

## Amending the United States Constitution

The framers of the U.S. Constitution understood that conditions would change over time. George Washington was quoted as saying: "I do not think we are more inspired, have more wisdom, or possess more virtue than those who will come after us". Hence, the framers made a provision for the Constitution to be amended to fit the changing times. The Constitution was designed by the Framers so that generations later were able to make provisions as circumstances required. Since 1789 when the original Constitution was ratified, 10,000 amendments have been introduced to Congress, 33 have been sent to the states, but only 27 have been ratified!

There are **TWO** ways to amend the Constitution:

- 1) 1. \_\_\_\_\_: Article V sets out two methods for the proposal and two methods for the ratification of Constitutional amendments. This process involves making changes or additions that become part of the written language to the Constitution.

### Proposing and Ratifying Amendments: Four Methods

#### ➔ **First Method :**

**Passed by  $\frac{2}{3}$  vote of BOTH houses of Congress (House of Representatives and Senate) and ratified by  $\frac{3}{4}$  (38) state legislatures.** Only 26 of the 27 amendments have been adopted this way.

#### ➔ **Second Method :**

**Same as the first; except ratified by 38 state conventions called for that purpose.** Only the 21st Amendment was adopted in this manner. Conventions were used to ratify the 21st Amendment because Congress felt that the conventions' popularity-elected-delegates would likely reflect public opinion of the repeal of nationwide prohibition than State legislatures would.

#### ➔ **Third Method :**

**$\frac{2}{3}$  of State legislatures (34) could call a national convention. The amendment would have to be ratified by  $\frac{3}{4}$  of the State legislatures.** To this point today, Congress has not called such a convention.

#### ➔ **Fourth Method :**

**May be proposed by a national convention and ratified by  $\frac{3}{4}$  (38) of the State conventions.** Much of the Constitution itself was adopted in this same way.

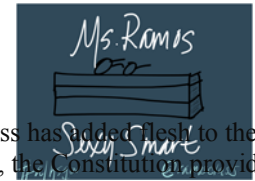
*The President plays no formal role in the amendment process. Amendments are not sent to the President to be signed or vetoed. However, the President does have political influence. Congress decides the method of ratification.*

#### **Some included fully proposed amendments defeated in the states:**

- Voiding citizenship of anyone accepting a foreign title or honor
- Congressional regulation of child labor laws
- Equal Rights Amendment (ERA)



- 2) \_\_\_\_\_: changes made to the Constitution which do not involve changing the written words. Over time, many changes have been made in the Constitution which has not involved any changes in its written words. This occurs in five basic ways:



★ **Legislation passed by Congress:**

Congress has been a major agent of constitutional changes by passing a number of laws to spell out several of the Constitution’s brief provisions. Congress has added flesh to the bones of the Constitution that the Framers left purposely for provisions. An example is the structure of the **federal court system**. In Article III, Section 1, the Constitution provides for “one supreme Court, and ... such inferior Courts as the Congress may ... ordain and establish.” Since the Judiciary Act of 1789, all of the federal courts, except the Supreme Court, have been set up by Congress. Congress has also added to the Constitution by the way it has used its powers. The Constitution gives Congress the expressed power to regulate foreign and interstate commerce (Article I, Section 8, Clause 3). Congress has exercised its commerce power with the passage of thousands of laws.

★ **Action by the President (Executive):**

The way that some Presidents have used their powers has contributed to the growth of the Constitution. For example, the Constitution states that only Congress can **declare war** and the President is the commander in chief of the nation’s armed forces. In some cases, Presidents have used the armed forces in battle without a declaration of war. Another example is the use of executive agreement.

An executive agreement is a pact made by the President directly with the head of a foreign state. The President may choose to use a treaty as a form of agreement that also does not need to be approved by the Senate.

★ **Decisions of the Supreme Court:**

The United States Supreme Court interprets and applies the Constitution in many cases. In *Marbury v. Madison* (1803), constitutional interpretation or judicial review—that is, constitutional amplification—was shown in the dealings of that particular case. To the Supreme Court, regarding these landmark cases, as Woodrow Wilson once said, “a constitutional convention in continuous session.”

★ **Activities of Political Parties:**

National political parties have also been a major source of constitutional change despite the fact that the Constitution does not mention political parties. In fact, most of the Framers of the Constitution were opposed to political parties. George Washington even warned the people against “the baneful effects of the spirit of party.” Political parties have played a major role in the shaping of government and its processes.

There is neither law nor part of the Constitution that provides for the nomination of candidates for presidency. Since the 1830s, major parties have held national conventions to do just that. The parties have converted the **electoral college** into a “rubber stamp” for each State’s vote. In short, government in the United States is in many ways government through party.

*Unwritten Constitution*

