.*

#### Interactive 4.23 The Common Good



*To review the philosophical origins of the concept of common good, [click here](#).*

## Interactive 4.25 Reflection



*What do you decide?*

Many Americans are actively engaged in civic life by belonging to various groups and organizations in their communities. Look at the table to see the different types of groups people can join that contribute to civic engagement:

<b>Service &amp; business organizations</b>	<ul style="list-style-type: none"><li>• Address a variety of interests from business networking to community service</li><li>• Ex: Rotary, Lions Club, Kiwanis</li></ul>
<b>Religious organizations</b>	<ul style="list-style-type: none"><li>• Churches are involved in various community service, such as caring for the sick, elderly or poor. Many sponsor youth activities and advance civil rights in the U.S.</li><li>• Ex: Catholic Charities, Habitat for Humanity, mission trips</li></ul>
<b>Social organizations</b>	<ul style="list-style-type: none"><li>• Primarily provide opportunities to socialize with others and to assist one another. Many perform community service activities, such as athletic events for youth, offering scholarships to students in need.</li><li>• Ex: Boy/Girl Scouts, sports clubs, book clubs, Little League, 4H Clubs</li></ul>
<b>Nongovernmental organizations (NGOs)</b>	<ul style="list-style-type: none"><li>• Nonprofit organizations that depend on volunteer service to address issues of concerns to their members. These groups also influence policy making through lobbying and public education</li><li>• Ex: Amnesty International, Mothers Against Drunk Drivers, Athletes for Peace</li></ul>

Joining organizations allows people to work together toward a common goal, which helps them to become attached to their communities and more politically engaged. In 2000, Robert Putnam, a professor at Harvard University, wrote a book *Bowling Alone: The Collapse and Revival of the American Community*, documenting how much more disconnected people are becoming. He found in his research that people are less apt to join community organizations, engage with their neighbors and even sign fewer petitions. He contends that this decline in social capital is damaging our communities.

Beyond belonging to different organizations, there are many ways citizens can participate in their local, state and national governments. Individuals may formally participate by voting for

Here is a list of some of the ways that people can participate in civic life:

- Writing, circulating or signing a petition
- Writing letters or sending emails to elected representatives
- Voting in local, state and national elections
- Donating money to a political party or candidate
- Joining or starting an interest group around an issue or policy
- Running for public office
- Serving the country through military or other service
- Discussing civic problems and issues with friends and neighbors
- Becoming informed by reading, watching programs or doing research about public problems by yourself or with others
- Attending public meetings about an issue to gain information, discuss issues or lend support (school board, city commission, etc.)
- Using social media to follow elected representatives
- Organizing or participating in a boycott or protest
- Working on a campaign for a candidate or an issue
- Attending "town hall" meetings
- Joining a political party
- Create an issue ad or a website to bring attention to an issue
- Testifying in front of a public body



representatives or voting directly on legislation through referendums, holding office, serving as an election official and doing jury duty. More informal ways of participating include writing letter or articles on public policy issues, participating in initiative, referendum and recall campaigns, or attending public meetings.

While this is not an exhaustive list, it shows the many different ways that people can get involved in government. Here are some examples of people are exercising their civic engagement in various ways in our own state of Michigan.

- In April 2016, singer Bruce Springsteen warned Michigan fans at his concert that if the Michigan legislature passed anti-LGBT legislation he would boycott the state like his band recently did in North Carolina. This simple act of bringing attention to a public issue can be effective at mobilizing people to put pressure on a government to pass or not pass a law, especially when there may be an economic consequence.

- In 2015 and 2016, not only did thousands of people donate money, bottled water and water filters to help with the Flint Water Crisis, but residents of Flint organized community groups, such as Flint Rising, to mobilize the community.

- Over concerns of an aging oil pipeline under the Straits of Mackinac citizens and organizations have teamed up to create a movement, and are urging citizens in Michigan to sign a petition to shut down Line 5 to prevent an oil spill. To find out more, visit their website: <http://www.oilandwaterdontmix.org>

- After the sudden death of her teenage son playing a high school basketball game, Jocelyn Leonard has been active in donating AEDs to high schools around Michigan, and she will be testifying in Lansing to support a bill that would require high school students to learn CPR as a graduation requirement.

Read the scenarios below and identify which methods of civic participation would have the greatest impact. Consider the advantages and disadvantages of each method.

1. A group of parents of school-aged children are opposed to the increased use of standardized testing in their children's schools and they want to make changes to the policy.

2. A group of high school students are upset by a new school policy that requires 25 hours of community service as a graduation requirement.

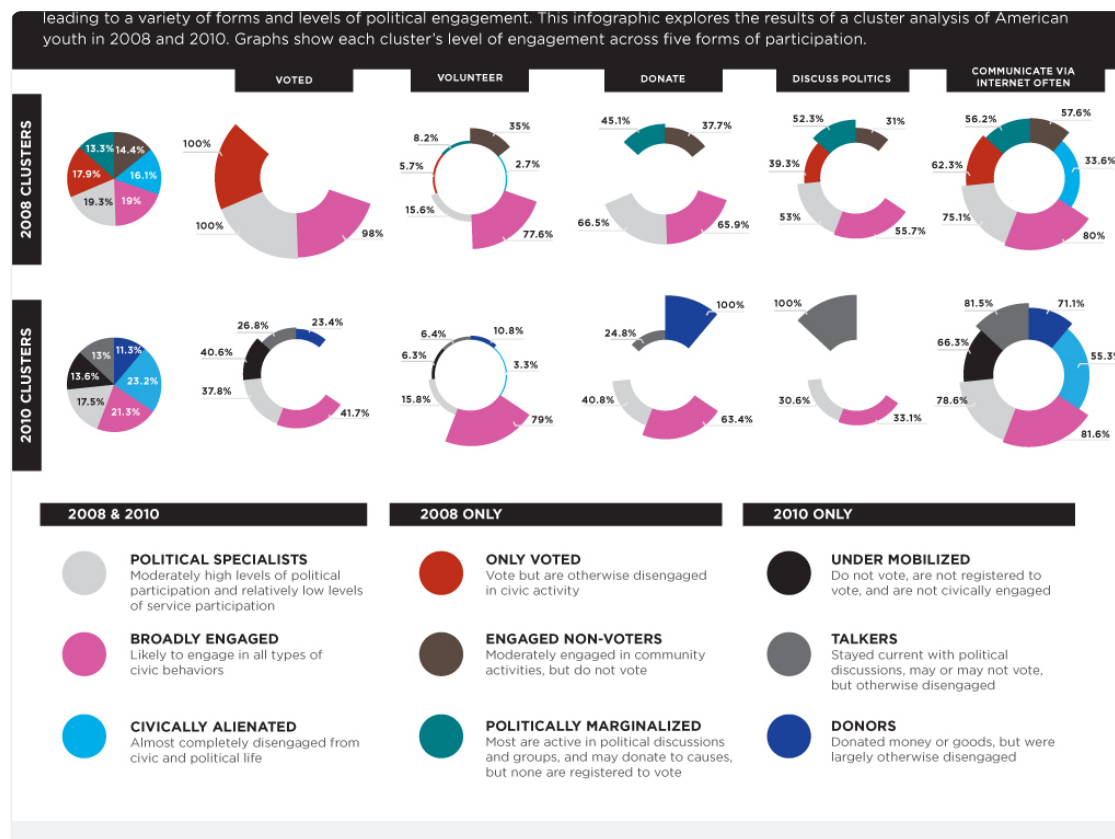
3. A group of college students in Michigan are concerned about the rising tuition rates and are afraid of leaving college with student loan debt that they won't be able to repay.

How civically engaged are young people in the United States?

Many studies have been done to explore political participation of American youth. Check out this infographic created by CIRCLE which shows youth engagement in 2008 and 2010.

Reflect on your own current activities across these five forms of participation. Which of the nine descriptions might best represent you? Why?

## Gallery 4.1 Infographic



Click to make larger Source: <http://civicyouth.org/wp-content/uploads/2011/11/clusters-infographic-web.jpg>

## Interactive 4.26 The Importance of Civic Participation



*In an attempt to educate young people about their importance in our governmental system, the Center for Congress at Indiana University created an E-learning Module on the importance of civic engagement. Take some time right now and work your way through the nine parts of the module. As described on their website, you will have a better understanding of how to participate and make a difference:*

Sometimes acting alone is not as effective as working with others to bring attention to important public policy issues. People can join political parties, interest groups, labor unions and other organizations who can put political pressure on lawmakers.

These groups can lobby public officials directly or indirectly, engage in civic writing, attend meetings and solicit contributions.

You learned in Chapter Two about how Native Americans, women and African-Americans used a variety of tactics to push for change in the United States. These groups engaged in **civil disobedience** as a strategy to affect change. This section will explore the role of civil disobedience as a form of political participation.

Civil disobedience is a deliberate, open, non-violent action which breaks the law. It involves the willingness to accept the punishment for the lawbreaking. It is not the same thing as rebellion or revolution, but rather an action that is based on a moral conscience and a recognition of a higher law.

Civil disobedience has been used throughout US history to achieve political goals. During the pre-Revolutionary colonial period, the Boston Tea Party was an act of civil disobedience against the British Crown. Later, women were arrested when they attempted to vote to bring attention to being disenfranchised. Abolitionists also disregarded the law to push for the end slavery in the United States. It is important to note that these groups resorted to civil disobedience only after their

use of their freedoms under the First Amendment - right to petition, free speech and assembly- proved unsuccessful.

For example, Henry David Thoreau explained in an essay in 1848 why he preferred going to jail rather than paying taxes to a government that was at war with Mexico and enforced slavery as an institution. Read his original essay titled “Resistance to Civil Government.” This web-text version created by Virginia Commonwealth University allows you to click on phrases and parts of the text to learn more about the meaning behind the text.

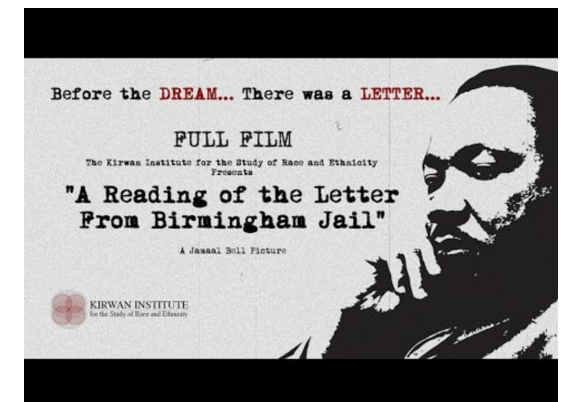
Another example of civil disobedience to affect policy change was the efforts of Dr. Martin Luther King, Jr in promoting civil rights. Beginning with the Montgomery Bus Boycott until his death in 1968, he was a living testament to non-violent civil disobedience. While jailed in Birmingham, Alabama in 1963, he wrote his Letter from Birmingham Jail, where he argued his case

#### Interactive 4.27 Letter from Birmingham Jail



To hear Dr. King read the first couple of pages of the Birmingham Letter, [click here](#).

#### Interactive 4.28 Full Film Birmingham Jail



For a more complete reading of the entire text with compelling images, please take some time and watch this full documentary.



for direct nonviolent action when other efforts to change unjust laws failed.

Dr. King's work led to sweeping changes in civil rights legislation, including the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

#### **Interactive 4.29** U of M Teach In +50



*In 2015 to commemorate the teach-ins, this video was made showing actual footage as well as interviews of those who attended and organized the event and how this strategy is now being used to bring attention to current issues regarding the environment and climate change.*

We can look at Michigan for historical examples of civil disobedience. Students and professors at the University of Michigan staged “teach-ins” in 1965 to protest U.S. involvement in the Vietnam War. In 2015 to commemorate the teach-ins, this video was made showing actual footage as well as interviews of those who attended and organized the event and how this strategy is now being used to bring attention to current issues regarding the environment and climate change.

Today, civil disobedience is still being used . The NAACP called for civil disobedience in Flint because of the Flint Water Crisis.

We also just witnessed over a thousand people getting arrested

in Washington, D.C. protesting a variety of issues - namely voting rights, and the influence of big money in political campaigns in the United States. Numerous groups have united and formed a coalition known as Democracy Awakening that is working to propel a movement focused on reforming politics as we know it.

Pericles, an Athenian statesman, once remarked: “We do not say that a man who takes no interest in politics is a man who minds his own business; we say that he has no business here at all.”

Although this is not ancient Greece, our representative democracy functions best when people take interest in politics. It is up to you to make a conscious choice to get involved in your communities and to affect change in government. If you do not, others certainly will. It will be up to you to determine the actions and strategies that you will feel comfortable using to have your voice heard in the political process. If the American experiment of self-government is going to work, then it is up to us to take responsibility in participating in civic life.

# Current Issues in Civic Life

## QUESTIONS TO GUIDE INQUIRY

- 1. What reforms can be made to increase voter turnout?**
- 2. Are voter ID laws hurting democracy?**
- 3. Should felons be allowed to vote once they have completed their sentences?**



Now that you have learned about citizenship in the United States and the various ways to participate in civic life, it is time for you to demonstrate how you would address this text's compelling question: How can you participate and make a difference in our representative democracy?

In this section you will to consider two current issues that connect to our ideas of political participation and the nature of what it means to be a citizen. You will

consider current reforms regarding voting in the United States and immigration. Then, the challenge is to put into practice the various skills connected to civic life.

## Voting

In 1964 Chief Justice Earl Warren in *Reynolds v. Sims* commented, “The right to vote freely for the candidate of one’s choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government.” Over fifty years later our nation is still becoming that “more perfect union” where we continue to extend opportunities for people to have a voice and a vote in our government.

You learned previously that voting is one of the rights and responsibilities of citizenship in the United States.

However, it has been a long journey to guarantee suffrage for different groups of people over the course of our nation’s history. Review this timeline that documents actions related to voting since 1776 up to 2009.

One of the obstacles African-American voters had to overcome was passing a literacy test to vote in elections. How would you have fared on

### Interactive 4.30 CivicEd.Org - Election Timeline



*Review this timeline that documents actions related to voting since 1776 up to 2009.*



Alabama Literacy Test given in 1965?

### Interactive 4.31 Voting Test



*How would you have fared on the Alabama Literacy Test given in 1965? Download it here and take the 68-question test.*

Not only have five formal Amendments (15th, 19th, 23rd, 24th and 26th) been made to the U.S. Constitution to expand suffrage, Congress has also passed laws regarding voting in the United States. Our history of suffrage is a complicated one.



Watch this succinct TED-ed presentation summarizing the expansion of voting rights in the United States.

Over the years, specific laws have been passed to make it easier to vote. Here are some of those laws:

- 1965: Voting Rights Act
- 1984: Voting Accessibility for the Elderly and Handicapped Act
- 1993: National Voter Registration Act (Motor-Voter Act)
- 2002: Help America Vote Act (HAVA)

Today, states can better inform voters of voting procedures through the use of the internet.

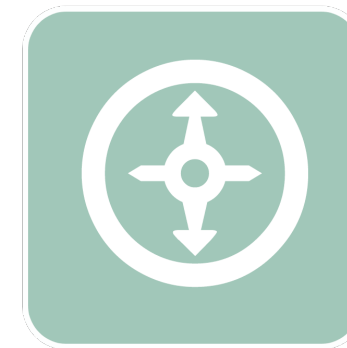
#### **Interactive 4.32** TEDed The Right to Vote



*Watch this succinct TED-ed presentation summarizing the expansion of voting rights in the United States.*

Voter ID laws have been criticized by some as a barrier to voting while others claim they prevent voters from committing fraud.

#### **Interactive 4.33** Pro/Con Voter ID Laws



*Research this issue to learn more.*

What can be done to increase voter turnout in the United States? Many proposals have been introduced to increase the likelihood that voters will take a more active part in our representative democracy. Some believe that simply making an Election Day Holiday would do wonders to increase voter turnout.

Watch the video demanding a 2016 Election Day Holiday through a presidential executive order.

#### **Interactive 4.34** Voter Day Holiday



*Watch the video demanding a 2016 Election Day Holiday through a presidential executive order.*

FairVote, a non-partisan, non-profit organization, has been investigating issues around voting and has presented several proposals that would strengthen the right to vote in the United States

#### **Interactive 4.35** Fairvote



Another current issue related to voting is whether felons should be allowed to vote in the United States. In 1974,

*Read through the different proposals that they believe would make elections “more responsive, reflective and accessible.”*

the United States Supreme Court granted states the right to deny convicted felons of their right to vote in the case *Richardson v. Ramirez*. Today, estimates show that roughly 6 million people with felony convictions are not allowed to vote in elections. Different states take different approaches when it comes to felons and voting. Vermont and Maine allow felons to vote while still in prison, while other states restrict them forever from voting. Recently, the Governor of Virginia issued an executive order to restore voting rights to 200,00 convicted felons in his state.

Some claim this was a needed step since 1 in 5 African-American Virginians were being denied the right to vote. Others claim it is an important step in reintegrating ex-felons back into society by allowing them to exercise their right to vote. Critics, on the other hand, see it as a political move by simply increasing the

number of potential voters that might benefit one political party over the other.

#### **Interactive 4.36** Felon Voting



*Watch this video outlining both sides of whether felons should be allowed to vote.*

Which reforms do YOU support? Why? Take a stand on one of the proposals and make a persuasive, reasoned argument on a voting reform and support using evidence, constitutional principles, and fundamental values of American constitutional democracy. Consider how you might then take action to help inform others and help advocate for this policy change.

Immigration policy is another issue currently being debated in the United States. In 2016, the Supreme Court recently heard oral arguments in *U.S. v. Texas* where 26 states tried to stop President Obama's 2014 executive order deferring deportation of undocumented immigrants with children who are U.S. citizens or

legal residents. On June 23, 2016, the decision of the Supreme Court resulted in a 4-4 tie. (The vacancy created by Justice Antonin Scalia's death brought the number of justices to 8.) Because of the tie, the decision of the lower courts remained in place. Because the Fifth Circuit Court of Appeals ruled that the district court order blocking the implementation of DACA+ and DAPA should remain in place, the two initiatives would remain blocked.

Presidential candidates in the 2016 election cycle made immigration a key issue for their campaigns. President Donald Trump believes that a wall needs to be built to secure the Southern border. When it comes to whether Syrian refugees should be allowed to come to the United States, both Democratic and Republican candidates have made their stances on this policy known.

In the first section of this chapter you learned about the unaccompanied immigrant children who fled violence in Central America to come to the United States in 2014. Some children were locked up in detention centers. Read the story about Pablo Aguilar and others like him who made the journey to the United States without his parents. If you prefer, listen to the podcast instead.

#### **Interactive 4.37** The Story of Pablo Aguilar



*Read the story about Pablo Aguilar and others like him who made the journey to the United States without his parents. If you prefer, listen to the podcast instead.*

These are just some of the questions connected with immigration policy today.

Here is your opportunity to take on one of the current issue related to immigration.

- Visit ProCon.org site exploring various solutions to illegal immigration in America. Explore other nonpartisan sources to gather more information.

Then, write a “Call to Action Letter” about an issue related to immigration that includes your position on the issue supported by evidence and information, why individuals should act on this issue and three things they should do to help the cause.

Take it a step further. Research a nonprofit/interest group that shares your position on the issue, and contact them directly to

see if they could use your “Call to Action Letter”. Or, contact one of your elected representatives to share your position on the issue and why they should be compelled to take action in either the state or national legislature.



## Chapter 5

---

**Is the common role of “watchdog” that political parties, interest groups, media, and individuals play in the development of public policy more important than the methods each entity employs?**

---

What roles do political parties, interest groups, the media and individuals play in the development of public policy?

What is the role of campaigns and elections in American politics?

To what extent can interest groups exert their power?

Is there a true balance of power between those in the political arena and the public with regard to the media's role as a gatekeeper in dictating what topics influence public policy?





1. What roles do political parties, interest groups, the media and individuals play in the development of public policy?
2. What is the role of campaigns and elections in American politics?
3. To what extent can interest groups exert their power?
4. Is there a true balance of power between those in the political arena and the public with regard to the media's role as a gatekeeper in dictating what topics influence public policy?

- public policy
- political parties
- political socialization
- party platform
- Party label
- watchdog
- third party



Have you ever stopped to think about why we have certain policies, laws and regulations? For instance, why is the driving age 16 or the drinking age 21? Why are there nutrition labels on all food packages? Why in Michigan, do you have to go to school until you are 18? Do you believe the United States should spend \$601 billion dollars in 2016 on our national defense ([www.businessinsider.com](http://www.businessinsider.com))? Do you agree with how the United States handles issues with immigration? Do you even know how immigration issues and situations are handled? These are all examples of **public policy**.

There are differences of opinion by scholars on the definition of public policy. According to Merriam-Webster, “public policy are the government policies that affect the whole nation.” It evolves overtime and is typically based off of public opinion on the issue.

Each American has his or her own view about how our society should operate and how it should be governed. Have you thought about the laws that govern our American society or about those that you would like to see changed? For example, should marijuana be legalized in the State of Michigan or throughout the nation? Should our justice system decriminalize drug offenses and instead put individuals into treatment? Should college be free, but require two years of service to our country in return?

Understanding how individuals become politically active, how they impact public policy, how public policy emerges and how it becomes law is what this unit is all about.

### Interactive 5.1 The Policy Making Process



*This short Youtube video will help you understand this complex process*

**Political socialization** is how your positions on different issues are developed. As agents of socialization, your parents, families, friends, schools, media, and even the neighborhood where you live, impact the way you think about certain issues. Take the issue of gun control, for instance. What you believe about this issue depends on a variety of things: your experience with guns, what your parents and family members think, how your friends view gun use, and what you read or watch about gun use on TV or in the media. Where we live also shapes our views of society; individuals living in Utah will have different perspectives on policy than individuals from Maine or Louisiana or Arizona. Our interactions and experiences shape how we think politically. As these experiences change our opinions on public policy may change as well.

After watching the video above, make a chart that includes different policy issues (the environment, gun control, abortion, defense, marriage, etc). After that, next to each topic, write down your views on those issues, and which agent of socialization from the list above impacted your political beliefs.

### Interactive 5.2 Crash Course - Public Opinion



*Visit this website to learn more about how public opinion is formed.*



## Other Actors: Political Parties, Elections, Media and Interest Groups

As you learned in the last section, political socialization is the term for how individuals develop their unique opinions about the way our government should govern. As you can imagine, it is difficult, if not impossible, for one individual to affect public policy.

To help individuals interact with government, there are a multitude of other actors, also known as linking institutions, which connect people to government. This is how public policy is formed.

The linking institutions we will explore include **political parties**, elections, media and interest groups. Let's take a look at how political parties link us to government and link the government to us.

### Political Parties

Now that you've thought about your positions on different policy issues, have you considered what political party best represents your perspective on various issues? Visit the website in this widget and take the quiz. You will learn which party best aligns with your views, what candidate(s) you agree with the most, and what issues are important to you.

#### Interactive 5.3 | Side With...



*Visit this website and take the quiz. You will learn which party best aligns with your views, what candidate(s) you agree with the most, and what issues are important to you.*

## Other Actors Unit Activity:

1. Pick two or three topics that you feel strongly about. As you work your way through this section, you will explore which political party best represents your views.
2. You will do the same activity during the interest group and media sections of this chapter.
3. By doing this unit activity, you will learn what other actors (linking institutions) exist that feel as you do and how they can help you express your opinions (link you) to your state and federal government. You will learn the power behind how these groups connect you with your government and your government to you. You will begin this assignment in the Role of Parties section.

## The History of Political Parties

“The common and continual mischiefs of the spirit of party are sufficient to make it the interest and duty of a wise people to discourage and restrain it.”

- George Washington in his farewell address, 1797

George Washington did not mince words when he warned the nation of the “mischiefs” of political parties, strongly advising us to be cautious of their impact.



<http://www.ushistory.org/gov/5a.asp>

During the 1860s, Thomas Nast — a cartoonist for the magazine Harper's Weekly — developed the idea of using the donkey and the elephant to represent the Democrats and Republicans, respectively. This cartoon — titled "Stranger Things Have Happened" — dates from 1879.

However, political parties (or factions as James Madison called them) are as old as our nation itself. Political Parties are groups of people who join together to advance their beliefs

through winning office and making laws. Beginning with the ratification of our Constitution, the Federalists and the Anti-federalists took sides for a more centralized, national government power against more state powers respectively.

### Interactive 5.4 The Federalist Papers #10



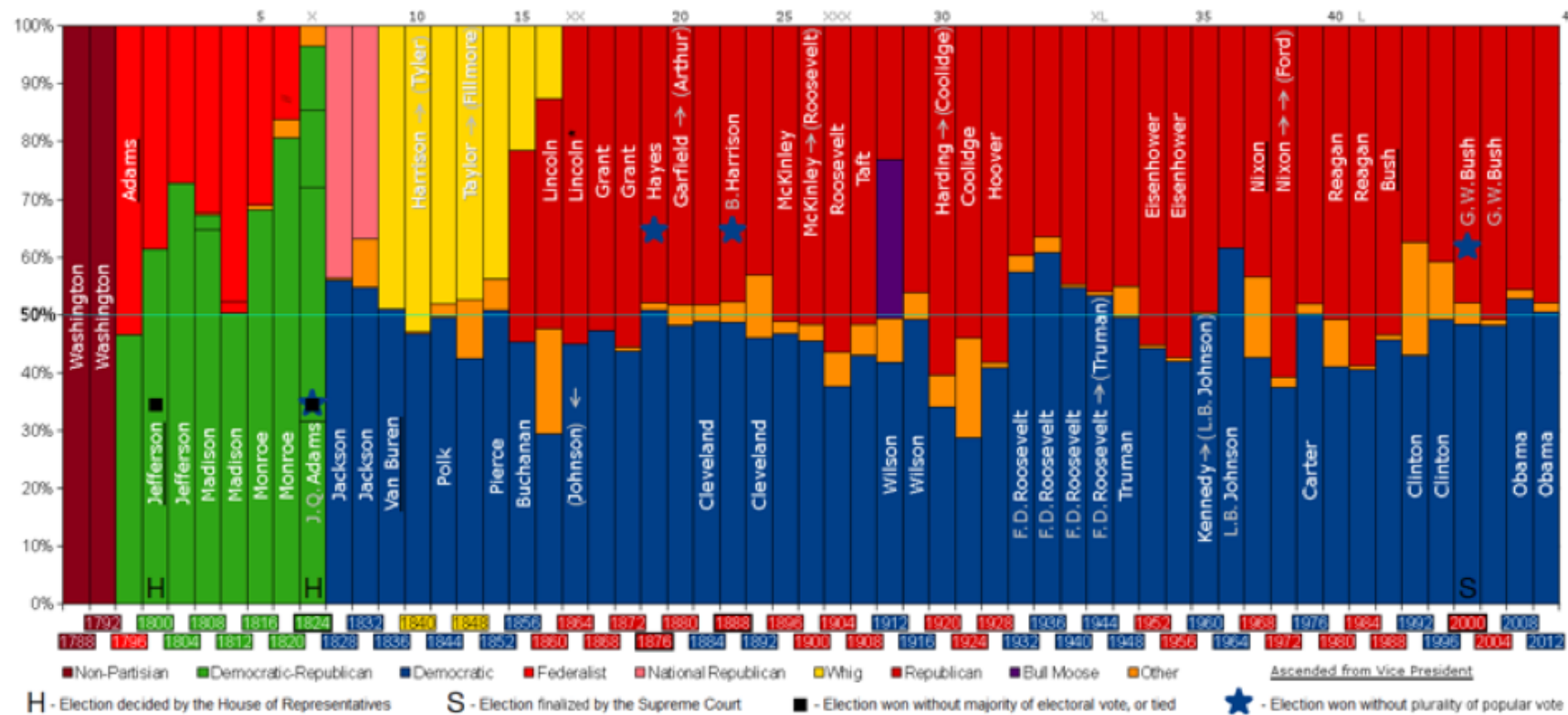
*Review the Federalist Papers (Select Number 10) which you have already studied in an earlier chapter.*

### Interactive 5.5 The AntiFederalist Papers



*Review AntiFederalist #1 Here.*

Read and annotate each document comparing each individual's arguments for and against a federal form of government. Determine whose essay is the most compelling to its intended audience and explain why.



source: en.wikipedia.org

Throughout our history, political parties have galvanized citizens around issues and ideas. The Federalists and Democratic-Republicans were our nation's first two parties who were split over the federal government's scope of power. Then came the Whig party that disagreed with the king-like power moves of President Andrew Jackson. The Free Soil party developed when our nation expanded westward and new states were admitted as slave or free; they pushed their abolitionist agenda and fought hard for free states. The modern Republican party differs from the Democratic party in a number of beliefs like the level of US military strength and issues linked to family values.

Third parties do, in fact, play a legitimate role in our electoral process by bringing specific issues to voters' attention (like the Green Party and the environment), giving voters more alternatives than just the two parties, and taking votes from the major two parties which can significantly alter the outcome of an election. Though many people may argue that voting for a third party is simply "throwing your vote away", others suggest that voting for someone or a party that you truly believe in makes all the difference.

Since the early 1900s, strong Republican and Democratic parties have led to a primarily two-party system. Our two-party system does include minor or third parties, such as the Green Party, Constitution Party and Libertarian Party; however, our nation's winner-take-all Electoral College system as well as each individual state's rules for getting on the ballot, make it very difficult for a **third party** to be successful without a strong network to win a national office.

### Interactive 5.6 Third Parties in the American Political Process





Read this PBS article about the impact third parties have had on our election. As you read, look for specific examples of third parties' impact on prior elections.

## Role of Parties

As was stated earlier, political parties serve as a linking institution for citizens to connect with their government. Parties offer citizens a collection of viewpoints or opinions (**party platforms**) of how the government and our society should be governed.

Overall, Americans generally agree on big ideas such as compulsory education for all children ages 16 and under. Most also agree that our nation needs a strong military to defend itself from invasion, however, people may disagree on how much we should spend annually on our defense.

Political parties play an important role in engaging citizens. They recruit individuals to run for public office. Almost all elected officials (except for judges) run as either a Democrat, Republican or third party candidate. Because candidates choose to run for office as a Republican, Democrat or third party (known as a **party label**), voters know the party platform and therefore understand what the candidate's political beliefs are.

In their platforms, political parties inform the public about topics and issues affecting our country or world as they discuss what their solution to the issue would be. Dealing with health care

coverage or the cost of college education are two examples of the issues on which each party has taken a stance. If a major event occurs, each party will tell the citizens why it happened, what they would do differently, and how we should proceed.

Earlier in this section, you chose two issues that you feel strongly about. Using the websites look up what Republicans, Democrats, and a few third parties feel about your issues.

Determine which party is more aligned to your own views. When you are finished exploring the platforms, reflect on which party's views most align to your own. Are you surprised by the party with whom you most closely align? Why or why not? If you feel strongly enough, you can volunteer with your local political party and even join.

Republican platform website: <https://www.gop.com/platform/>

Democratic platform website: <https://www.democrats.org/party-platform>

All parties and issues website: <http://www.politics1.com>

Political parties act as a check on the power and influence of the other major party. This is more of a **watchdog** role. If the Republicans are the majority in Congress or in the White House, the Democrats will act as watchdogs by explaining to the public how the Republicans have made mistakes. The same is true of Republicans "watchdogging" Democrats. Next time you are looking at the headlines, or maybe while you are in government

class, skim through the headlines of a variety of news websites to see how many articles you can find where the parties are engaging in watchdog behavior.

Most importantly, however, is that political parties run our government. When a party wins a majority of the seats in the House or Senate, it becomes the majority party who controls the legislative agenda. The party will work to pass into law its policy platform. For instance, there is a Republican majority in both the House of Representatives and the Senate, so their agenda includes states rights, more charter schools, and pro-life legislation. It is important that you understand the platform for each party as it is what each party's legislative agenda will be.

# Elections

## QUESTIONS TO GUIDE INQUIRY

- 1. What roles do political parties, interest groups, the media and individuals play in the development of public policy?
- 2. What is the role of campaigns and elections in American politics?
- 3. To what extent can interest groups exert their power?
- 4. Is there a true balance of power between those in the political arena and the public with regard to the media’s role as a gatekeeper in dictating what topics influence public policy?

## TERMS, PLACES, PEOPLE

Election	dark horse candidate
Open primary	initiative
run-off primary	primary election season
National Convention	blanket primary
Recall	Electoral College
invisible primary	general election
closed primary	referendum
caucus	

## Elections

**Elections** are another structure that links people to their government and government to people in an attempt to ensure legitimacy in our system of government.

In the United States, we have over 500,000 elected offices. Nationally, citizens elect our president and vice president, 100 senators and 435 members of the House of Representatives. State and local offices account for over 500,000 more elected officials. That’s a lot of elections and elected officials including governors, state legislators and other state office holders, and local government officials.

Remember when you learned about concurrent powers in Chapter 3? Elections are an example of a power shared by both the national and state governments. Our national government is a representative republic and our state governments hold elections for those national positions. The U.S. Constitution states specific requirements such as age and years living in the district, state or country for those running for the House, Senate and Presidency as well as their terms of office: two, six, and four years respectively. Refer back Chapter 3 to locate where in the Constitution these qualifications and terms are found.

**Interactive 5.7** How Many Elected Officials Are There?





There are three main types of elections: general, primary and special elections. We'll begin by looking at the process for electing the president of the United States.

**Presidential Elections**

This video is an overview of the entire presidential election process. While watching the video, create a timeline of events adding details to each section, especially the Electoral College part

**The “Invisible” Primary**

Running for the Presidency is a long and exhausting process. Deciding to run is the first major step. This occurs between two and four years before the actual Presidential election.

Potential candidates must determine if they have enough money, name recognition, and emotion/physical stamina to win. They have to assemble their campaign team and develop a campaign strategy. Basically, when they “throw their hat in the ring” and announce their candidacy, they hit the ground running. The following website

**Interactive 5.8** Presidential Elections



*This video is an overview of the entire process. We will break the process down section by section as well. Watch the video first and then go back to the chart and add more details to each section, especially the Electoral College part.*

will show you all the candidates from the Republican and Democratic parties who ran during the primary election season and the primary election national results for both parties.

**The Primary Election Season**



Image source: [www.slideplayer.com](http://www.slideplayer.com)

There are two types of elections in the United States: primaries and the general election. Each party uses a primary election to select one candidate who will run in the general election. The nominating process is done by primary elections.

State political parties determine which type of primary election they will use in the nominating process. An **open primary** allows voters to select which party's primary they wish to participate in on the day of the election; they can only vote in one party's primary. A **closed primary** allows only registered party members to vote in the party's primary election. A closed primary prevents opposing party members from voting in their primary to skew the results. A blanket primary is not widely used in the United States.

This type of primary allows voters to participate in all party's primary elections by putting them on one ballot. There is also the **run-off primary** that is used if no clear winner emerges with a majority of the votes from the first primary.

During the nominating process, state parties can also choose to run a **caucus** rather than a closed or open primary. During a caucus, party members gather in predetermined locations at predetermined times to discuss the pros and cons of each party's candidate. They debate who

they believe is the best candidate, and then cast their vote for one candidate.

The candidate with the majority of support receives the delegates for that district or precinct. The most well known caucus is the Iowa Caucus held in February of

### Interactive 5.9 The Iowa Caucus



the election year.

Caucuses are the oldest form of selecting or nominating a candidate for the general election. At the beginning of political parties in our country, party leadership met without the input from the local party members (grassroots) to pick who they wanted to run in the general election. In 1820, presidential candidate Andrew Jackson nicknamed the process “King Caucus” which gave it a negative reputation. In an attempt to weaken the influence of national party leadership, state party leaders and grassroots members called for a national party convention. At the convention, state delegates select their nominee by using the caucus system. However, the party boss power that the Progressive Movement hoped to weaken, took control at the **national convention** by brokering deals in the selection and nomination process. To end the continued influence of King Caucus, grassroots reformers created the presidential primary election season.

The primary election season runs from January to June of the general election year. All 50 states host a primary or caucus.

Each state's proportionally distributed election results are tallied over the months and the candidate who receives the specific amount determined by the party receives the nomination.

## National Convention

Each party holds a national convention over four days in the summer during the presidential election season. It signals the end of the primary election season and the beginning of the general election season. The party's national convention is where the power of the party exists. With all fifty states represented, delegates make rules and decisions that govern state parties. Once the national convention is over, the Republican and Democratic National Committees and their committee chairs keep things running until the next convention. During the national conventions, delegates meet to debate, modify, and vote on their party's platform, and verify each state's primary election results to make the vote official. They also hear speeches from current party favorites and possible future candidates, and rally around their presidential and vice presidential nominees. It's a

### Interactive 5.10 Romney Address to RNC



*As you watch Mitt Romney give the keynote address at the 2012 Republican National Convention, describe all the political party details that you see from our chapter.*

### Interactive 5.11 Obama Address to DNC



*As you watch Senator Barack Obama give the keynote address at the 2004 Democratic National Convention, describe all the political party details that you see from our chapter.*

serious meeting of party delegates and a pep assembly for the party.

National conventions of the past used to be mysterious caucuses that the nation tuned into for the duration of the four day event.

No one knew what the outcome would be, so the suspense drew large TV news audiences. Sometimes candidates that no one expected would eventually win the nomination (**dark horse candidates**), such as James K. Polk (1844), Franklin Pierce (1852), and Abraham Lincoln (1860.) In current times, because delegate totals are tallied throughout the primary election season, there is little suspense so conventions are more of a pep assembly meant to build momentum for their candidate.

## The General Election

The general election season is when the political party nominees compete against one another. It begins immediately after the national convention. The goal for each candidate is to win the 270 Electoral College votes needed to win the presidency.

## The Electoral College

The Electoral College was created during the nation's founding. As a way to insulate our national government from the "transient impulses of the public", the founders created the Electoral College as the way to select the President. Each state was granted a specific number of electors equal to the number in its



Congressional delegation (two Senators plus the number of House of Representative members) On Election Day, as each state's election results are tallied, the Electoral College ballots are awarded to the winner of the state. For most states, this is a winner-take-all process. However, Nebraska and Maine distribute their electors proportionally. As the candidates are campaigning throughout the United States, they are paying close attention to those states where they are close to winning, the states they need to win, and the states that support them. The campaign teams use tracking polls to determine this information.

Election Day occurs on the first Tuesday after the first Monday in November. Participating in both the primary and general elections is a very important part of civic life. It allows voters to communicate with elected officials about their opinions about public policy. If Democrats win the majority of seats in the House and Senate, that is a cue to officials that a majority of citizens want the Democratic platform to be enacted. The same is true if Republicans win. This is how elections act as a linking institution: the election results tell our elected officials what the electorate wants. If a candidate wins by a lot, it means his or her ideas and message are what the voters want the government to do. This is what John Locke intended with his Social Contract theory; that the consent of the governed is alive in the United States Republic.

## Other Ballot Uses

Voting for elected officials is just one way citizens can enact policy change. Locally, groups can place issues as initiatives on the ballot for voters to decide. Or if people do not like a law passed by their state legislators, they can place a **referendums** on the ballot so the people can decide the outcome of the law.

Groups can try to **recall** elected officials that they want out of office. An initiative allows citizens of a state to place a proposal on the ballot for the voters of the state to decide the outcome. This process circumvents the typical way bills become law. Using initiatives, citizens impact the policy making process in their state. Watch the video below to see what initiatives were placed on the 2014 Michigan ballot. While watching this video, write down what ballot initiatives were introduced and whether or not you agree with them.

A referendum is similar to an initiative but has significant differences. A referendum is used by a state legislature if the body needs the approval of the voters before it can go into effect. For example, if a state legislature wants to make a change to the state's

### Interactive 5.12 Ballot Initiatives and Referendums



constitution or to get general support for a heated issue, they will use a referendum. A referendum can also be used by the voters of the state to either vote down a law that the state government passed or to show support for the measure.

A recall is used to remove an elected official from office by vote of the public. If enough citizens vote to remove the official, the official is removed. However, if not enough votes are garnered, the official stays in office.

Given all the talk about public policy creation through linking institutions, it is important that you engage in your civic duty.

Once you've identified what issues and political party you support, make sure you voice your opinion through voting. When you turn 18, register to vote. Check out the site to see where that is. <https://www.usa.gov/voting> It is important to know that you can register to vote before you are 18 as long as you will turn 18 before the next election date. In Michigan, you must register a month before the election. If you will turn 18 in the month before the election, you can still register.

# Interest Groups

## QUESTIONS TO GUIDE INQUIRY

1. What roles do political parties, interest groups, the media and individuals play in the development of public policy?
2. What is the role of campaigns and elections in American politics?
3. To what extent can interest groups exert their power?
4. Is there a true balance of power between those in the political arena and the public with regard to the media's role as a gatekeeper in dictating what topics influence public policy?

## TERMS, PLACES, PEOPLE

Interest groups	Class action lawsuit
economic interest groups	super pac
Public interest groups	political action group (PAC)
lobbying	Federal Elections Commission
indirect lobbying	
Electioneering	
litigation	
amicus curiae brief	

An interest group (also called an advocacy group, lobbying group, pressure group, or special interest) is a group, however loosely or tightly organized, that is determined to encourage or prevent changes in public policy without trying to be elected.

**Interest Groups** are another linking institution. Their goal is to educate the public and elect candidates who support their cause. Interest groups organize around specific public policies and work to make their policy goals a reality. They do this by galvanizing people around their cause, **lobbying** government officials, electioneering to help candidates win office, suing in court, and bringing media attention to an issue.

Some would argue that Interest groups have been around since the birth of our nation. The Founders believed that human nature is selfish and that individuals would protect their self interests. In Federalist No. 10, James Madison discussed the idea of mischief by factions or interests groups. During the 1880s, when the nation's economy changed from agrarian to industrial, and individuals were swarming to cities, interest groups formed around workers' rights, child labor, and immigrant protections. Toward the middle of the 20th century, anti-drinking groups started the prohibition movement resulting in the 18th Amendment and in the 20th century, Mother's Against Drunk Driving (MADD) successfully worked to raise the drinking age to 21. In 1980, Candace Lightner founded MADD in



response to losing her 13 year old daughter in a hit and run accident by a drunk driver. Interest groups are as American as the Constitution itself.

At the beginning of this unit you explored a public policy and analyzed which political party best represents your views on the policy. Now it's time to do the same thing for interest groups.

Spend the next few minutes googling what interest groups support your stance on your policy. Explore the group's website to see what it is doing to advocate on your behalf. Find out what benefits the interest group's members receive, what issues it supports and how you can help. You can donate your time or money, become a member, go to meetings, write letters to your elected officials, etc. To understand which interest groups support which party and why, watch the video "The Basics of Political Interest Groups."

### Interactive 5.13 The Basics of Political Interest Groups



*To understand which interest groups support which party and why, watch this Crash Course:*

Interest groups generally fall into categories such as economic interest groups, single-issue interest groups, ideological interest groups, government groups, and public-interest groups.

**Economic interest groups** include business groups or trade associations, labor unions, agricultural groups, professional associations, and intergovernmental lobbies. These groups work to have an impact on the economic and business decisions that lawmakers make. Business groups, like the National Association of Manufacturers, hope to have fewer governmental regulations, where labor groups, like the Service Employees International Union, want more collective bargaining rights. Professional associations, like the American Medical Association, are groups that require special degrees like education, law, and medicine. Again, they hope to assist their profession's issues and concerns. Intergovernmental lobbies or government groups, like the National League of Cities, consist of state government departments or national government agencies lobbying for more money in their budget or fewer or more regulations.

**Ideological groups** attempt to bring social change to our society. They promote civil liberties and civil rights and attempt to change social norms. Explore the following websites to check out what these groups are fighting for at this time.

National Organization of Women: <http://now.org/>

American Civil Liberties Union: <https://www.aclu.org/>

American Association of Retired Persons: <http://www.aarp.org/>

Public-Interest Groups: Like the name suggests, these groups work to improve society as a whole with a broad range of issues.

Environmental groups, consumer advocacy groups, and human rights groups fall under this category. Ralph Nader established the public interest group U.S. PIRG in 1971. You can check out this group online to discover what their latest campaign entails at [www.uspirg.org](http://www.uspirg.org).

### **Influencing Public Policy Formation**

The main goal for interest groups is to influence the creation of public policy in a way that pleases its members. People join interest groups because their individual voice is stronger in a group. Interest groups communicate members' goals to the legislative, executive and judicial branches so that as the legislative branch writes bills, the executive branch signs or vetoes bills and the Supreme Court determines the constitutionality of laws, each branch understands the impact of their decisions on the interest group's goals.

Interest groups influence public policy in four main ways: direct and indirect lobbying, electioneering, litigation, and shaping the issues through the media.

### **Lobbying**

Interest groups hire individuals called lobbyists that have offices in Washington, D.C. or the capital of their state. A lobbyist's job is to keep interest group members informed about legislative proposals that affect the goals of the interest group. For example, say an agricultural interest group wants the national government to pursue using corn for biodiesel. Their lobbyist will keep track of any bills that are introduced to the House of Representatives or Senate about biodiesel. The lobbyist will talk to both House and Senate Agriculture Committee members as well as the president about the benefits of using corn for biodiesel; and the lobbyist will report back to the interest group.

Lobbyists are a crucial information source for legislators as lobbyists provide detailed information about the topic. Lobbyists can also help write legislation for legislators about the issue.

Lobbyists become experts in this field and use their expertise to craft legislation. Lobbyists also testify in committee hearings about the legislation that the committee is working on.

Indirect lobbying involves the members of the interest group.

When a bill makes its way through the process, interest groups have their members contact their elected officials to voice their opinion. This form of lobbying is very persuasive as it tells legislators citizens' views about an issue. Legislators want and need citizens' votes to be re-elected and interest group members

want to make sure the legislator is representing their group’s interest.

Electioneering

**Electioneering** is when interest group members campaign on behalf of a candidate who supports their stance on an issue. For example, if a candidate is pro-life, Operation Rescue members make phone calls, send out postcards, canvas door-to-door, make TV ads, and donate money to the candidate. Interest groups do not run candidates in an election; they help political party candidates who support their issue win the election.

The Federal Elections Commission (FEC) monitors interest group electioneering activities. After the 1970s Watergate scandal,

Congress and the President responded by passing the Federal Elections Campaign Act (FECA). This law created the FEC to oversee campaign contributions and interest group activity. If an interest group wants to donate to a candidate’s campaign, it must register as a political action committee (PAC) first. The FEC established limits on PAC donations and over the years, Congress has modified the amounts they are able to give.

Interactive 5.14 Open Secrets



Discover which PACs contribute to each party. If you compare each party’s platform stances to the PACs contributing to their campaign, you may be able to draw some parallels.

<div>Recipient</div> <div>Contributor</div>	Candidate	PAC (Multicandidate or Non-Multicandidate)	State and Local Party Committees (combined limit for each state and its local committees; each state has a separate limit)
Individual	\$2,700/election	\$5,000/year	\$10,000/year
Multicandidate PAC	\$5,000/election	\$5,000/year	\$5,000/year
Non- Multicandidate PAC	\$2,700/election	\$5,000/year	\$10,000/year

Image source: [www.politicallawbriefing.com](http://www.politicallawbriefing.com)



One of the controversial additions to campaign finance law over the past few years is the creation of super PACs. **Super PACs** are legally able to raise unlimited sums of money to advocate or support the candidates of their choice. Their actions must be independent of those candidates' campaigns. The Supreme Court has determined that donating money to a campaign is symbolic freedom of speech, however, these large donations allow PACs unfettered access to elected officials. This creates a conflict of interest for the elected official. Explore the contributions of super PACs in the interactive below.

#### Interactive 5.15 Super PACs



*Explore the contributions of super PACs*

## TITLE IX

**“NO PERSON IN THE UNITED STATES SHALL, ON THE BASIS OF SEX, BE EXCLUDED FROM PARTICIPATION IN, BE DENIED THE BENEFITS OF, OR BE SUBJECTED TO DISCRIMINATION UNDER ANY EDUCATION PROGRAM OR ACTIVITY RECEIVING FEDERAL FINANCIAL ASSISTANCE.”**

#### Litigation

Another avenue interest groups can use to influence public policy is to **litigate** or make the subject of a lawsuit through the judicial branch.

Civil Rights is one area where interest groups have been particularly successful in using the courts. An example of this is equal treatment for women's sports. The passage of Title IX ensured government protection of women's sports from unequal treatment. To learn more about the protections provided female athletes, check out the links below.

#### Interactive 5.16 Title IX Legislative Chronology



*Click here to learn more about the protections provided female athletes*

#### Interactive 5.17 Sporting Chance Trailer



*View the "Sporting Chance" trailer here.*

Another example of an interest group advancing its goals using the courts is when Thurgood Marshall represented the National Association for the Advancement of Colored People (NAACP) in the Supreme Court case *Brown vs. the Board of Education*. To learn more about the history leading up to *Brown v. the Board of Education*, visit the interactive below.

**Interactive 5.18** *Brown v Board of Education*



*Learn more about Brown v Board in this website from the National Parks Service.*

Interest Groups can also use **amicus curiae briefs** to influence court decisions. Amicus briefs are used when the interest group is neither the plaintiff nor the defendant in the case, but will be affected by the outcome. Lawyers for the interest group write their brief to educate the judge about her decision's impact on them. Read the following article regarding Apple's suing

Samsung over its Galaxy smartphone to learn more about amicus curiae briefs.

**Interactive 5.20** *Letter in Defense of Apple*



Interest groups also use **class action lawsuits**. These suits combine plaintiffs with similar circumstances into one court case. Class action suits allow plaintiffs to share costs and cover individuals who may not even know there they have a case. Check out the top ten class action lawsuits below.

**Interactive 5.19** *Class Action Lawsuits*



Finally, interest groups do well when they have the power of public opinion on their side. Interest groups engage with traditional media and social media to spark the attention of the public. TV ads and radio ads helps interest groups spread their message. Interest groups also publish polls and research studies that support their stance on issues.

Have you ever watched Whale Wars? This Animal Planet show is an example of how an interest group shaped public opinion around an issue.

### Interactive 5.21 Whale Wars



*How successful do you feel Sea Shepherds have been in changing the public's view of whale hunting?*



How successful do you feel Sea Shepherds have been in changing the public's view of whale hunting?



# The Media

## QUESTIONS TO GUIDE INQUIRY

1. What roles do political parties, interest groups, the media and individuals play in the development of public policy?
2. What is the role of campaigns and elections in American politics?
3. To what extent can interest groups exert their power?
4. Is there a true balance of power between those in the political arena and the public with regard to the media's role as a gatekeeper in dictating what topics influence public policy?

## TERMS, PLACES, PEOPLE

Media

gatekeeper

agenda

bias

The last linking institution that we will explore is media. **Media** includes radio, TV, magazines, the internet, and newspapers. Have you ever thought about the power of media? Do you believe that media create our reality, our perceptions, our **bias**, and aspirations?

Take a moment to review online news sites such as Fox News, CNN, The Washington Post, and the Wall Street Journal. What do their front pages say? What are their top stories? Are the stories' facts consistent? Do you notice a bias in the site's presentation of the news? Look at the images each site uses. Is the site presenting individual's in a good light or bad? Are the stories sensational, positive or negative? Then ask yourself, is this all that is happening in the United States today or are these simply the stories they made today's edition?

## Media as Gatekeeper

Media acts as a **gatekeeper** by controlling what stories are printed or talked about. Gatekeeping allows media to filter or alter the way it presents a news story. Broadcast media presents stories in sound bites and 30 second clips. This type of communication often leaves the viewer with very little real information. Print media sources have more spaces to communicate details and data within their stories. However, they also choose which stories to cover each day. Editors, both

broadcast and print, choose what to report, how they do so impacts what we know and view as our reality.

Politicians use the media to their advantage when they can. For instance, when they want to make an announcement or hold a press conference, they do so in time for nightly news coverage or on a Friday so that their story will be covered over the weekend. If they need to persuade the American public, they will appear on a variety of news programs like morning news shows, late night talk shows, and the Sunday morning news circuit to get their message out.

The media acts as gatekeeper by bringing attention to issues that people might not have been aware. In this article, Israel is attempting to bring more security guidelines for commercial airplanes flying into Israel. Although this piece doesn't affect us, it's important because it is about the world's safety and how to improve it.

**Interactive 5.22** Israel Exempts E.U. Pilots from Security Program



**The History of Media's Use in Policy Making**

Political communication through media is nothing new to American politics. The Federalists used letters to the editor to persuade voters in each of the 13 colonies to ratify the Constitution. Franklin D. Roosevelt used his "fireside chats" to calm a nation during the Great Depression and WWII. Using the radio, he spoke to Americans in their living room. The persuasive power of this technique can not be understated. Even former president Ronald Reagan as a former Hollywood actor knew the power of visual images and choreographed every press conference and media event he did. All presidents understand the power of media in persuading the public. Congress does as well. It has always been a powerful tool to those who use it well.

Read the following Wikipedia selection where the history of American newspapers is chronicled. Pay attention to the Revolutionary epoch and early national era: 1770–1820 and the press in the Party System: 1820–1890. These sections demonstrate how media has always had an impact on public opinion and policy-making. Not much has changed.

**Interactive 5.23** History of American Newspapers



*Read this overview of the news in America.*

As you can see from the paragraphs on the previous page, political communication through media is not new to American politics. Throughout history many have utilized this powerful medium in a variety of forms to help underscore their message, values, and beliefs. It started (and continues) in print form but over time has grown to include other forms of media, including: radio, television, and the Internet. Social media has become a powerful place from which people from all walks of life can interact and share their thoughts and opinions.

Historians love to analyze the first televised debate between John F. Kennedy and Richard M. Nixon.. As the History Channel's own perspective states:

*"In 1960, John F. Kennedy and Richard Nixon squared off in the first televised presidential debates in American history. The Kennedy-Nixon debates not only had a major impact on the election's outcome, but ushered in a new era in which crafting a public image and taking advantage of media exposure became essential*

#### **Interactive 5.24** Kennedy Nixon Debate



*Watch this Youtube clip of the first televised debate between John F. Kennedy and Richard Nixon. Who do you think won?*

*ingredients of a successful political campaign. They also heralded the central role television has continued to play in the democratic process."* <http://www.history.com/topics/us-presidents/kennedy-nixon-debates>

Reading through their analysis, you see that viewers who watched the debates thought Kennedy won, however, those that listened to the debates felt that Nixon's answers were more detailed, coherent and presidential. This debate ushered in the era of image and politicians reliance on media image has only grown since. As much as politicians need media, the media needs them. This is a reciprocal relationship.

### **Media sets the National Agenda**

As a gatekeeper, media also gets to set the agenda. Choosing what stories to cover or not cover creates the talking points for citizens. The way a story is covered also makes a difference.

Stories that received a lot of coverage in Michigan and nationally include: how did the Flint Water Crisis unfold and who is to blame, is the economy growing or not, should government mandate that all citizens need health care?

### **Media as Watchdog**

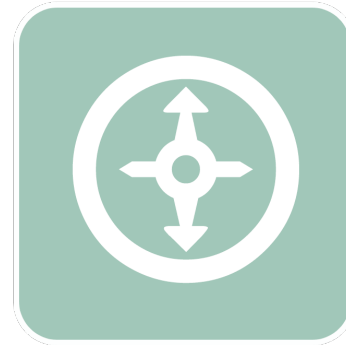
Media also acts as a watchdog, bringing to the public's attention any wrongdoing or problems that arise in industry, government, environment, or other areas of interest. The media's goal when acting in this fashion is to make sure there is transparency. Media



keeps society informed, uncovering facts and data that otherwise might be kept a secret.

In this article, the Huffington Post uncovered alleged wrongdoing in the banking industry:

### **Interactive 5.25** The Big Banks



*In this article, the Huffington Post uncovered alleged wrongdoing in the banking industry*

This article provides a good example of the media being a watchdog. The watchdog exposes scandals and supplies the public with information that could influence them. In this article, the media is exposing the downfall of in Prince George's County Police Department. The arresting of nine police officers that were involved with guns and drugs shows that the police weren't following the law that they enforce. This gives the police department a bad image and reputation.

### **Interactive 5.26** Watch Dog Media



### **Media as Scorekeeper**

The last role of media is that of scorekeeper. Whenever a story has winners and losers, during a primary election season for example, the media reports who's ahead, who is behind, and what different results mean to the campaign teams. This type of journalism is also known as horserace journalism. An issue with this type of journalism is that it feeds into polling numbers and not the actual policy positions of the candidates. This type of reporting fits into the 30 second sound bite or insta-news cycle that outlets prefer, but it takes its toll on the American electorate that stays ignorant of candidate's stances.

This article explains the media's role as a scorekeeper. The article shows the outcome of the electoral process in each state election. The media defines scorekeeper as being the resource that people use to find out who won an election.

### **Interactive 5.27** Horse Race Journalism



### **Interactive 5.28** Score Keeper Media





## Chapter 6

---

# How Effective is the Legislative Branch in Governing?

---

How does Congress make policy?

What effects Congressional decision making?

How is Congress organized?





# The Structure of Congress

## QUESTIONS TO GUIDE INQUIRY

1. How does Congress make policy?
2. What effects Congressional decision making?
3. How is Congress organized?

## TERMS, PLACES, PEOPLE

Bicameral

Constituent

Gerrymandering

In a letter written to James Madison in 1797, Thomas Jefferson wrote, “The principle of the Constitution is that of a separation of legislative, Executive and Judiciary functions, except in cases specified. If this principle be not expressed in direct terms, it is clearly the spirit of the Constitution...” The separation of powers was one of the fundamental principles of the Constitution’s Framers. The Legislative Branch is sometimes referred as the “people’s branch” since the Founders believed and intended the legislative branch to closely reflect the will of the citizens. For an excellent overview of the legislative branch, check out this video:

**Interactive 6.1** Crash Course - Bicameral Congress



*For an excellent overview of the Legislative Branch, check out this video.*



As a representative body, Congress must respond to demand of their constituents--those who vote, or elect them into office. The bicameral Congress is comprised of the House of Representatives and the Senate.

The Legislative branch of Congress includes the General accounting office, the government printing office, and the Library of Congress. The U.S. Government Accountability Office (GAO) is an independent, nonpartisan agency that works for Congress. Often called the "congressional watchdog," GAO investigates how the federal government spends taxpayer dollars. The primary function of the Library of Congress is to serve the Congress. The Library serves as the basic research arm of the Congress through its Congressional Research Service, which is the largest public policy "think tank" in America and annually answers nearly a half-million inquiries and produces some 1,000 reports for the Congress.

The Legislative Branch: from Article I of the Constitution-according to the Constitution...

Section 1:

All legislative powers herein granted shall be vested in a Congress of the United States . .

Section 1:. . . Congress of the United States . . . 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

Section 2:

The House of Representatives . . . shall have the sole power of impeachment.

Section 3:

The Senate of the United States shall be composed of two Senators from each state

Section 3:

The Senate shall have the sole power to try all impeachments.

Section 6:

Senators and Representatives 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 the same. . . .

Section 6:

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 . . . 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

Section 7:

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...

Section 7:

[Every bill] being disapproved by [the President], shall be repassed by two thirds of the Senate and House of Representatives

Section 8:

The Congress shall have Power To lay and collect Taxes; To borrow money on the credit of the United States

declare war, to raise and support armies, etc.

Section 8:

The Congress shall have Power To. . . To coin Money,



Image source: Shutterstock

Section 8:

The Congress shall have Power To . . . constitute Tribunals inferior to the supreme Court

Section 8:

The Congress shall have Power To . . . to declare War, raise and support Armies, provide and maintain a Navy.

Section 8:

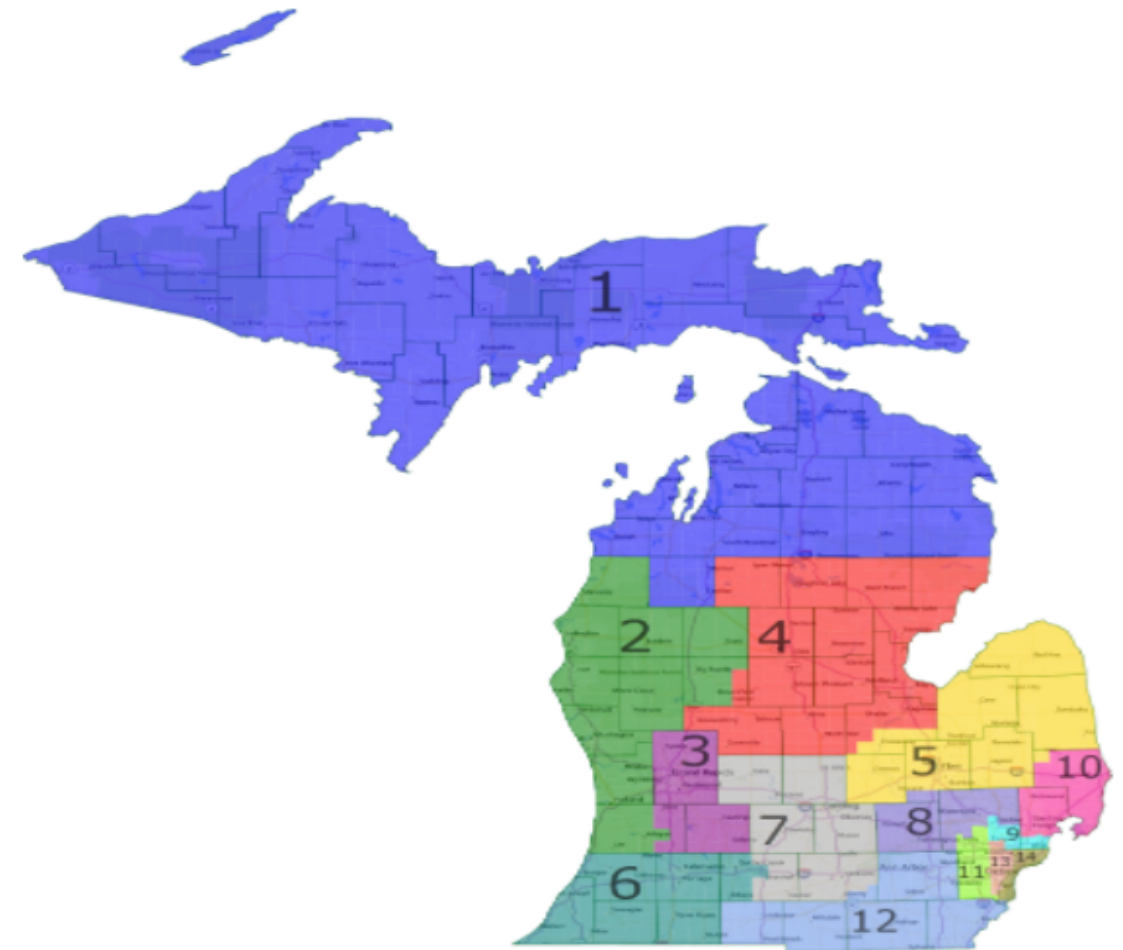
The Congress shall have Power To make all Laws which shall be necessary and proper for carrying into Execution the foregoing

Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

### Interactive 6.2 Legislative Web Quest



*Use what you already know and the internet to fill in this legislative overview.*



### How is the Michigan Legislature Similar?

The Michigan Legislature, like the US Congress is bicameral--consisting of two independent houses. The Michigan Legislature is made up of two chambers. The Michigan Senate has 38 members and the Michigan House of Representatives has 110 members. Each chamber meets at the capitol in Lansing to pass laws for Michigan.

The population determines the number from each state.

Population is determined every 10 years with the census. The Legislative districts are restructured to meet the changing



population. As you can see from looking at the distribution map, Michigan now has 14 representative districts. At one point in time, Michigan had 19 districts; however, the number was decreased as Michigan's population decreased. The population does impact the electoral college and how many electors each state has.

"Suppose you were an idiot. Suppose you were a member of Congress. But I repeat myself."

-- Mark Twain, 1891

What reasons might Mark Twain have had for expressing his sentiments about Congress? Might a well known author, journalist, or actor in today's society express a similar sentiment about the U.S. Congress? Would the reasons for a similar type of comment be the same? Many Americans tend to have a negative view of Congress. If this is the case, why do so many Americans love their own member of Congress but despise Congress as a congressional body? Read about this interesting phenomenon here:

### **Interactive 6.3** We Love our Congressman, Hate congress



*Read about this phenomenon here.*

As much as the article might be true and interesting, the fact remains that the more we learn about Congress, the more we tend to understand why Congress functions the way it does. One former Congressman from Indiana, Lee Hamilton, who served in the U.S. House of Representatives for 34 years, sees as his role, to educate Americans about how Congress works. As he writes in his book, *How Congress Works and Why You Should Care*, “Certainly the Congress has several important roles--to make the country work, to pass the budget, to manage conflict, to tackle the tough issues. Yet the most fundamental task of Congress is not to deal with any specific problem on the national agenda but to act as a check on the power of a single leader in order to maintain freedom for the American people. An independent legislature made up of representatives of the people is a key test

#### **Interactive 6.4** The US Congress and You



*Learn more from Bob Woodward here!*

of freedom in our country, or in any country. Indeed, I doubt freedom can exist--or ever has existed--in a nation without a free and independent parliament. So, ever since it was first set up as the First Branch in our system of government, the historic mission of Congress has been to maintain freedom.”

Voters in every state elect two senators each for a total of 100. The Vice President serves as the President of the Senate. The President Pro Tempore serves as the presiding officer of the Senate. The House includes 435 voting representatives. The Speaker of the House presides over the House.

#### **To what extent does gerrymandering impact the effectiveness of Congress?**

Gerrymandering is a practice intended to establish a political advantage for a particular party or group by manipulating district boundaries to create partisan advantaged districts. For an excellent crash course on the topic, watch the following video:

The following are perspectives on gerrymandering and the impact it has on you as a member of a representative or Senator’s district, on Congress itself, elections and our government. The following two videos provide a more thorough explanation of gerrymandering and why it is seen as a problem by many.

This video is a short TED talk explanation of the history of gerrymandering. As you view it, be sure that you can answer the “5 Ws”: What gerrymandering looks like in reality, Who is

#### **Interactive 6.5** Crash Course: Congressional Leadership



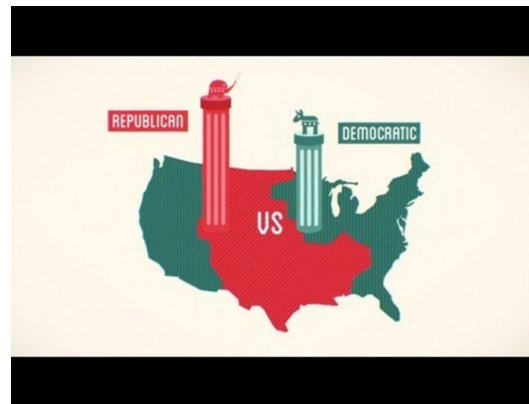
*Learn even more with this video from the Crash Course series.*

impacted by the gerrymandering process, Where can gerrymandering happen, When gerrymandering can occur, and why gerrymandering would occur.

Additionally, be sure you understand the difference between “packing” and “cracking” and in what instances each might be utilized.

This next video provides a thorough description of how gerrymandering occurs. As you watch the video make sure you can explain how control over gerrymandering can shift. Additionally, make sure you can explain how the interests of candidates and the interests of voters is different. Lastly, as you listen to the three proposed options for fixing gerrymandering, think about which option makes the most sense to you. Which option would you choose and why?

### Interactive 6.6 Gerrymandering



*Learn more about gerrymandering here.*

### Interactive 6.7 Gerrymandering



*Learn more about Gerrymandering with this video.*



# Powers of Congress

## QUESTIONS TO GUIDE INQUIRY

1. How does Congress make policy?
2. What effects Congressional decision making?
3. How is Congress organized?

## TERMS, PLACES, PEOPLE

the Elastic Clause

Congress has certain roles and responsibilities to govern the US. What are the powers of Congress?

Do the powers of Congress allow them to effectively govern?



## Powers of Congress

The powers of the federal government that are specifically described in the Constitution are sometimes called 'delegated' or 'expressed powers,' but most often they are known as 'enumerated powers.' They describe how a central government with three distinct branches can operate effectively. The 27 expressed powers of Congress listed in Article I, Section 8 of the Constitution grant the legislative branch a huge amount of authority over American national policy, both foreign and domestic.

The most important powers include the power to tax, to borrow money, to regulate commerce and currency, to declare war, and to raise armies and maintain the navy. These powers give Congress the authority to set policy on the most basic matters of war and peace.

Congress's other expressed powers are wide-ranging, including:

- The power to establish rules to allow foreign-born immigrants to become citizens of the United States
- The power to make rules for bankruptcies
- The power to punish counterfeiters
- The power to set up a national post office

- The power to provide for copyrights and patents to protect the work of inventors and artists
- The power to organize all federal courts below the Supreme Court
- The power to punish pirates
- The power to hire pirates to attack foreign enemies
- The power to make rules to regulate the conduct of the armed forces
- The power to call out the militia to defend the country from invasions or insurrections
- The power to organize and discipline the militia
- The power to govern the federal capital (Washington, DC)
- The power to acquire lands from the states for use by the federal government

And, last but definitely not least:

- The power to "make all Laws which shall be necessary and proper for carrying into Execution the foregoing powers...."

Some powers of Congress are implied, which means that they are not expressly stated but suggested. The “necessary and proper clause” gives Congress the power to make laws regarding some subjects that are not expressly stated or described in the Constitution but are considered to be “necessary and proper” to carry out the delegated duties of Congress.

“The Congress shall have Power 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.”

Also known as the ‘**elastic clause**’ it stretches powers given Congress. For example, nowhere in the Constitution is a provision for the construction of the Hoover Dam in 1931, but Congress determined it was ‘necessary and proper’ to do so under the expressed power to regulate commerce. Implied powers have been known to create tension based on the interpretation of what the constitution implies. Both strict and conservative views of the implied powers have been debated throughout years of the legislative branch using their powers.

Which powers/situations are allowed to the Legislative Branch?  
Which powers/situations are denied to the Legislative Branch?  
For each of the following scenarios identify if it is a power allowed or denied to the Legislative Branch.

1. A bill proposing immigration reform is being considered.
2. You hold your office for life during good behavior.
3. The United States selects a new ambassador to Argentina and needs approval..
4. There is a vacancy on the Supreme Court and a new justice must be nominated.
5. The state of Arizona is suing California over water rights.
6. The US Army wants more money for tanks.
7. A law recently passed by the state of Louisiana has been challenged as being unconstitutional.
8. Ralph Z. is being tried for a federal crime of internet computer hacking.
9. Impeachment trial against the president is being conducted.
10. A vetoed bill is overridden by  $\frac{2}{3}$  vote.
11. A State of the Union message is being prepared.
12. An ambassador from a foreign country is being tried for driving while intoxicated.



13. A law is declared null and void.
14. War is declared on Transylvania.
15. A federal income tax cut is being proposed.
16. A treaty with a foreign country to import oil is being negotiated.
17. A case has arisen over land between two Indian tribes who claim the land was given to each of them under separate treaties.
18. The presiding officer is the Speaker of the House.
19. Implied powers held
20. Can propose a national amendment through the formal amendment process.
21. A bill is passed through the bill process where committees work, debate and amend the bill before proposed.
22. Consists of both a House of Representatives and Senate.
23. The cabinet serves as advisors.

## Checks and Balances

Checks and Balances are a core democratic principle of American government, whereby each branch of the government (executive, judicial, and legislative) has some measure of influence over the other branches and may choose to block procedures of the other branches.

The three branches are inevitably linked together. The separate powers that each has, and the checks and balances that each has to each other are imperative for the constitutional government that the

## Interactive 6.9 Federalism



*If you need to, review this video on Federalism from the third chapter.*



Image source: Shutterstock

Constitution has created. The following checks and balances show how each are similarly compared to a friendly game of rock, paper, scissors.

### **Legislative Branch-** Checks on the Executive

- Impeachment power (House)
- Trial of impeachments (Senate)
- Selection of the President (House) and Vice President (Senate) in the case of no majority of electoral votes
- May override Presidential vetoes
- Senate approves departmental appointments
- Senate approves treaties and ambassadors
- Approval of replacement Vice President
- Power to declare war
- Power to enact taxes and allocate funds
- President must, from time-to-time, deliver a State of the Union address
- Checks on the Judiciary

- Senate approves federal judges
- Impeachment power (House)
- Trial of impeachments (Senate)
- Power to initiate constitutional amendments
- Power to set courts inferior to the Supreme Court
- Power to set jurisdiction of courts
- Power to alter the size of the Supreme Court
- Checks on the Legislature - because it is bicameral, the Legislative branch has a degree of self-checking.
- Bills must be passed by both houses of Congress
- House must originate revenue bills
- Neither house may adjourn for more than three days without the consent of the other house
- All journals are to be published

### **Executive Branch**

- Checks on the Legislature
- Veto power

- Vice President is President of the Senate
- Commander in chief of the military
- Recess appointments
- Emergency calling into session of one or both houses of Congress

- May force adjournment when both houses cannot agree on adjournment

- Compensation cannot be diminished

- Checks on the Judiciary

- Power to appoint judges

- Pardon power

- Checks on the Executive

- Vice President and Cabinet can vote that the President is unable to discharge his duties

#### Judicial Branch

- Checks on the Legislature

- Judicial review

- Seats are held on good behavior
- Compensation cannot be diminished
- Checks on the Executive
- Judicial review

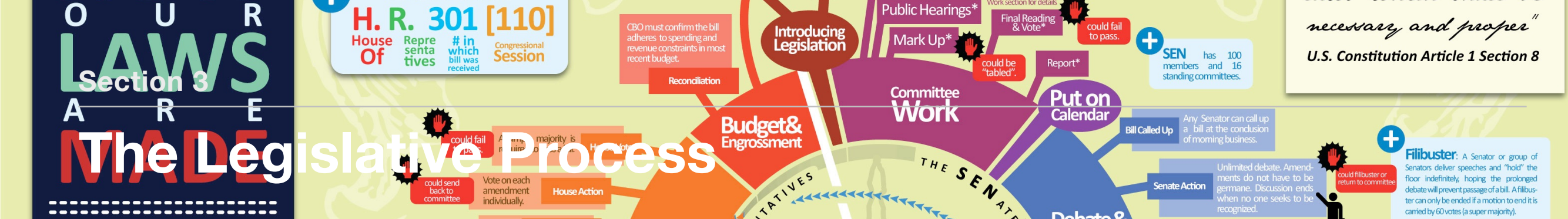
- Chief Justice sits as President of the Senate during presidential impeachment

Do you like running things? Branches of Power allows you to do something that no one else can: control all three branches of government! You'll have the power to write any laws you want about issues you choose. Careful, though, there's a lot to juggle when you're playing all three branches. Good luck!

#### **Interactive 6.10** iCivics - Who has the Power?







## QUESTIONS TO GUIDE INQUIRY

1. How does Congress make policy?
2. What effects Congressional decision making?
3. How is Congress organized?

## TERMS, PLACES, PEOPLE

hopper

standing committee

select committee

filibuster

## The Bill Process

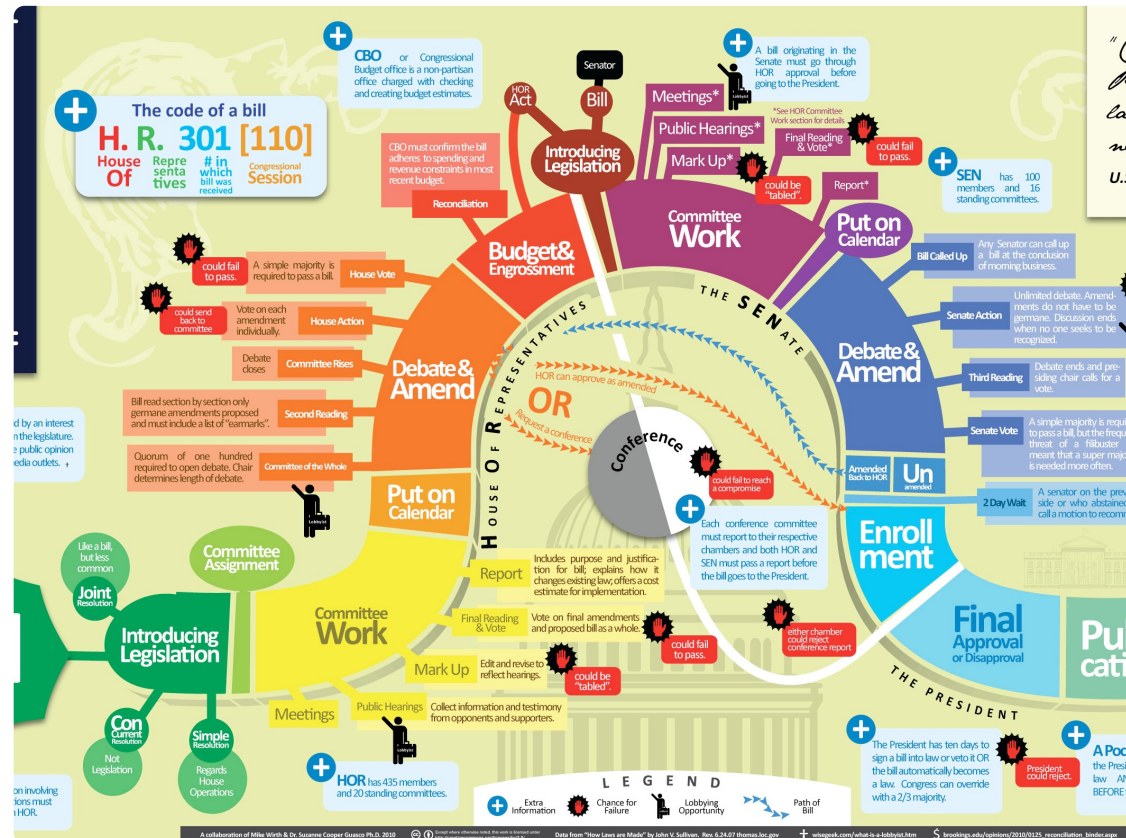
As you have seen, Congress has a variety of powers--making laws, declaring war, and amending the Constitution. Creating laws is the most important power that Congress has. So, where do members of Congress get ideas for potential legislation?

- The executive branch--Annually, through his State of the Union Address, the president outlines his legislative agenda, among other things. Sometimes this may include creating departments or agencies; other times, it may include the consolidation or elimination of them. Additionally, executive departments as well as agencies are other regular sources of proposals for legislative action.
- Constituents--Often residents of a representative's district or senator's state will suggest legislation which can include the introduction of special legislation to address an individual problem or specific issue or the repeal of an existing law. Some legislators value this contribution more than others and become concerned if they feel this part of the legislative process is compromised. Here is an example of a legislator in Arizona expressing her concerns about the importance of maintaining the process of constituents' contributions. <https://www.youtube.com/watch?v=6syKWDyZdpg>

- Interest groups--Through the practice of lobbying, organizations, industries, and groups formed around a specific interest often try to affect legislation. Lobbyists who are well informed, knowledgeable, organized, and cooperative can often be quite effective in helping ensure important details are included in bills that become laws.

When a Representative has written a bill, the bill needs a sponsor. The Representative or Senator talks with other representatives about the bill in hopes of getting their support for it. Once a bill has a sponsor and the support of additional representatives or senators, it is ready to be introduced.

## Gallery 6.1 How Our Laws are Made



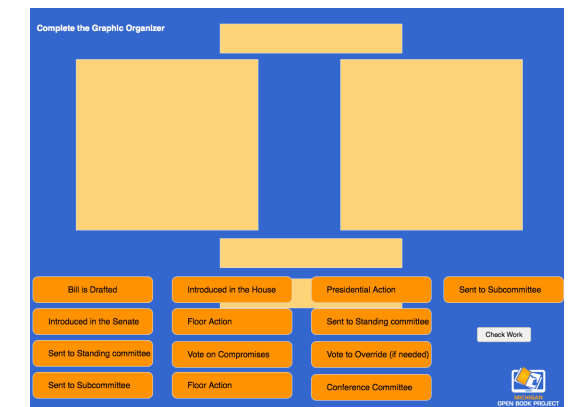
[Click here to make this infographic full screen!](#)

## Interactive 6.11 How a Bill Becomes a Law



*Learn more in this Crash Course!*

## Interactive 6.13 How A Bill Becomes A Law



*Test your knowledge by filling in this graphic organizer.*

Do you want to see how Congress makes laws? Explore LawCraft, where you play a member of Congress from the state of your choice. You can pick an issue that's important to you and your constituents and take it all the way through the lawmaking process. If you're successful, you'll have a bill you can print and show off. See if you can make the compromises necessary to get your bill passed and still make a law you're proud of!

## Interactive 6.12 Law Craft



In the U.S. House of Representatives, a bill is introduced when it is placed in the **hopper**—a special box on the side of the clerk’s desk. When a bill is introduced in the U.S. House of Representatives, a bill clerk assigns it a number that begins with H.R. A reading clerk then reads the bill to all of the members in the House of Representatives, and the Speaker of the House sends the bill to one of the House **standing committees**.

What is a committee? A group of people officially delegated to perform a function, such as investigating, considering, reporting, or acting on a matter. When referring to committee and subcommittee work in Congress, that means that members study potential legislation by holding public hearings, receiving testimony, doing research, and projecting the impact that potential legislation might play on those affected by the legislation.

In both the Senate and the House are permanent, or standing committees which have jurisdiction over particular subjects.

Members of those permanent committees also appoint subcommittees to carefully examine specific proposals within certain areas. It is within these committees that the deliberative work of Congress occurs. Because of that, committee assignments are extremely important, often shaping members’ careers as they serve on certain committees and in some cases, gaining national prominence. Both houses also have the authority

to use **select committees** as well as task forces which have specific assignments and only exist for a limited amount of time.

The House and Senate can override president’s veto by a  $\frac{2}{3}$  majority vote in both houses. Senate, and only the senate, is able to filibuster. A **filibuster** is a parliamentary procedure and strategy where debate over a proposed piece of legislation is extended and delayed, allowing one or more members to delay or entirely prevent a vote on the proposal.

Discover current United States legislative activities from <http://www.congress.gov>

What are current US legislation that could impact you?

Who are your current legislative branch representatives? Go to <https://www.congress.gov/>

What is happening in Michigan? Go to [https://www.legislature.mi.gov/\(S\(wk0n4ixfjqkowljatm3j4qj2\)\)/mileg.aspx?page=Home](https://www.legislature.mi.gov/(S(wk0n4ixfjqkowljatm3j4qj2))/mileg.aspx?page=Home) for current legislative activities in the state of Michigan.

What current Michigan legislation could impact you today?





### The Legislative Branch - the Cup and Saucer Analogy

The House of Representatives is the cup with hot tea, the saucer is the senate for cooling the house.

“Thus far I have considered the circumstances which point out the necessity of a well-constructed Senate only as they relate to the representatives of the people. To a people as little blinded by prejudice or corrupted by flattery as those whom I address, I shall not scruple to add, that such an institution may be sometimes necessary as a defense to the people against their own temporary errors and delusions. As the cool and deliberate sense of the community ought, in all governments, and actually will, in all free governments, ultimately prevail over the views of its rulers; so there are particular moments in public affairs when the people, stimulated by some irregular passion, or some illicit advantage, or

misled by the artful misrepresentations of interested men, may call for measures which they themselves will afterwards be the most ready to lament and condemn. In these critical moments, how salutary will be the interference of some temperate and respectable body of citizens, in order to check the misguided career, and to suspend the blow meditated by the people against themselves, until reason, justice, and truth can regain their authority over the public mind? What bitter anguish would not the people of Athens have often escaped if their government had contained so provident a safeguard against the tyranny of their own passions?” ( excerpt from Federalist Paper 63)

### What Does Congress do for You?

Though it often goes unnoticed, the work of Congress has a considerable impact on many aspects of our everyday lives—improving air and water quality, reducing the incidence of disease, increasing access to education, stabilizing financial institutions, building interstate highways, increasing arms control, and much more. Although the process can be messy and drawn out, in the end most sessions of Congress have a solid record of accomplishments. The greatest, most long-lasting achievements of Congress typically involve a significant amount of bipartisan compromise. (from center on congress)



## Chapter 7

---

# Has the Expansion of Executive Power Been Positive?

How does the Executive branch make decisions?

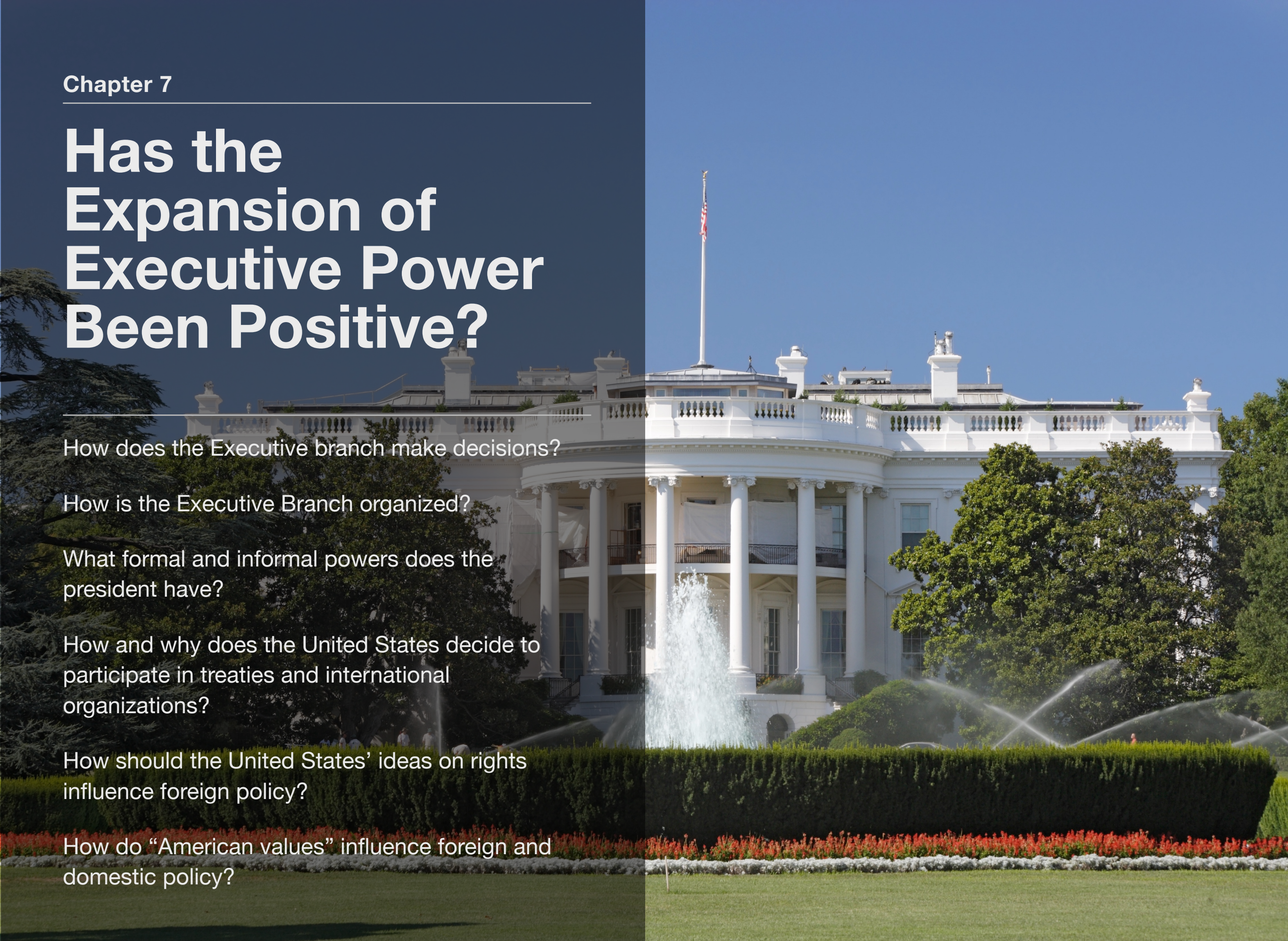
How is the Executive Branch organized?

What formal and informal powers does the president have?

How and why does the United States decide to participate in treaties and international organizations?

How should the United States' ideas on rights influence foreign policy?

How do “American values” influence foreign and domestic policy?





# Executive Branch - Powers and Requirements

## QUESTIONS TO GUIDE INQUIRY

1. How does the Executive branch make decisions?
2. How is the Executive Branch organized?
3. What formal and informal powers does the president have?
4. How and why does the United States decide to participate in treaties and international organizations?
5. How should the United States' ideas on rights influence foreign policy?
6. How do "American values" influence foreign and domestic policy?

## TERMS, PLACES, PEOPLE

22nd Amendment

25th Amendment

**Interactive 7.1** NYT - Obama's Embrace of Drone Strikes Will Be A Lasting Legacy



*As you read the following article written by Micah Zenko of The New York Times, ask yourself whether or not the president's actions in this instance exceeded his executive powers as president.*

## The Executive Branch: Chief Clerk or Imperial President?

Article II of the United States Constitution states: "(t)he executive power shall be vested in a President of the United States of America." But what does executive power mean? Given the context of the New York Times article, it would seem that the President of the United States is a very powerful individual. But is this true? Look carefully again at the article. Notice how President Obama has the support of the American people and the legislative branch. If these two groups didn't support him, would he still be able to proceed with his semi-covert drone operation?

The power and purpose of the executive branch (the President and the executive offices) in both domestic and international realms is the focus of this section.





## Qualifications

“No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.”

Article II, US Constitution

## Terms of Office

The president serves a four (4) year term of office. He is elected by an elaborate system put in place by the founding fathers. On election day, when each state’s final vote is counted, the

candidate who wins the popular vote in that state then receives all of that state’s electoral votes in a winner-take-all fashion. (Note: Nebraska and Maine divide their Electoral College electors proportionally, based upon the outcome of the election.) Refer back to the really cool Electoral

## Interactive 7.2 Presidential Citizenship



*Here are a few articles that demonstrate differing interpretations of natural born:*

College video link in the Other Actors unit to refresh your memory about how the Electoral College works.

Originally the Constitution did not place a limit on the number of terms that a president could serve. The two term tradition was set by George Washington who stepped down after eight years so that someone new could take office. Until Franklin D. Roosevelt (FDR) took office, no president served more than two terms. FDR served during the Great Depression and World War II, elected four (4) times to the presidency. He died in April of 1945, shortly after beginning his fourth term. In March 1947, **the 22nd Amendment** was added to limit presidential terms to two, four year terms.



## Section 1

No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by Congress, and shall not prevent any

person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

Section 2

This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

Presidential Succession

What if something happens to the president while in office?

When John F. Kennedy was assassinated in Dallas, Texas on November 22, 1963, his vice president, Lyndon B. Johnson was sworn into office on Airforce I.

Interactive 7.3 Lines of Succession



Learn about the line of succession for the Presidency here.

However, what if something happened to President Johnson prior to selecting his vice president? The Presidential Succession Act of 1947 and **25th Amendment** (1967) establishes the line of succession for the presidency as well as dealing with presidential disability and filling the vice presidency

vacancy.

Powers of the President

Article II of the Constitution establishes the powers of the president. It might seem obvious that because the powers of the president are established in Article II of the Constitution, that they are fairly straightforward. However, issues of presidential power are anything but straightforward. Even as we look at James Madison’s notes from the Constitutional Convention, it is apparent that debates over the establishment of the legislative branch were lengthy and quite spirited; yet the presidency was created rather quickly after little discussion. Therefore, the Framers were purposely vague about both the limits and the extent of the president’s powers. For example, language that defines and describes the powers of Congress in Article I, Section 8 is approximately 430 words, whereas Section 2 of Article II which is the presidential equivalent is about half that length. See Article II below:

Section 2.

The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several states, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive departments, upon any subject relating to the duties of their respective Offices, and he shall have Power to grant

Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment.

In other words, the president can require Cabinet members to give him their opinions in writing; he can convene a special session of Congress “on extraordinary occasions,” and may set a date for adjournment if the two houses cannot agree on one; he receives ambassadors and is commander in chief of the armed forces; he has a veto on legislation (which Congress can override); and he has the power to pardon.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

Section 3.

He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

The president is the head of the military (but Congress declares war), he can grant reprieves, pardons and amnesty (group pardon), he can nominate and appoint public ministers (with the consent of the Senate), make treaties (with the consent of the Senate), receive ambassadors, convene both chambers of Congress, give the State of the Union address (a recommendation) and faithfully execute the laws that Congress writes and he signs into law.

When looking at the powers of the president, putting them into a “Presidential Hats chart” is helpful. Six specific hats will be used.



Reagan



Nixon



Kennedy



Notice how some of these powers come directly from the Constitution, while others have evolved over time through necessity and purpose. Throughout history, some presidents have exercised their use of presidential power more often than others. A few presidents who were known for utilizing presidential powers to the extent of being considered abusive by some are highlighted below.

#### 6 Presidential Hats

#### Constitutional Powers (Art. II, Secs 2 & 3)

Commander and Chief	head of the Armed Services
Chief Diplomat	make treaties, recognize countries and receive ambassadors. He represents the United States when visiting other countries and performs ceremonial duties. (He can also make executive agreements which the Supreme Court validated in U.S. v. Pink.)
Chief Executive (like a CEO)	appoint and dismiss, grant reprieves and pardons (a king-like holdover from our colonial days), and executive orders, executive privilege (the right of the president to confidentiality and to not testify before Congress or the courts.)
Chief Legislator	sign, veto or pocket veto bills, give State of the Union Address, and call special sessions of Congress
Party Leader	campaigns for his/her political party, pushes for initiatives from the party platform.
Chief Citizen	performs ceremonial duties (Easter Egg Roll, Lighting Christmas tree and connects with the American people (raising families, playing golf, going to church services)

One president most notably known for crossing the line with regard to presidential power was Andrew Jackson; specifically with regard to the topic of the removal of Indigenous Peoples that occurred during his presidency. As historian Alfred A. Cave writes in an article, Abuse of Power: Andrew Jackson and the Indian Removal Act of 1830, “The Indian Removal Act passed by Congress in 1830 neither authorized the unilateral abrogation of treaties guaranteeing Native American land rights within the states, nor the forced relocation of the eastern Indians. Yet both occurred, on a massive scale, during Andrew Jackson’s administration and were the result, not of an explicit congressional mandate, but of an abuse of presidential power.”

And while Abraham Lincoln is revered by many and seen as one of America’s best presidents, some have interpreted his

suspension of the writ of Habeas Corpus during the Civil War (a power held by Congress) as an abuse of presidential power.

### **Interactive 7.5** Writs of Habeas Corpus



*Learn more with this History.Com Video.*

During his time in office, Franklin D. Roosevelt, the longest serving president in the U.S., greatly expanded the use of executive orders to an unprecedented level--partly in response to an increased need for governmental involvement in the nation's

### **Interactive 7.4** FDR Biography



*Learn more about FDR's presidency with this video from History.Com*

economy during the Great Depression as well as the demand for greater influence of a president in foreign policy, placed on FDR as Commander in Chief during World War II. Unfortunately, many believed FDR also showed a tendency to abuse his executive order authority and claim powers that were not

granted to him in the Constitution or by any statute. Executive orders for national bank holidays, bank loans, public works projects, and public assistance programs were all a part of his New Deal program. And during WWII, FDR even issued Executive Order 9066 calling for the internment of Japanese Americans. Under FDR's presidency, both domestic and foreign policy powers of the president were impacted.

President Obama, in 2014, after Congress did not act on immigration reform, issued an executive order on immigration that gave temporary legal status to many illegal immigrants and allowed for an indefinite reprieve on deportation. This article explains exactly what the president ordered.

### **Interactive 7.6** Obama's Immigration Order



*Obama's Immigration Order*

## **Presidential Hat Activity:**

Go to an online news sources or to the White House website to <https://www.flickr.com/photos/35591378@N03> find pictures or news stories about President Obama and explain what hat/role he is wearing and why.

## **What do you think?**

The power of the presidency is one that will continue to be debated in political circles and is an important topic within any civics course. The following text sources are good foundational pieces as you begin to consider whether or not you think the power of the President of the United States has become too expanded.

<https://www.theatlantic.com/magazine/archive/2009/01/the-founders-great-mistake/307210/>

<https://object.cato.org/sites/cato.org/files/documents/cult-of-the-presidency-pb.pdf>

[https://www.washingtonpost.com/news/in-theory/wp/2016/01/11/is-the-modern-president-too-powerful-a-primer/?utm\\_term=.71cc5d13de1e](https://www.washingtonpost.com/news/in-theory/wp/2016/01/11/is-the-modern-president-too-powerful-a-primer/?utm_term=.71cc5d13de1e)

<https://www.csmonitor.com/USA/Politics/Politics-Voices/2014/0728/No-the-presidency-has-NOT-become-more-difficult>



# The Executive Branch: the Executive Office of the President and Cabinet

## QUESTIONS TO GUIDE INQUIRY

1. How does the Executive branch make decisions?
2. How is the Executive Branch organized?
3. What formal and informal powers does the president have?
4. How and why does the United States decide to participate in treaties and international organizations?
5. How should the United States' ideas on rights influence foreign policy?
6. How do "American values" influence foreign and domestic policy?

## TERMS, PLACES, PEOPLE

bureaucracy

cabinet

"...he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices..."

The Founders understood that the president would need help enforcing the laws of the land, but executive departments are only referenced on a general level. By the 1930's and 1940's, tremendous growth in federal bureaucracy had occurred.

Today, the executive branch consists of 15 Cabinet level departments, more than 60 government agencies and 2,000 other subunits or bureaus. There are over two million civilian employees of the federal government, but experts don't agree on the actual numbers. The United States Postal Service and the Department of Defense have the most employees. Only a small fraction of federal employees, roughly 11%, work in Washington, D.C. The other 89% are spread throughout the country and around the world.

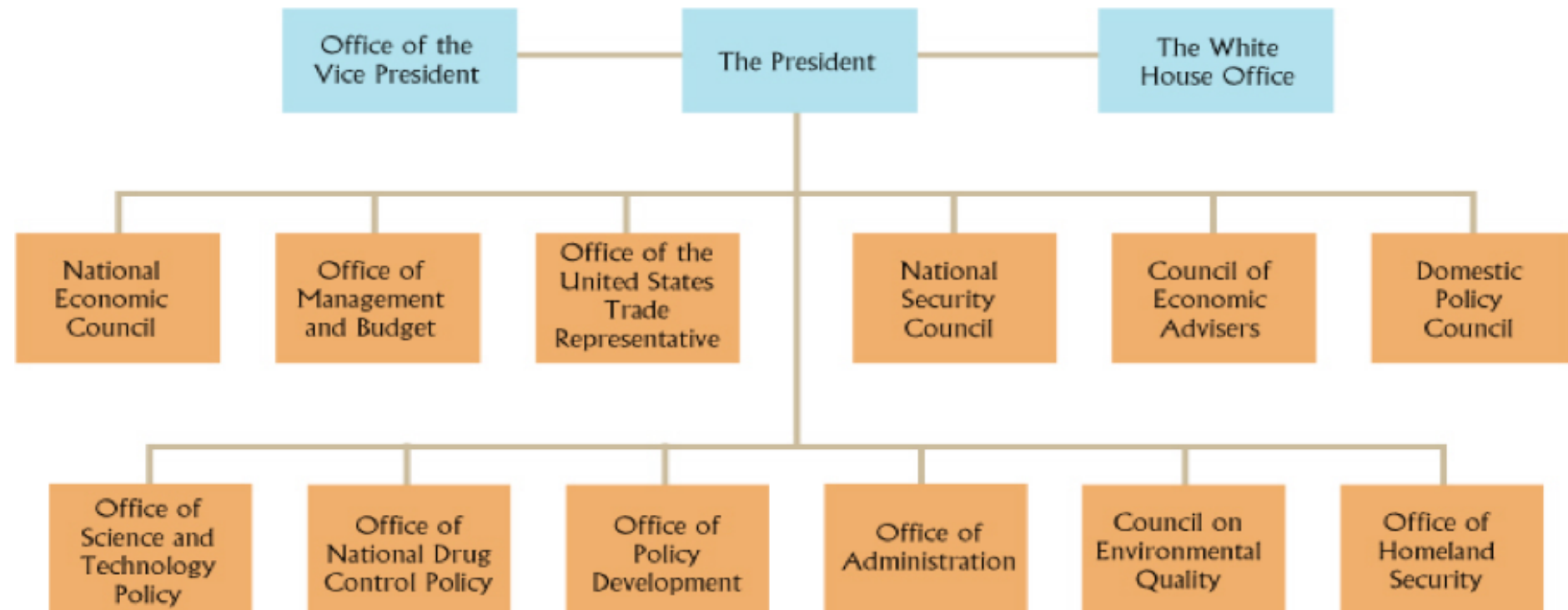
## Bureaucracy

The term, **bureaucracy** is often used when referring to the actions of government. In its simplest form, bureaucracy is a method of organizing people and work, based on the principles of hierarchical authority, job specialization, and formalized rules. As a form of organization, bureaucracy is often seen as the most efficient means of getting people to work together on tasks of great magnitude and complexity. Unfortunately, it can also be prone to waste, complex and confusing rules, and rigidity.

Though citizens tend to think of bureaucrats and bureaucracy in a negative way, it is truly necessary for a government our size to get anything accomplished. In this section, government employees will be referred to as bureaucrats. It is not meant to be negative.

At the federal level, the average bureaucrat focuses on one issue or field. This allows the government employee to become an expert in her field. For example, bureaucrats who work in the Executive Office of the President (EOP) advise the president on specific issues.

Check out this site to see how the merit system works:



## Interactive 7.7 Merit Exam



Check out this site to see how the merit system works: <http://www.federaljobs.net/exams.htm>

This wasn't always the case. In the 1880s, bureaucratic jobs were filled by patronage in what was called the "spoils system." When a citizen voted for a particular party and they won office, the party might repay the citizen with a government job. This is how parties bought loyalty, especially at the local level of government. After the assassination of President Garfield by a disgruntled individual who wanted a government job, the Pendleton Act of 1883 was signed into law ending the practice of patronage at the federal level.

**Executive Office of President**

“The Executive Office of the President (EOPOTUS or EOP) consists of the immediate staff of the current President of the United States and multiple levels of support staff reporting to the President. The EOP is headed by the White House Chief of Staff. Who is the White House Chief of Staff now?

The Executive Office of the President main function is to advise and assist the president in decision making and policy implementation. The individuals who work with the president are experts in their field or policy area and use their expertise to help the president make decisions.

By visiting the White House’s website, you can learn more about each of the councils and offices that assist the president. Here are a few excerpts from the site.

By visiting the White House’s website, you can learn more about each of the councils and offices that assist the president.

**Cabinet**

The **Cabinet** consists of all the secretaries or heads of federal departments such as the Department of State, Treasury, Defense, Education, and Labor. The secretaries are appointed by the president and confirmed or rejected by the Senate. Their job is to advise the president in their policy area and help the president implement his policy initiatives and execute the law.

- Department of State: “The Department's mission is to shape and sustain a peaceful, prosperous, just, and democratic world and foster conditions for stability and progress for the benefit of the American people and people everywhere.” FY 2015 Agency Financial Report, released November 2015. Visit [www.state.gov](http://www.state.gov) to explore the current focus of the State Department.

Table 1	
Cabinet Departments	
Department	Year established
State	1789
Treasury	1789
Justice	1789
Defense*	1789
Interior	1849
Agriculture	1889
Commerce	1913
Labor	1913
Health and Human Services	1953
Housing and Urban Development	1965
Transportation	1966
Energy	1967
Education	1979
Veterans Affairs	1987
Environmental Protection Agency†	1990
Homeland Security	2002

NOTE: \*The date refers to the Department of War; the Department of Defense was officially created in 1949. The Department of War (1789), the Department of the Navy (1798), the Department of the Army (1947) and the Department of the Air Force (1947) were all reorganized under the Department of Defense in 1949. See [www.dod.gov](http://www.dod.gov).  
†Cabinet-level rank under George W. Bush; see [www.whitehouse.gov/government/cabinet.html](http://www.whitehouse.gov/government/cabinet.html).  
SOURCE: Cabinet department websites.



- Department of Justice: “To enforce the law and defend the interests of the United States according to the law; to ensure public safety against threats foreign and domestic; to provide federal leadership in preventing and controlling crime; to seek just punishment for those guilty of unlawful behavior; and to ensure fair and impartial administration of justice for all Americans.”

<http://www.justice.gov/about>

Visit [www.justice.gov](http://www.justice.gov) to learn to explore the current focus of the Justice Department. To learn about other Cabinet Department goals, google the department name and go their official home page. Internship information can be found there too! You should check it out.

Because the bureaucracy of the Executive Office has grown to the size that it has, unelected officials from this bureaucracy sometimes are seen to be in competition with the president. Likewise, a president has to keep a close eye on the unelected Cabinet Secretaries who head each executive department – virtually an impossible task due to the size of the executive staff and the frequency with which these personnel have to be left to operate without someone always “looking over their shoulders.” Though those who head the executive are hand picked by the president, he still needs as much skill in working with these people as he does in working with Congress.

One of the problems that a president faces, is how to get his staff to do what he wants them to do – as they might have different priorities to the president once appointed to a position and no-one would necessarily know which interest groups influence individuals in the executive office. The departments of the executive office are meant to provide the president with speedy and simple responses to questions asked and inquiries that are made. This demand has increased over the years and many argue will continue to increase in the years to come.



# Other Actors in Foreign Policy Formulation

## QUESTIONS TO GUIDE INQUIRY

1. How does the Executive branch make decisions?
2. How is the Executive Branch organized?
3. What formal and informal powers does the president have?
4. How and why does the United States decide to participate in treaties and international organizations?
5. How should the United States' ideas on rights influence foreign policy?
6. How do "American values" influence foreign and domestic policy?

## The Foreign Policy Players

As mentioned before, the executive and legislative branches have specific duties when it comes to foreign policy. The president, when wearing his chief diplomat hat, can recognize countries, receive ambassadors, make treaties (with the Senate's approval) and executive agreements. As commander in chief, the president oversees our military.

The Executive Branch includes the National Security Council, the Department of Defense, the Department of State, the Central Intelligence Agency, the US Representative to the United Nations and the Joint Chiefs of Staff. The Justice Department does file cases on behalf of the United States if they feel the United States has been wronged or a country has violated economic treaty commitments and they defend the US when other countries sue us. These groups, as stated

above, consist of experts in their field and advise the president as well as assist him in implementing policy.

The Constitution's Article I, Section 8 gives Congress the power to declare war; it also has







the power to fund or defund military action. With the War Powers Act, the president must report to Congress within 48 hours

of sending US troops anywhere in the world, and they have 60 days to vote to keep our troops there or remove them.

The Supreme Court does have some say in America's foreign policy. It hears cases involving foreign nations, citizens of foreign nations, treaties, and laws of the sea. It also makes decisions when ambassadors or public ministers from other countries are involved in a case.

When a foreign policy decision is made, for example, President Obama's decision to open up diplomatic and economic relations with Cuba, the president, his executive branch foreign policy agencies, and



Congress all have a part to play.

An excellent source that beautifully explains and outlines the history of the United States in foreign policy as well as how it's made can be found at Constitutional Rights Foundation website.

### Interactive 7.8 American Imperialism



*American Imperialism is discussed in the video from Crash Course: <https://www.youtube.com/watch?v=QfsfoFqsFk4>. Watch it to learn more about the evolution of American involvement in the world.*

### Interactive 7.9 Constitutional Rights Foundation





## The United States Role in Foreign Policy

America's role in foreign policy has changed over time depending on where we were in our own growth as a nation. Where the United States really stepped up its game and emerged as the world's superpower was during and after World War II. Before then, our country was busy with domestic issues like westward expansion, protecting the western hemisphere from European influence, and Native American and African American relations.

During World War II, Franklin Roosevelt's international actions were limited by American citizens' isolationist tendencies. Balancing isolationism and his personal feelings of helping Great Britain and Winston Churchill, FDR with the help of his National Security team, initiated our Lend/Lease policies and helped as much as the United States was "legally" able. Once Japan bombed Pearl Harbor, the United States entered the war and aided the Allies in production and manpower. After the war, America sought to protect war-torn democracies throughout Europe and American businesses were hungry for capitalist markets around the world. Russia had its own designs for communist markets and hence the Cold War was started.

Since that time, America has remained a superpower in world affairs. Deciding whether we should be the world's police or get involved in every situation or crisis that comes about is an issue that divides many citizens. Should the United States get involved globally to pursue our own national interests or to protect human rights around the globe? To answer that question, you have to reflect on what you believe is right.

**Interactive 7.10**  
Smithsonian - Power and the Presidency



*[Learn more here!](#)*



# Cuba: A Case Study

## QUESTIONS TO GUIDE INQUIRY

1. How does the Executive branch make decisions?
2. How is the Executive Branch organized?
3. What formal and informal powers does the president have?
4. How and why does the United States decide to participate in treaties and international organizations?
5. How should the United States' ideas on rights influence foreign policy?
6. How do “American values” influence foreign and domestic policy?

Our country's relationship with Cuba is a fascinating study of American foreign policy. Our relationship has gone from friendship to foe and now is slowly evolving into something no one can really predict. Read through each of the following resources, put together a timeline of US/Cuban relations starting at the Cuban war for independence from Spain to today, and then predict what our relationship to Cuba will look like 10 years from now. Is the United States going to take over Cuba's economy with our capitalist system? Will Cuba remain free of American involvement? Take a stand and support it with three pieces of evidence from your readings. Be sure to explain how your sources support your point of view.

### Interactive 7.11

Washington Post - US and Cuba Relations Timeline



*Learn more here!*

This section will look at how US policy with Cuba has changed from the late 1800s to today. As a territory of Spain, the Cubans who wanted independence looked to the United States to intervene on their behalf. The more Spain repressed the Cuban people during their fight for independence, the more the United States wanted to intervene. US newspapers made the case publicly. When the USS Maine exploded in Havana harbor, the US officially became involved in the Cuban War of Independence.

After that, the US became very involved in Cuban affairs and had parts of the Platt Amendment written into the Cuban Constitution until a few years later when the US acquired Guantanamo Naval Base.

Two ad hoc constitutions were adopted in the course of Cuba's fight for independence from Spain (1895–1898). On 16 September 1895, delegates representing the rebel forces adopted a constitution in Jimaguayu, the Constitution of the Republic of Cuba in Arms, and set it to be reviewed in two years by a representative assembly. It described relations between civil and military authority. It named key officials and outlined the requirements of a peace treaty with Spain. In September 1897, the assembly met in La Yaya (es), adopted a new document on 30 October, and named a new president and vice-president.

The 1901 Constitution, was Cuba's first as an independent state. It incorporated eight principles set out in the Platt Amendment without which U.S. troops would not have been withdrawn from

Cuba, including the clause that the United States has the right to intervene in Cuba's affairs to protect its independence and guarantee the stability of its government. All but one of the Platt Amendment principles remained in force until a treaty between Cuba and the United States, negotiated as part of Franklin D. Roosevelt's Good Neighbor Policy toward Latin America, took effect on 9 June 1934, leaving U.S. only its right to a permanent lease to its Guantanamo Naval Station.

From 1934 and FDR's Good Neighbor Policy, Cuba proceeded through a number of presidents implementing progressive reforms in their country like minimum wage laws and public education. In 1952, when Fulgencio Batista seized office, he centralized his control of the country and in 1959 was overthrown by the revolutionary government of Fidel Castro. This is when US relations with Cuba soured as Castro centralized the economy of Cuba, regulated religions on the island and forbade private ownership of media. This obviously did not sit well with us, so even though we had recognized the Castro government when the revolution occurred, we now plotted to overthrow the Castro government.



## Bay of Pigs: The “Perfect Failure”

You have already learned about the Bay of Pigs in your United States History courses. There is a quick recap in the interactive on this page. After the Cuban Missile Crisis, the United States promised to leave Cuba alone. In fact, Kennedy imposed economic sanctions that restricted trade with Cuba. The Soviet Union and Eastern Bloc countries supported Cuba with supplies and economic trade until the late 1980s when Eastern Bloc collapsed. With its collapse, the Cuban people suffered through what is referred to as the “Special Period.”

**Interactive 7.12**  
History.Com - the Bay of Pigs



*[Learn more here!](#)*

Since April, 2015, President Obama and Cuba’s current president Raul Castro have cautiously moved toward a cautiously optimistic, but wary relationship. Given our tumultuous past, our Cuban-American citizens’ opinions, and our lingering distrust, it is no wonder both countries proceed slowly.

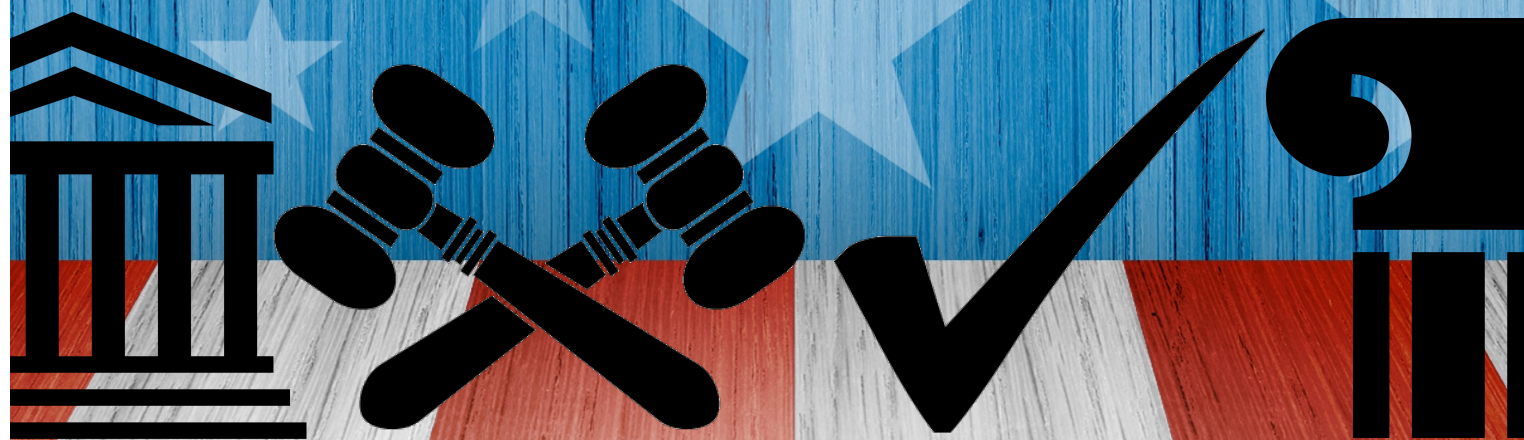
But as President Obama said during his address to the Cuban people in March 2016:

“Change is hard -- in our own lives, and in the lives of nations. And change is even harder when we carry the heavy weight of history on our shoulders. But today we are making these changes because it is the right thing to do. Today, America chooses to cut loose the shackles of the past so as to reach for a better future -- for the Cuban people, for the American people, for our entire hemisphere, and for the world.



MI OPEN BOOK PROJECT

# CIVIC LIFE



Hillary Baker, Travis Balzar, Annemarie Conway, Kelly  
Dutcher, Katie Hintz, Kymberli Wregglesworth



## Chapter 8

---

**Does the judicial branch's primary role of Constitution-bound arbiter make it as powerful as the other two branches of government?**

---

What are the purposes of the Judicial Branch as outlined in Article III?

Does the Supreme Court have too much power?

How is the Judicial Branch organized?

Should federal judges and Supreme Court justices have lifetime tenure?





# Purpose and Organization of the Judicial Branch

## QUESTIONS TO GUIDE INQUIRY

---

1. What are the purposes of the Judicial Branch as outlined in Article III?
2. Does the Supreme Court have too much power?
3. How is the Judicial Branch organized?
4. Should federal judges and Supreme Court justices have lifetime tenure?

## TERMS, PLACES, PEOPLE

judicial review

In Federalist Paper No. 78, Alexander Hamilton argues that the judicial branch is the weakest of the three branches of government. However, Hamilton also acknowledges that should not diminish the importance of the branch's most important power--that of judicial review.

As you continue to learn about the powers of the judicial branch, be sure to contemplate the chapter's compelling question - Does the judicial branch's primary role of Constitution-bound arbiter make it as powerful as the other two branches of government?

## Article III of the U.S. Constitution

### Section 1.

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

### Section 2.

1. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;— to all Cases affecting Ambassadors, other public ministers, and Consuls;— to all Cases of Admiralty and maritime Jurisdiction;— to Controversies to which the United States shall be a Party;— to Controversies between two or more States;— between Citizens of different States.

2. In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

3. The trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

### Section 3.

1. Treason against the United States shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless

on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

2. The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

In trying to balance power between the three branches, the Framers created a federal judiciary with limited powers, but very important responsibilities which included the power to define and interpret laws passed by the legislative branch and actions taken by the executive branch. Judicial power has expanded over the years to include a much larger role in the government of the United States.

There was no national judiciary under the Articles of Confederation; therefore, the states were free to interpret the national laws as they saw fit. Disputes between states were decided by the courts in one of the states involved, usually favoring the state on its “home turf.” This was one of the many problems under the Articles. This problem was remedied by the ratification of the Constitution in that Congress is granted the power to create lower federal courts as well as fix the size of the Supreme Court which was created by the Constitution. The generality of Article III was addressed by the first Congress with the passage of the Federal Judiciary Act of 1789. The Act established the number of justices to the Supreme Court (to see how the number has changed periodically over time, see the

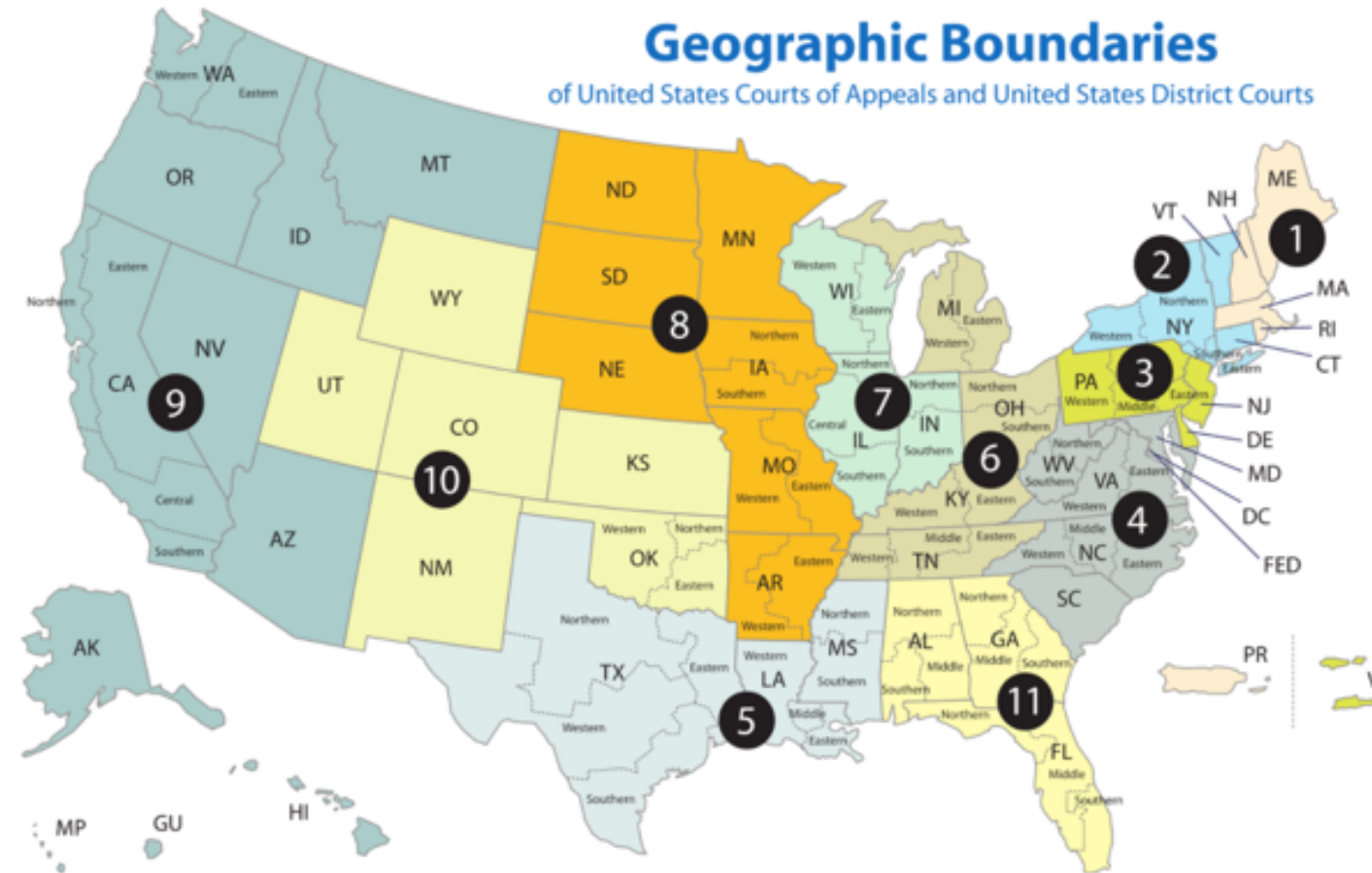
textbox), divided the country into judicial districts, and outlined some of the responsibilities of the justices, including the requirement that they “ride circuit” and hold court twice a year in each judicial district. six Justices (five associate and one chief) on the first court, and Congress has changed that number periodically. It was increased to seven in 1807, to nine in 1837, and to ten in 1863. In 1866, Congress wanted to prevent the soon-to-be impeached President Andrew Johnson from adding his nominees to the Court, so they passed the Judicial Circuits Act of 1866, reducing the number from ten to seven through attrition (as justices retired or died, their seats would not be filled until the Court numbered only seven). Only three years later, in 1869, Congress set the number at nine and it hasn’t changed since.

### What are the qualifications to be a federal judge or Supreme Court justice?

There are no constitutional requirements such as age or residency like there are for members of Congress or the President. In fact, one does not even have to have experience as a lawyer or a judge to serve as a federal judge or Supreme Court justice. However, all current federal judges have graduated from law school, many have worked as attorneys or state-level judges, and most Supreme Court justices have served as federal judges prior to being appointed to the Supreme Court. To read more about the current Justices, go to

<http://www.supremecourt.gov/about/biographies.aspx> for their biographies

Although the Supreme Court was the only court specifically created by the Constitution, Congress has created the federal court system that includes US District Courts, US Court of Appeals, Bankruptcy Courts and Article I Courts. There are currently 94 US District Courts, and each state and the District of Columbia has at least one District Court. The District Courts have a single judge and utilize a jury to make decisions. Michigan has two District Courts, the eastern district which includes the eastern



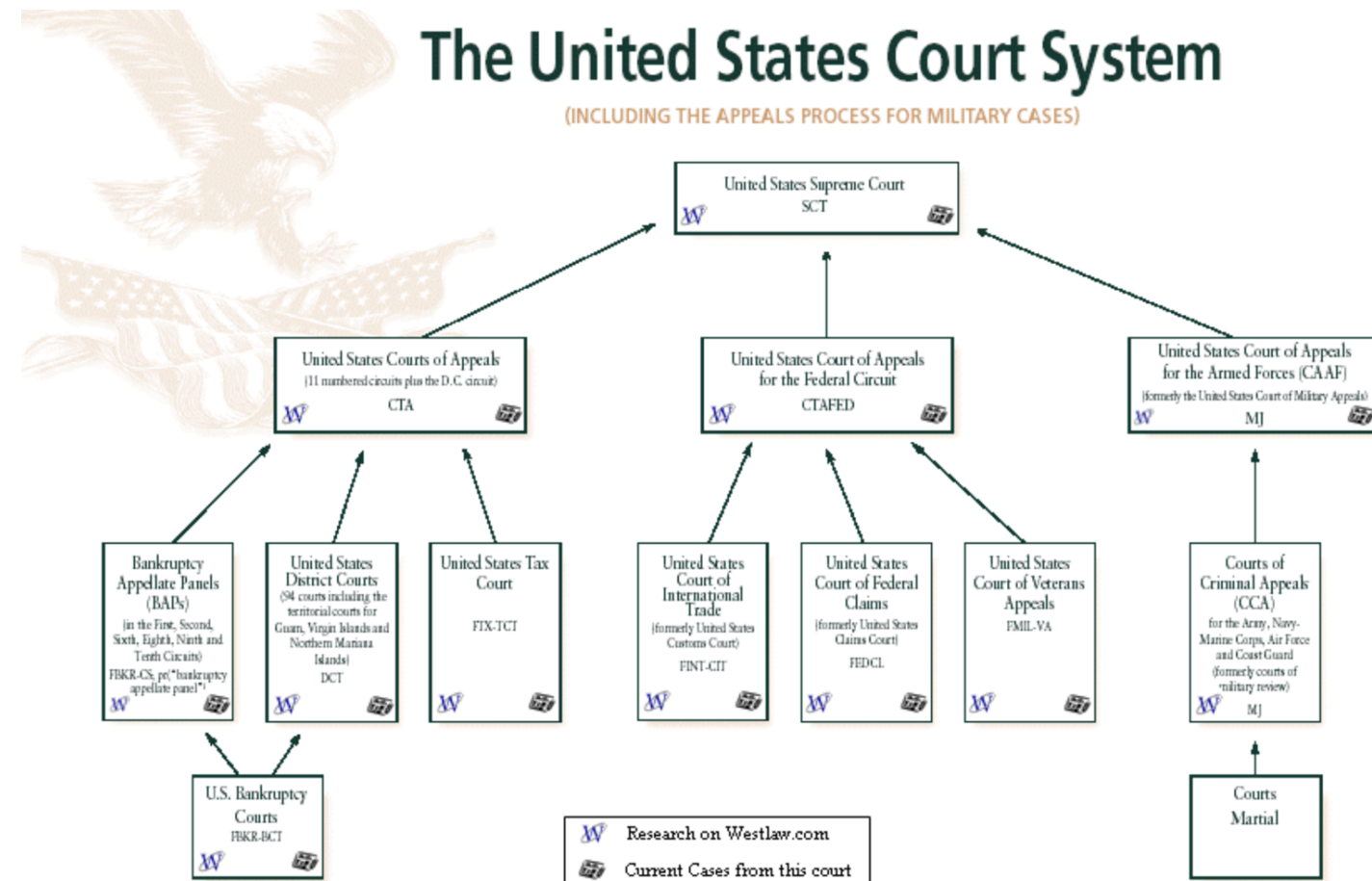


half of the lower peninsula and has courts in Detroit, Ann Arbor, Bay City, Flint, and Port Huron, and the western district which includes the western half of the lower peninsula and the upper peninsula and has courts in Grand Rapids, Lansing, Kalamazoo, and Marquette. US District Courts are organized into judicial circuits each with an appellate court.

There are currently 13 appellate courts that are organized into 12 regional circuits. The 13th Circuit, the Court of Appeals for the Federal Circuit has nationwide jurisdiction to hear appeals from special courts such as those from the Court of International Trade, the Court of Federal Claims, and patent rights cases. The appellate courts have three judges that hear cases without a jury. Michigan is located in the 6th circuit, which also includes the states of Ohio, Kentucky, and Tennessee. The 6th Circuit Court is located in Cincinnati, Ohio.

In addition to the US Supreme Court, US District Courts, and US Appellate Courts, there are also several special types of federal courts. The U.S. Court of International Trade and the U.S. Court of Federal Claims both have national jurisdiction. The Court of International Trade hears cases dealing with customs and international trade laws, and the Court of Federal Claims hears monetary claims based on the Constitution, federal laws, or executive regulations. Each District Court has a Bankruptcy Court to hear cases of personal, business, or farm bankruptcies. Congress also created several Article I, or legislative courts, that

do not have full judicial power. These are the Court of Appeals for Veterans Claims, the Court of Appeals for the Armed Forces, and the U.S. Tax Court.



All courts have jurisdiction to hear certain cases. The Supreme Court has two types of jurisdiction--original and appellate. When a court is the first to hear a case, it is said to have original jurisdiction. When a court hears a case on appeal from a lower court, it is said to have appellate jurisdiction. In the federal court system, the district courts have original jurisdiction, and the

appellate courts have appellate jurisdiction. Depending on the subject matter of the case, the Supreme Court can have either original or appellate jurisdiction. The Constitution specifies that the Supreme Court has original jurisdiction only in cases to which a state is a party and cases involving ambassadors, public ministers, and consuls. All other cases involving the Constitution, the Bill of Rights, federal law, as well as some state laws are heard by the Court on appeal. Cases which deal with federal law or international issues can only be heard in the federal courts which have exclusive jurisdiction. Those cases that can be heard in either the state or federal courts, such as cases involving diverse citizenship, are said to have concurrent jurisdiction.

### **How does one become a federal judge or Supreme Court Justice?**

According to Article II, Section 2, the President “shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . Judges of the Supreme Court . . .” This has been taken to mean all federal judges as well. When a vacancy arises on the Supreme Court or other federal court due to death, retirement, resignation, or impeachment, the President chooses a qualified appointee who is then voted on by the Senate in a simple majority vote. For high profile judgeships like those of Supreme Court justices, the Senate may choose to hold hearings to get a better understanding of what the nominee stands for or believes related to “hot button” issues facing society. Although it

seems like a simple process, several Supreme Court nominees were never approved for a multitude of reasons. For example, President Obama appointed Judge Merrick Garland to fill the vacancy left by the death of Justice Antonin Scalia in 2015, and the Senate refused to hold hearings to deny or approve Garland’s appointment.

The idea of an independent judiciary is established in the manner in which federal judges are chosen and the terms which they serve. Article III states that federal judges “shall hold their offices during good Behavior,” which has come to mean that those judges can serve for life. Although federal judges are selected by the President and confirmed by the Senate, their life tenure allows them to be free from undue political influence and pressure to decide a case according to the desires of the President or Congress.

**Judicial review** is the idea, fundamental to the U.S. system of government, that actions of the executive and legislative branches of government are subject to review and possible invalidation by the judicial branch.

The power of judicial review is not listed in the Constitution, but a case early in the nation’s history established it as an important role of the Court. Alexander Hamilton predicted this power in Federalist 78, stating “No legislative act therefore contrary to the constitution can be valid.” According to this power, the Court has the power to decide upon the constitutionality of an act of any

branch or level of government. *Marbury v. Madison* (1803) was the first to establish this power.

In the last weeks of his presidency, John Adams and the outgoing Federalist party created a number of federal judgeships and attempted to fill them with party loyalists. Several of the commissions that were confirmed the night before Thomas Jefferson's inauguration were never delivered. President Jefferson told his Secretary of State James Madison not to deliver those commissions, including one belonging to William Marbury. Marbury requested a writ of mandamus (an order from a court to an inferior government official ordering the government official to properly fulfill their official duties) from the Supreme Court to force Madison to deliver his commission. He based his request on the Judiciary Act of 1789 which gave the Supreme Court the right to hear mandamus cases in original jurisdiction. Chief Justice John Marshall, however, refused Marbury's request because the only cases which could be heard by the Supreme Court on original jurisdiction, according to Article III of the Constitution, were those to which a state was a party or those dealing with officials of foreign governments. Since Marbury was neither a state nor a foreign government official, his case should have begun at the federal district court level and then could have been appealed to the Supreme Court if necessary. The clause of the 1789 Judiciary Act giving the Court original jurisdiction over mandamus cases was struck down as an unconstitutional expansion of judicial power.

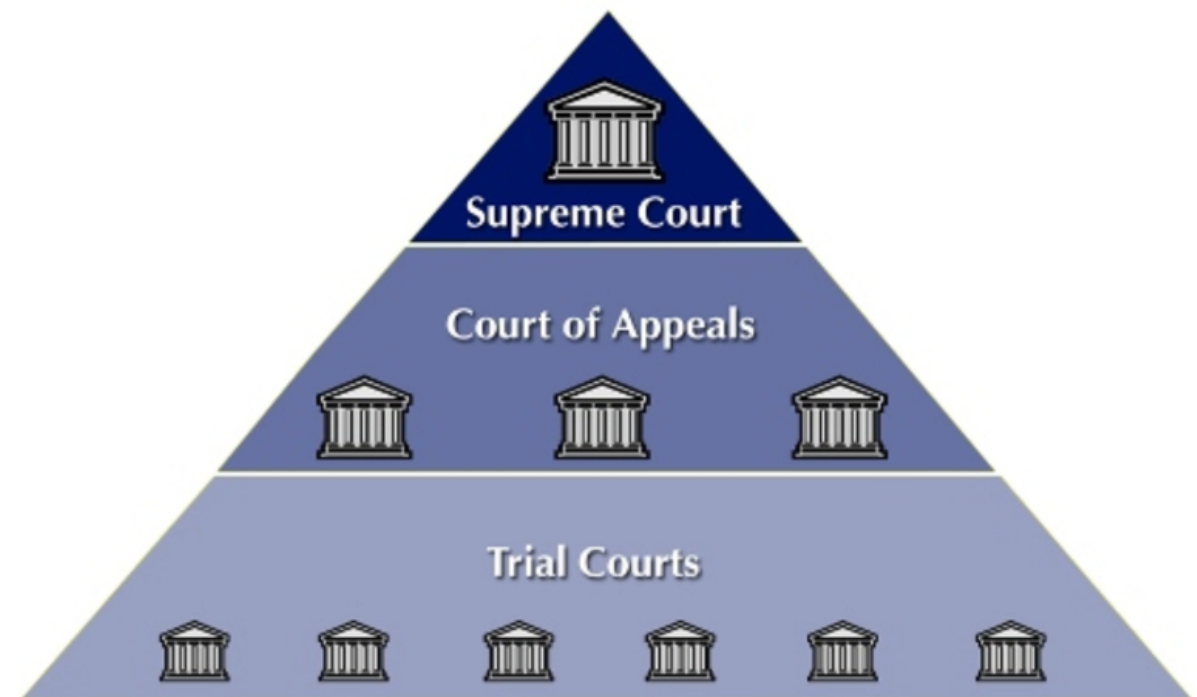




This section has focused on the federal court system. States have a similar structure which includes a state supreme court, appellate courts, and other courts. In Michigan, state judges at all levels are elected and serve fixed terms. Michigan's Supreme Court has seven justices who serve eight year terms. They are elected on the non-partisan section of the ballot (but nominated by the political parties), must have been licensed to practice law in Michigan for at least 5 years, and be under age 70 when elected. If a justice dies or retires during their term, the governor may name a replacement to serve until the next regularly scheduled election. The justices themselves choose the chief justice after each election. The Michigan court of appeals has nine judges who serve six year terms, and meet regularly in Detroit, Grand Rapids, and Lansing. They also hold hearings in northern Michigan when needed.

Michigan's local courts include the Circuit Court, Probate Court, District/Municipal Court, Small Claims Court, and Court of Claims. There are 57 Circuit Courts and the judges serve six year terms. They hear civil cases involving over \$25,000, felony and serious misdemeanor criminal cases, and all family cases. Probate Courts in each county hear cases regarding wills and estates, as well as cases regarding juveniles. Probate judges serve six year terms. District/Municipal Courts hear minor misdemeanor cases and traffic violations. They also serve six year terms. The Small Claims Court is a division of the District Court and hears civil cases valued at \$5,500 or less. The Court of

Claims is a part of the Court of Appeals and hears civil actions filed against the State of Michigan, such as tax lawsuits, highway defects, and malpractice in state medical facilities.



# Functions and Processes of the Judicial Branch

### QUESTIONS TO GUIDE INQUIRY

---

1. What are the purposes of the Judicial Branch as outlined in Article III?
2. Does the Supreme Court have too much power?
3. How is the Judicial Branch organized?
4. Should federal judges and Supreme Court justices have lifetime tenure?

### TERMS, PLACES, PEOPLE

writ of certiorari

amicus curiae

majority opinion

concurring opinion

dissenting opinion

Almost all cases come to the Supreme Court on appeal from another, lower court such as the US Court of Appeals or a state Supreme Court. Most cases are selected to be heard based on a **writ of certiorari**, which is a request for judicial review and an order directing the lower court to send its records to the Supreme Court for review. Either of the sides in the case can petition for the writ, but few will actually be granted - the Court only takes those cases in which there is a constitutional question or there have been differing interpretations of a law. The lower court's decision stands if certiorari is not granted - often this is because the justices believe the correct decision was made by the lower court or that there is no significant legal question to be addressed. Four of the nine justices must agree in order for certiorari to be granted.

Once the Court agrees to hear a case, the attorneys for the respondents and petitioners prepare and submit briefs that present the arguments and facts from relevant precedents. Most of the decisions that will eventually be made are based upon the justices' reading of these briefs and the records of the lower courts. Other groups with a substantial interest in the outcome of a case can, with permission of the Court, submit an **amicus curiae** brief. These briefs are intended to influence the Court's decision by showing how such a decision may impact the general public or a specific population.

Justices usually hear oral arguments Monday through Wednesday from October to April. Oral arguments are scheduled in two-week intervals, and in the intervening weeks the justices write opinions, read briefs for upcoming cases, and decide which cases they will hear in upcoming weeks. Attorneys are limited to thirty minutes to present the most important parts of their arguments, and are often interrupted with questions from the justices. In the weeks of arguments, the justices meet in secret, and take preliminary votes and discuss their ideas and opinions about the cases they've heard. The Chief Justice, if on the majority side of the decision, will write the opinion or assign it to another justice in the majority. If the Chief is in the minority, the most senior justice in the majority takes the role of assignor.

The **majority opinion** expresses the Court's reasoning for their decision, including links to precedent and related cases. A majority of the justices, currently five of nine, must agree on the decision. However, if a justice agrees with the majority opinion or even only with the result, he or she could write a separate **concurring opinion** that stresses a different point of law or different reason for reaching the same conclusion. The justices in the minority often write **dissenting opinions** expressing why they disagreed with the majority. These opinions are important because they are often used in later cases as reason to overturn precedent, and they also help to show the decision-making process within the Court.

## Interactive 8.1 SCOTUS Blog



*[Read more here!](#)*



# The Court System in Action

## QUESTIONS TO GUIDE INQUIRY

---

1. What are the purposes of the Judicial Branch as outlined in Article III?
2. Does the Supreme Court have too much power?
3. How is the Judicial Branch organized?
4. Should federal judges and Supreme Court justices have lifetime tenure?

## TERMS, PLACES, PEOPLE

Jordan Romero, a student at Safford Middle School in Safford, Arizona, brought a prescription-strength ibuprofen pill to the assistant principal, Mr. Kerry Wilson. Jordan said he had gotten the pill from another student, Marissa Glines, who was planning to hand out more pills during lunch. Wilson brought Marissa to his office, and searched her belongings. He found more pills, knives, a lighter, and a cigarette. Marissa said she had gotten the pills from Savanna Redding, a 13-year-old honors student. Savanna said she didn't know anything about the painkillers, and Mr. Wilson told her that he had heard that she was giving the painkillers to her classmates. Savanna again said she didn't know anything about it, and agreed to let the principal and his female assistant search her belongings. Principal Wilson and his assistant searched her backpack and found nothing.

Savanna was then taken to the school nurse's office so that her clothing could be searched. The nurse asked Savanna to remove her clothing, down to her bra and underwear, so the clothes could be searched. Then the nurse asked Savanna to shake out her bra and pull out the elastic on her underwear exposing Savanna's breasts and pelvic area to the nurse and principal's assistant. No pills were found. Savanna's mother sued the school, claiming that the search violated Savanna's Fourth Amendment rights. The school officials claimed qualified immunity--governmental officials are shielded from liability for violating an individual's constitutional rights unless they have violated a clearly established law, and moved

for a summary judgment--a judgment entered by a court without a full trial when one party shows through its evidence that the other party could not possibly win at trial.

The District Court agreed with the school officials and found that there was no Fourth Amendment violation. The accusation from Marissa that Savanna had provided the pills, as well as the report from Jordan, that he had recently attended a party at Savanna's house where alcohol was served, was sufficient to justify the search of her belongings as well as the strip search. The court concluded that the search was justified because there was a reasonable suspicion that Savanna was carrying pills on her person and intended to give them out to other students.

The Circuit Court overturned the District Court ruling, stating that the strip search was "excessively intrusive" based solely on what another student had claimed. The suspected facts did not indicate that the drugs were potentially dangerous or that she had anything hidden in her undergarments. Savanna's expectation of privacy outweighed the school's need for a drug-free environment. The Circuit Court also rejected the claim of qualified immunity because the school officials should have known that a strip search of a child was excessive.

**Issue:** Can school officials conduct a strip search of a student suspected of possession and distribution of prescription drugs - a violation of school policy - or is such a search prohibited by the Fourth Amendment?

Arguments for Safford Unified School District:

- Principal Wilson had a reasonable suspicion that Savanna was in possession of prescription drugs from the statements of both Marissa and Jordan, so the search was initially justified.
- The search was not invasive because Wilson authorized two female staff members to conduct it in a closed room, and neither staff member touched Savanna.
- Distribution of prescription drugs was an ongoing problem at Safford Middle School, and the precedent in *New Jersey v. T.L.O.* (1985) allowed school officials to judge if a search was necessary to maintain safety and order in a school. Wilson determined that the search of Savanna was necessary.
- Marissa was not forced to give up Savanna's name, nor was she offered a lesser punishment for doing so.

**Arguments for Savanna Redding:**

- A search of Savanna's belongings was justified under *T.L.O.*, but extending the search beneath her clothes was not justified because nothing was found in her belongings.
- The scope of the search was unreasonable because there had been no accusations that Savanna was hiding pills beneath her clothing or in her undergarments.

- A strip search was excessively invasive and could have been substituted by keeping Savanna in the principal's office during the alleged lunchtime distribution.
- Marissa was not a reliable accuser, as she herself was under suspicion, and accusing Savanna drew the attention away from her.

Decision: In an 8-1 decision, the Supreme Court recognized that the "strip search" was excessively invasive, and Savanna said that it was an "embarrassing, frightening, and humiliating" experience for her. Based on the facts presented to the principal, the Court concluded that a search of Savanna's belongings and pockets was justified, but such an intrusive search was not warranted. The prescription drugs found were no different from common, over-the-counter painkillers, that in small quantities were not a serious threat to the wellbeing of the students. There was not a reasonable suspicion that Savanna was hiding contraband in her undergarments, so that level of search was determined to be unnecessary.