

STUDY GUIDE Chapter 2, Section 4

For use with textbook pages 53–58.

THE CONSTITUTIONAL CONVENTION

KEY TERMS

interstate commerce Trade among the states (page 55)
extralegal Not sanctioned by law (page 56)
anarchy Political disorder (page 57)

DRAWING FROM EXPERIENCE

Remember the last time you did a group assignment. What were the difficulties of working with a group? The problems you faced were probably similar to those faced by the delegates at the Philadelphia convention.

This section focuses on the creation and ratification of the United States Constitution.

ORGANIZING YOUR THOUGHTS

Use the graphic organizer below to help you take notes as you read the summaries that follow. Think about the issues at the Constitutional Convention and how they were settled.

Issues	Resolutions
1.	
2.	
3.	
4.	
5.	

STUDY GUIDE (continued) **Chapter 2, Section 4**

READ TO LEARN

Introduction (page 53)

The Constitutional Convention began on May 25, 1787. Fifty-five delegates from twelve states attended.

The Convention Begins (page 53)

James Madison from Virginia was a brilliant supporter of a strong national government. Madison is often called the Father of the Constitution because he wrote the basic plan of government that the convention, eventually adopted. George Washington was chosen to preside over the meetings. The delegates decided to keep the public and press from attending the sessions so they felt free to address issues openly.

The delegates originally intended to revise the Articles of Confederation. They eventually agreed to abandon the former government and begin again. All favored the idea of limited government and separation of powers. They all agreed to strengthen the central government and to limit the power of states.

1. On what issues did convention delegates agree?

Decisions and Compromises (page 54)

The Virginia Plan On May 29, 1787, Edmund Randolph of Virginia introduced 15 resolutions that James Madison had drafted. This Virginia Plan proposed:

- A. a strong national legislature with two chambers, the lower chamber to be chosen by the people and the upper chamber to be chosen by the lower;
- B. a strong national executive to be chosen by the national legislature; and
- C. a national judiciary to be appointed by the legislature.

Delegates from the smaller states objected to the Virginia Plan because it put the larger, more populous states in control of a strong national government. However, after a number of modifications, the Virginia Plan eventually became the basis of the new Constitution.

The New Jersey Plan On June 15, William Paterson of New Jersey proposed an alternate plan. The New Jersey Plan called for a unicameral legislature with one vote for each state. Congress would have the power to impose taxes and regulate trade. Congress would also elect a weak executive, who would appoint a national judiciary. After some discussion, the delegates rejected the New Jersey Plan.

The Connecticut Compromise Roger Sherman and the other delegates from Connecticut came up with the Connecticut Compromise. The compromise suggested that the legislative branch have two parts:

- A. A House of Representatives, with state representation based on population. All revenue laws concerning spending and taxes would begin in this house.
- B. A Senate, with two members from each state. State legislators would elect senators.

Under the compromise, the larger states would have the advantage in the House of Representatives, but the smaller states would enjoy the advantage in the Senate.

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STUDY GUIDE (continued)

Chapter 2, Section 4

The Three-Fifths Compromise Almost one-third of the people in the Southern states were enslaved African Americans. These states wanted the enslaved people counted as free people to give the South more representation, but did not want them counted for levying taxes. The Northern states took the opposite position. The Three-Fifths Compromise settled the issue by having three-fifths of the enslaved people counted for both tax purposes and for representation.

Compromise on Commerce and the Slave Trade The Northern states wanted the government to have complete power over trade with other nations. The Southern states feared that Congress might set up trade agreements that would hurt their agricultural exports and interfere with the slave trade. A compromise settled the issue. Congress could not ban the slave trade until 1808 but could regulate both interstate commerce, or trade among the states, and foreign commerce. Congress was forbidden to impose export taxes.

The Slavery Question The delegates knew that the Southern states would never accept the Constitution if it interfered with slavery, so the Founders compromised on the slavery question. They refused to deal with slavery and thus left it to later generations of Americans to resolve.

Other Compromises The debate over how to elect the president led to another compromise—the present Electoral College system, in which each state selects electors to choose the president. Similarly, the president’s four-year term was a compromise between those who wanted a longer term and those who feared a long term would give the president too much power.

2. How did the Connecticut Compromise satisfy both large and small states?

☐ Ratifying the Constitution (page 56)

The new Constitution needed the approval of nine states to become law. A great debate raged over the Constitution before it was finally ratified.

A group called the Anti-Federalists claimed that the Constitution was *extralegal*—not sanctioned by law—because the convention had been authorized only to revise the Articles of Confederation. The Anti-Federalists also argued that the Constitution needed a Bill of Rights. Without this, a strong federal government might take away the human rights won in the Revolution. A group called the Federalists argued that without a strong central government, the country would face *anarchy*, or political disorder. The Federalists promised to add a Bill of Rights as the first order of business under a new government.

Many small states quickly ratified the Constitution. It went into effect when New Hampshire became the ninth to ratify on June 21, 1788. But Virginia and New York held out. Washington, Madison, and Randolph persuaded Virginians to ratify on June 25. To win over New York, Hamilton, Madison, and John Jay wrote *The Federalist*—a collection of 80 essays in support of the Constitution. New York finally ratified the Constitution on July 26.

New York City was the new nation’s temporary capital. George Washington was elected president and John Adams vice president. Congress met for the first time in New York City’s Federal Hall on March 4, 1789. On April 30, Washington took the oath of office as first president.

3. How did Federalists counter the Anti-Federalists’ greatest fear?

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CHAPTER 3 SUMMARY CONTINUED

THE THREE BRANCHES OF GOVERNMENT *(continued)*

The president

- (1) is commander-in-chief of the armed forces;
- (2) with the Senate's consent, appoints ambassadors, judges, and other officials;
- (3) makes treaties with the consent of the Senate;
- (4) calls Congress into special session, if necessary;
- (5) meets with foreign officials;

(6) ensures that the laws of Congress are faithfully executed.

Article III calls for a Supreme Court and any lower courts Congress may establish. The Constitution gives federal courts jurisdiction, or authority, over cases involving United States laws, treaties, interpretations of the Constitution, and the law of the sea. State courts have jurisdiction in other kinds of cases.

★ AMENDING THE CONSTITUTION ★★★★★★★★★★★★★★★★★★★★★★★★★★★★

By providing for amendments the Founders created a Constitution that could be adapted to future needs. Amendments are proposed at the national level in two ways: a two-thirds vote of each house of Congress or a national convention called by Congress at the request of two-thirds of the states. Amendments can also be approved in two ways: if legislatures in three-fourths of the states ratify the amendment or if each state calls a ratifying convention. Either way, Congress sets a time limit, usually seven years, for the states to decide.

The Constitution keeps pace with the times through informal changes as well. Some changes occur as Congress makes laws that enlarge or clarify constitutional provisions, for example, by passing

many complex tax laws. Other changes result from the ways in which the branches of government use their powers.

Modern presidents often conduct foreign affairs by executive agreement, a pact between the president and another head of state. Unlike treaties, which are pacts between nations, executive agreements do not need Senate approval.

Federal courts bring about change through rulings in legal cases. Advocates of judicial restraint believe that the courts should uphold laws unless they clearly violate a specific provision of the Constitution. Supporters of judicial activism believe the courts should interpret the Constitution in ways that bring about social change.

★ THE AMENDMENTS ★★★★★★★★★★★★★★★★★★★★★★★★★★★★

The first ten amendments, the Bill of Rights, protect individual liberties and the rights of persons accused of crimes.

The **First Amendment** guarantees freedom of religion and protects freedom of speech and of the press. The government cannot stop people from expressing unpopular opinions, nor can it impose prior restraint, censorship of information before it is made public.

The **Second Amendment** supports the right to own firearms, but does not ban government regulation of the use and sale of weapons.

The **Third Amendment** prohibits the government from forcing people to provide shelter for soldiers in their homes.

The **Fourth Amendment** protects the right to privacy. Police need a warrant and probable cause, a reasonable basis for believing that a person or place

is linked to a crime, before a search or arrest.

The **Fifth Amendment** guarantees that no one may be deprived of life, liberty, or property without due process—proper constitutional procedures in legal action against individuals.

The **Sixth through Eighth Amendments** provide protections such as the right to a fair and speedy trial by jury and a ban on “cruel and unusual punishment.”

The **Ninth Amendment** says that all basic rights not specifically mentioned in the Constitution are “retained by the people.”

The **Tenth Amendment** notes that powers not given to the national government—or denied to the states—by the Constitution belong to the states or to the people.

Seventeen other amendments, covering various issues, have been added over the years.

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CHAPTER SUMMARY *Activity* ★ ★ ★ ★ ★ ★ ★ ★ ★ ★



The Constitution

★DIRECTIONS: In the space provided, write the word(s) or phrase(s) that best completes each sentence.

1. The three parts of the United States Constitution are the _____, or introduction; the _____, or divisions; and the _____, or changes.
2. The Constitution creates three branches of the federal government: the _____, the _____, and the _____.
3. The _____ in Article VI establishes the Constitution as the “supreme law of the land.”
4. _____ sovereignty means that the government is based on the consent of the governed and derives its authority from the people.
5. _____ of powers prevents any one branch from acquiring too much power, by dividing responsibilities among the three branches.
6. A system of _____ and _____ allows each branch of government to exercise some control over the others.
7. The right of Congress to make all laws “necessary and proper” to carry out its other powers is called the _____ clause because it allows Congress to “stretch” its powers.
8. The first ten amendments, the _____ of _____, protect individual liberties and the rights of persons accused of crimes.
9. The _____ Amendment protects freedom of religion, freedom of speech, and freedom of the press.
10. The Fifth Amendment guarantees _____, which means that the government must follow proper constitutional procedures in legal action against individuals.

Critical Thinking

11. Which constitutional principle is illustrated by the president’s power to veto a law and the power of Congress to override that veto by a two-thirds vote? Explain. _____

12. Do you think an advocate of judicial restraint would support a “narrow” interpretation of the Constitution or a “broad” interpretation? Why? _____

13. Someone tried to explain the limits on freedom of speech by using this figurative expression: “My right to extend my arm ends at your nose.” What do you think he or she meant? _____

STUDY GUIDE



Chapter 3, Section 1

For use with textbook pages 63–67.

STRUCTURE AND PRINCIPLES

KEY TERMS

article One of seven main divisions of the body of the constitution (page 64)

jurisdiction The authority of a court to rule on certain cases (page 64)

supremacy clause The statement establishing the constitution as the highest law of the land (page 64)

amendment A change to the Constitution (page 65)

popular sovereignty Rule by the people (page 65)

federalism A system in which power is divided between the national and state governments (page 65)

separation of powers The division of power among the legislative, executive, and judicial branches of government (page 65)

checks and balances The system whereby each branch of government exercises some control over the others (page 65)

veto Rejection of a bill (page 66)

judicial review The power of the Supreme Court to declare laws and actions of the local, state, or national governments unconstitutional (page 66)

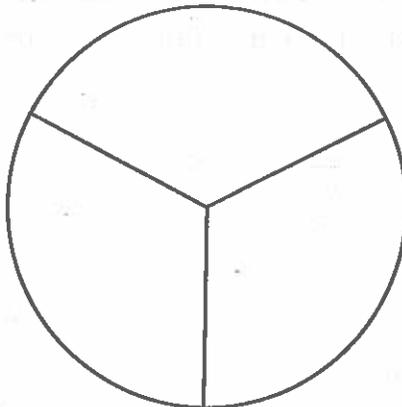
DRAWING FROM EXPERIENCE

Remember the first time you used a computer. Did you try to operate it without a manual? If so, you probably had difficulty getting the computer to do what you wanted. Like a manual, the Constitution explains how the government works.

This section focuses on the basic structure and principles of the Constitution.

ORGANIZING YOUR THOUGHTS

Use the graphic organizer below to help you take notes as you read the summaries that follow. Think about the separation of powers under the Constitution.



STUDY GUIDE (continued) **Chapter 3, Section 1**

READ TO LEARN

Introduction (page 63)

The Constitution provides citizens with information about their rights and about what they may reasonably expect of their government. An understanding of the Constitution is key to understanding the structure and functions of American government.

Structure (page 63)

The Constitution contains about 7,000 words and is divided into three parts.

The Preamble The Preamble, or introduction, states that the government should provide stability and order, protect citizens' liberties, and serve the people.

The Articles The Constitution contains seven divisions called *articles*. Each article covers a general topic. Most of the articles are also divided into sections.

Article I creates the Congress. It also sets forth details about the House of Representatives and the Senate, explains how to make laws, lists the types of laws Congress may pass, and names powers that Congress does not have.

Article II creates an executive branch, details the powers and duties of the presidency, describes qualifications for the office and how the president is elected, and provides for the vice president.

Article III establishes a Supreme Court to head the Judicial Branch. It also gives the national government the power to create lower federal courts; outlines the *jurisdiction*, or the authority, of the Supreme Court and other federal courts to rule on cases; and defines treason against the United States.

Article IV explains the relationship of the states to one another and to the national government. It requires states to give citizens of other states the same rights as its own citizens; addresses admitting new states, and guarantees that the national government will protect the states against invasion or domestic violence.

Article V spells out the ways that the Constitution can be changed.

Article VI contains the *supremacy clause*, establishing that the Constitution, laws passed by Congress, and treaties of the United States are the highest law of the land.

Article VII addresses ratification of the Constitution.

The Amendments The Constitution has 27 **amendments**, or changes. Amendments provide a way that the document can change along with the changing needs of the nation.

- 1. Which topics do Articles I, II, and III of the Constitution cover?

STUDY GUIDE (continued) **Chapter 3, Section 1**

Major Principles (page 65)

The Constitution rests on the following six major principles of government:

Popular Sovereignty Government's authority flows from the people.

Federalism Power is divided between the national and state governments. Both levels have their own agencies and officials and pass laws that directly affect citizens. Federalism gives the United States flexibility because the national government has the power to act for the country as a whole, and states have power over many local matters.

Separation of Powers This means that the powers of the central government are divided among the executive, legislative, and judicial branches. The Founders hoped this system would prevent any branch from taking too much power.

Checks and Balances Each branch of government exercises some control over the others. For example, Congress passes laws, but the president can check Congress by **vetoing**, or rejecting, a law. This veto power is balanced by the power Congress has to override the veto by a two-thirds vote of each house.

Judicial Review This is the power of the courts to declare law and actions of local, state, or national governments invalid if they violate the Constitution. All federal courts have this power, but the Supreme Court is the final authority on the meaning and interpretation of the Constitution. The Constitution does not explicitly give the judicial branch this power. However, the Supreme Court established this precedent for federal courts in the case of *Marbury v. Madison* in 1803.

Limited Government This means that the Constitution limits the actions of the government by specifically listing powers it does and does not have. For example, the first ten amendments place specific limits in the areas of freedom of expression, personal security, and fair trials.

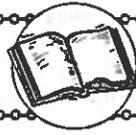
2. Describe one way the president checks the Congress and one way Congress checks the president.

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STUDY GUIDE



Chapter 3, Section 2

For use with textbook pages 68–75.

THREE BRANCHES OF GOVERNMENT

KEY TERMS

expressed powers Powers directly stated in the Constitution (page 68)

enumerated powers The expressed powers of Congress that are itemized and numbered 1–18 in Article I, Section 8 of the Constitution (page 69)

elastic clause Statement in Article I, Section 8 of the Constitution that gives Congress the right to make all laws “necessary and proper” to carry out the powers expressed in the other clauses of Article I (page 69)

federal bureaucracy Departments and agencies of the federal government—mostly the executive branch (page 71)

DRAWING FROM EXPERIENCE

Picture yourself entering a dance contest for couples, but being without a partner. What would be your chances of winning the contest? The legislative and executive branches would have the same chances of making effective policy if each operated alone. They have to cooperate with each other to successfully serve the nation’s needs.

This section focuses on the powers of the three branches of government.

ORGANIZING YOUR THOUGHTS

Use the graphic organizer below to help you take notes as you read the summaries that follow. Think about the chief function of each branch of the federal government.

Legislative	Executive	Judicial

STUDY GUIDE (continued)**Chapter 3, Section 2****READ TO LEARN****Introduction** (page 68)

Article I of the Constitution established the House of Representatives and the Senate. Article II established the executive branch. In 1787 the presidency was an entirely new concept, and the need for the office was hotly debated among the Founders. Article III established the judicial branch. The Constitution set up only the Supreme Court but gave Congress the authority to set up additional courts.

The Legislative Branch (page 68)

The Founders gave Congress *expressed powers*, or the powers directly stated in the Constitution. Most of the expressed powers are itemized in Article I, Section 8. These are called *enumerated powers* because they are numbered 1–18. The final enumerated power is called the elastic clause. This clause gives Congress the right to make all laws “necessary and proper” to carry out the other expressed powers. It allows Congress to “stretch” its powers to meet situations the Founders could not anticipate.

The first Congress introduced 167 bills, and legislating was only a part-time job. Today, a total of 100,000 bills are introduced each year, and members of Congress work nearly year-round in Washington, D.C.

1. Why is the final enumerated power of Congress called the elastic clause?
-

The Executive Branch (page 70)

Article II of the Constitution states: “The executive power shall be vested in a president of the United States.” Under this executive power, the president can fire officials in the executive branch, make agreements with foreign nations, or take emergency measures to save the nation.

Sections 2 and 3 of Article II give the president more specific powers:

- A. To command the armed forces and the state militias when they are called into service
- B. To appoint heads of executive departments, with Senate approval
- C. To pardon criminals, except in cases of impeachment, or to reduce a person’s jail sentence or fine
- D. To make treaties, with the advice and consent of the Senate
- E. To appoint ambassadors, federal court judges, and other top officials, with Senate approval
- F. To deliver an annual State of the Union message to Congress and to send Congress other messages
- G. To call Congress into special session when necessary
- H. To meet with heads of state, ambassadors, and other foreign officials
- I. To commission all military officers of the United States
- J. To ensure that the laws of Congress are “faithfully executed”

George Washington, the first president, knew his every act would set a precedent. For example, he refused to run for a third term, setting a precedent for future presidents. His responsibilities did not require more than a handful of advisers and staff. Today, presidents direct a White House staff numbering in the hundreds, a military force of millions, and a *federal bureaucracy* made up of all executive branch employees.

STUDY GUIDE (continued) **Chapter 3, Section 2**

2. Which powers of the president involve foreign nations?

☐ **The Judicial Branch** (page 72)

The judiciary of the United States has a dual courts system, or two different sets of courts. One includes federal courts, whose powers come from the Constitution and federal laws. The other includes the state courts, which get their powers from state constitutions and laws. Every court has the authority to hear only certain kinds of cases. This authority is called the jurisdiction of the court. Two factors determine the jurisdiction of federal courts: the subject matter of the case and the parties involved in it.

The first Supreme Court met in a small chamber on the main floor of the Capitol in Washington, D.C. When the Court was not in session, justices had to hear appeals in faraway districts. In 1935 the Supreme Court got its own building. It carved out power in landmark cases such as *Marbury v. Madison* of 1803. In that case, Chief Justice Marshall established the Court's power to declare laws unconstitutional. This power, known as judicial review, helps to balance the powers of the other branches.

3. Explain how the Supreme Court can check the power of Congress.

☐ **Shared Power and Conflict** (page 73)

Relationships among the three branches not mentioned in the Constitution developed over time.

The President as Legislator The executive branch provides plans for much of the legislation Congress considers. Article II gives this power by directing the president to "recommend to their [members of Congress] consideration such measures as he shall judge necessary . . ."

The President vs. Congress At times, presidents charge Congress with trying to take away powers of the executive. At other times, the president and Congress quarrel over the way the president carries out laws. Then the federal courts may be called in to interpret the laws. Often one political party controls the executive and another controls Congress. This can result in compromises or in gridlock, when nothing is accomplished.

Congress vs. the Courts The Constitution gives Congress the power to create lower federal courts and to limit the jurisdiction of the Supreme Court. However, Congress seldom uses this power.

The Supreme Court vs. the President Some Supreme Court decisions require the cooperation of the president. However, a president sometimes disagrees with the Court and refuses to carry out its decision.

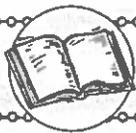
4. Describe two kinds of conflicts Congress and the president experience.

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STUDY GUIDE



Chapter 3, Section 3

For use with textbook pages 76–81.

A MENDING THE CONSTITUTION

KEY TERMS

ratify To approve (page 76)

petition An appeal (page 77)

balanced budget Plan requiring that what the government spends will not exceed its income (page 77)

impeach To accuse a public official of high crimes and misdemeanors in office (page 79)

executive agreement An agreement made between the president and another head of state (page 80)

judicial restraint The philosophy that the Supreme Court should avoid taking the initiative on social and political actions (page 80)

judicial activism The philosophy that the Supreme Court should play an active role in shaping national policies by addressing social and political issues (page 81)

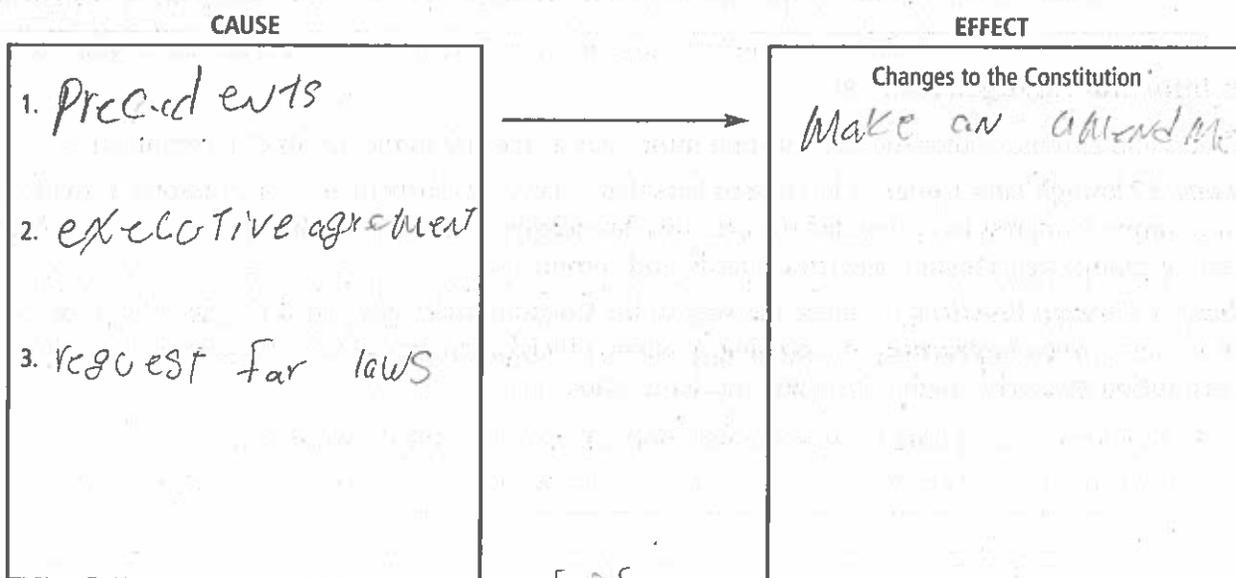
DRAWING FROM EXPERIENCE

Have you ever written an essay? Did you start with an outline? Most likely, you changed parts of the outline as you did research and wrote the actual essay. In the same way, Americans have changed the Constitution from time to time.

This section focuses on the process of amending, or changing, the Constitution.

ORGANIZING YOUR THOUGHTS

Use the graphic organizer below to help you take notes as you read the summaries that follow. Think about the kinds of presidential acts that have resulted in changes to the Constitution.



STUDY GUIDE (continued) Chapter 3, Section 3

READ TO LEARN

Introduction (page 76)

The Constitution can be changed to suit new conditions while the basic form of American government remains unchanged.

The Amendment Process (page 76)

Article V provides for making amendments on any topic except equal representation from a state. Amendments are proposed on a national level and ratified, or approved, on a state-by-state basis.

- A. One way of proposing an amendment is by a two-thirds vote of each house of Congress. This is the only method that has been used.
- B. The other method is by a national convention called by Congress at the request of two-thirds of the states. In 1963 states *petitioned*, or appealed to, Congress for a convention to propose an amendment but failed to get support from the required number of states. Again, between 1975 and 1991, states petitioned Congress to propose an amendment requiring a *balanced budget*—one in which the government's spending never exceeds its income. This effort also failed to win more than two-thirds of the states.
- C. Congress can also choose one of two methods for ratifying an amendment. One way is for legislatures in three-fourths of the states to ratify the amendment. If a state rejects an amendment in the state legislature method, lawmakers may reverse their decision and ratify the amendment. The other method is for each state to call a special ratifying convention. This method has been used only once.
- D. Congress decides how long states have to ratify an amendment. Recently, the limit has been seven years.

1. What are two ways an amendment can be ratified?

Informal Changes (page 78)

Leaders and citizens change the Constitution informally as they fill in the details of government.

Changes Through Law Congress has passed laws that enlarge or clarify many Constitutional provisions. For example, Congress has expanded the executive branch beyond its description in the Constitution by creating cabinet departments, agencies, boards, and commissions.

Changes Through Practices Congress has shaped the Constitution by the way it uses its other powers. For instance, when *impeaching*, or accusing, a federal official, members of Congress decide what the Constitution means by "high crimes and misdemeanors."

2. In what two ways does Congress make informal changes to the Constitution?

STUDY GUIDE (continued)**Chapter 3, Section 3****☐ Informal Presidential Changes** (page 80)

In 1841 Vice President John Tyler clarified the constitutional provision for succession to the presidency. When President William Henry Harrison died in office, Tyler took the oath of office and became president rather than just acting as president until the next election. Tyler's precedent guided vice presidents until 1967 when the Twenty-fifth Amendment made it official.

The Constitution specifies a process for making a *treaty*, or an agreement between nations. However, modern presidents usually use executive agreements instead of treaties. An *executive agreement* is made directly between the president and another head of state but does not need Senate approval.

Today presidents often request legislation from Congress. They play a far greater role in American government than most Framers of the Constitution imagined.

3. In what three areas have presidents made informal changes to the Constitution?

☐ Court Decisions (page 80)

Federal courts interpret the meanings of vague words and phrases in the Constitution as they settle cases involving constitutional questions. The most important way the Supreme Court interprets the Constitution is judicial review. However, people disagree about how the Court should practice this power. Some believe the Court should use *judicial restraint*. This means the Court should avoid controversial decisions on social and political issues. Other people believe in *judicial activism*—when the Court helps shape national policies. The Supreme Court under Chief Justice Earl Warren practiced judicial activism when it accepted cases involving civil rights and the rights of the accused.

The Supreme Court has sometimes ruled one way and then reversed its decision years later. In 1896 the Court ruled that separate public facilities for African Americans were constitutional if the facilities were equal. In 1954 the Court reversed its position when it outlawed segregation in public schools.

4. How do federal courts help make the meaning of the Constitution clearer?

☐ Changes Through Custom and Usage (page 81)

Political parties are examples of how government under the Constitution has been enlarged through custom. The Constitution does not mention parties, but they have been an important part of American government since the government was organized. Parties help organize government and conduct elections. The changes to the Constitution achieved through precedent and practice have created a government that responds to the conditions and needs of the time.

5. Describe two ways in which political parties are an important part of American government.

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