About The U.S. Government over Time

A Changing United States

When the U.S. Constitution went into effect in 1789, the country was quite small compared to what it is today. In 1790, there were just thirteen states and the unorganized Northwest Territory, from which Illinois, Indiana, Michigan, Wisconsin, and part of Minnesota would be formed. The total area of the country was about 860,000 square miles (2.2 million sq km). Travel was slow; from New York City, it took two days to get to Boston, a week to get to Pittsburgh, and four to five weeks to get to present-day Louisiana. The total U.S. population at this time was just 3.9 million. New York City was the most populous city, with 33,000 people, followed by Philadelphia (28,000) and Boston (18,000).

But the young country was growing and changing quickly. The Louisiana Purchase, made in 1803, doubled the size of the country overnight. Other territorial acquisitions, including through the Mexican-American War, extended the country farther west. From 1790 to 1912, thirty-five states joined the Union, followed by the final two states, Alaska and Hawaii, in 1959—bringing the total area of the country to about 3.8 million square miles (9.8 million sq km).

The 2020 census also paints a much different picture of the U.S. population today. As of April 1, 2020, more than 331 million people lived in the United States. New York City is still the most populous city, with 8.8 million people in 2020; however, America's population centers are no longer limited to the East Coast. Los Angeles is the second-most populous city in the country, with 3.8 million people, followed by Chicago (2.7 million), Houston (2.3 million), and Phoenix (1.6 million).

The demographics of the country have also changed considerably. The 1790 census was narrow in scope; it counted the number of free white men ages sixteen and over, free white men ages sixteen and under, free white women, all other free persons, and enslaved persons. The census became more inclusive and detailed over time. For example, in 1870, it showed that white people composed about 87 percent of the population, African Americans made up 13 percent, and Chinese and Native Americans totaled less than 1 percent, with 14 percent of all Americans being foreign-born. The 2020 census reveals a much more diverse country, with the white population at 58.4 percent, the African American population at 13.7 percent, the Asian population at 6.4 percent, the Hispanic/Latino population at 19.5 percent, and the Native American and Alaska Native population at 1.3 percent. The foreign-born population was about 13.7 percent of the total U.S. population.

Louisiana, like the United States, has grown considerably since its formation. In 1810, the Territory of Orleans—the area that would become the state of Louisiana—had a little more than 70,000 people. New Orleans was the most populous city in the territory, with about 17,000 people, making it one of the largest cities in the country at the time. By 1870, Louisiana's population had grown to just over 726,000, and in 2020, its population reached 4.6 million people. Today, Louisiana's population is more diverse than in the past. According to the 2020 census, about 61 percent of the population identifies as white, 12 percent as African American, 18 percent as Hispanic, 6 percent as Asian, 1 percent as Native American or Alaska Native, and 10 percent as two or more races. While New Orleans is still the most populous city in the state, with about 384,000 people, the state has other major population centers, too, including Baton Rouge (227,000) and Shreveport (187,000).

As the size, population, and demographics of the country changed, the government changed and evolved, too.

Changes to the Legislative Branch

The size of Congress has grown over time; more members were added to both the House of Representatives and the Senate to reflect the growing population and addition of new states. The influence and power of the legislative branch has also grown over time, including through its passage of civil rights laws and because of how the courts have interpreted the Constitution.

The Reconstruction Amendments Explained

One of the most significant changes to the legislative branch since 1789 is that it has become more representative of the people of the United States thanks to constitutional amendments and civil rights legislation. Three of the most significant amendments to this end are the Reconstruction Amendments: the Thirteenth, Fourteenth, and Fifteenth Amendments.

The Thirteenth Amendment was ratified in 1865 by twenty-seven states, including former Confederate states under Union control. The Thirteenth Amendment outlawed slavery, stating that "neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

In April 1866, Congress passed the nation's first civil rights law, the Civil Rights Act of 1866. It declared all persons born in the United States "of every race and color," except Native Americans, to be citizens "without regard to any previous condition of slavery or involuntary servitude." The act was intended to give rights to African Americans and nullify the Black Codes; it did nothing to explicitly protect the right to vote or hold office. The act gave all U.S. citizens the following specific rights:

- "to make and enforce contracts"
- "to sue, be parties, and give evidence" in court
- "to inherit, purchase, lease, sell, hold, and convey real and personal property"
- to enjoy "full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens," and to "be subject to like punishment, pains, and penalties, and to none other"

The act also provided for the conviction and punishment of individuals who violated the law. Though the act was vetoed by President Johnson, Congress passed it over the president's veto, and it became law. However, states circumvented the 1866 act in various ways, including by redefining the contractual nature of marriage to preserve bans on interracial marriage. Additionally, a series of Supreme Court decisions rolled back the federal government's power to protect African Americans' rights, such as in the Slaughterhouse Cases of 1873, which limited the privileges and immunities clause of the Fourteenth Amendment to federal citizenship rights only, excluding state citizenship rights. Furthermore, five cases pertaining to the later Civil Rights Act of 1875 (which mandated equal treatment in transportation, lodging, and places of entertainment, including theaters) stripped Congress of the power to regulate private discrimination and set the groundwork for the "separate but equal" doctrine.

To further protect the rights of newly freed African Americans, in June 1866, Radical Republicans in the Senate proposed the Fourteenth Amendment to the Constitution. Former Confederate states were required to ratify the Fourteenth Amendment as a condition of reentering the Union; the amendment was ratified in 1868. This is a long and complicated amendment, but it has a few main points:

- It made all African Americans citizens of the United States. This overturned the Supreme Court's ruling in the 1857 *Dred Scott* case that African Americans could not be citizens.
- It prohibited states from making any law to limit the rights of African Americans.
- It prohibited states from taking away a person's life, liberty, or property unfairly.

- It required states to treat all people equally under the law.
- It authorized the federal government to reduce a state's proportional representation in the House of Representatives if it violated citizens' voting rights.
- It prohibited anyone who "engaged in insurrection" against the United States (namely, former Confederates) from holding appointed, elected, and military offices unless they received approval from two-thirds of both houses of Congress.

The Fifteenth Amendment, ratified in 1870, was the last of the Reconstruction Amendments. It pertains specifically to suffrage for formerly enslaved persons. This amendment was considered necessary when Southern states continued to deny African American men the right to vote. The amendment states that "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." The Fifteenth Amendment did not prevent the states from denying suffrage to women and other minority groups.

The Commerce Clause Explained

Article I, Section 8, of the Constitution gives Congress the power to "regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes." These several words, known as the commerce clause, have proven highly impactful on federal legislative power. This is partly because the Constitution does not actually define what *commerce* means. From a strict constructionist standpoint, commerce describes trade: the buying, selling, and exchanging of goods and services. However, loose constructionists over time have viewed commerce more broadly to include:

- adjuncts to trading, such as transporting and storing goods
- borrowing and lending money and investing
- adding value to goods (e.g., raising crops and livestock, manufacturing shoes)
- advertising and lobbying
- social interactions, such as exchanging ideas (e.g., information transmitted via the Internet)

Another important aspect of the commerce clause is the phrase "among the several States." The government's understanding of this phrase has developed since the 1700s. The Supreme Court under Chief Justice John Marshall took a loose constructionist approach to the commerce clause in *Gibbons v. Ogden* (1824), ruling that Congress's power to regulate interstate commerce includes the power to regulate interstate navigation. While this ruling did not mention *intrastate* commerce, it did lay the groundwork for Congress's regulatory power over transportation (like railroads and highways) as well as communications (broadcasting). It also increased congressional regulation of intrastate commerce where it interferes with interstate commerce.

For example, Congress enacted the Fair Labor Standards Act in 1938, which established overtime pay and a minimum wage. The Supreme Court upheld this law in the case *United States v. Darby* in 1940, citing Congress's implied power to regulate intrastate commerce. In the majority opinion, Justice Cardozo explained that "the power of Congress over interstate commerce is not confined to the regulation of commerce among the states." Additionally, the federal government was found to have the power to regulate labor practices *within* a state because those practices could impact trade between the states.

The Supreme Court took a similar approach in *Gonzales v. Raich* (2005) when it upheld the Controlled Substances Act, which banned the possession of certain substances, including those taken for medicinal purposes. Plaintiffs in the case claimed that the law constituted congressional overreach, relying on power that Congress was not delegated by the commerce clause. However, the court disagreed. Writing for a 6–3 majority, Justice Stevens said that Congress could regulate local and state activities because they related to the national controlled substances market. Such Supreme Court rulings have expanded and reaffirmed Congress's power under the commerce clause.

Changes to the Executive Branch

The size and power of the executive branch have expanded considerably since 1789. Much of this expansion is due to a parallel expansion in the roles that a U.S. president is expected to fill.

Article II, Section 2, of the Constitution explains that "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." Like other clauses in the Constitution, this power is open to interpretation and debate.

In the Declaration of Independence, one grievance against the king was that he "affected to render the Military independent of and superior to the Civil power." In other words, the colonists thought it was unjust that the king, and not the people, had control over the military. The Founders gave the president the power of commander in chief because the president is a civilian elected by civilians; they wanted the military under the control of the people. Narrowly interpreted, this clause gives the president the power to direct the movements of the military during armed conflicts—namely, during a war declared by Congress. Note that the president does not lead troops in battle but instead communicates instructions to military leaders.

Some presidents have interpreted the power of commander in chief more broadly. For example, Abraham Lincoln took unilateral action to impose a blockade on Southern ports on the grounds that the president had executive authority to call up the military to put down a domestic rebellion. He and other presidents have also used their power as commander in chief to issue executive orders deemed necessary during a time of war. For example, during World War II, Franklin D. Roosevelt issued an executive order to establish the National War Labor Board to manage disputes in wartime industries; he also issued an executive order for the internment of Japanese Americans.

Article II, Section 3, of the Constitution explains that the president should recommend to Congress "such Measures as he shall judge necessary and expedient." In other words, the president may act as a policymaker for the country. President Theodore Roosevelt embodied this notion with his conception of the bully pulpit. Presidential candidates make their policies known through party platforms during an election cycle. This gives citizens a reasonable expectation of the types of things that presidents will introduce and work to enact while in office. For example, Franklin D. Roosevelt ran on the promise of "a new deal for the American people." Roosevelt maneuvered fifteen economic bills, on subjects ranging from banking reform to social welfare to agriculture, through Congress during his first hundred days in office. In 1980, Ronald Reagan ran on a platform that promised a smaller government and an end to the "stagflation" of the 1970s, while Barack Obama's 2008 platform centered on "renewing the American Dream for a new era" through investment in education, infrastructure, health care, and technology.

It is important to note that legislation is passed by Congress. When the government is divided—meaning the president is from one party and the majority of one or both houses of Congress is from another party—it is less likely that a president's policies will be enacted. Of course, the Constitution is another limit to presidential power, allowing for the possibility that legislation supported by the executive branch may later be struck down by the Supreme Court.

Changes to the Supreme Court

The Founders conceived of the Supreme Court as the weakest of the three branches of government; however, the court's power of judicial review—affirmed in its ruling in *Marbury v. Madison*—has made it more coequal to the legislative and executive branches over time. Despite being made up of just nine justices (a total that has fluctuated through history but has remained consistent since the end of the 1860s), the court wields immense influence with its ability to uphold laws or overturn them.

In adjudicating appeals in federal cases, Supreme Court justices' judgments are heavily influenced by their personal interpretations of the Constitution. During the Civil Rights Movement, the justices who made up the court operated with a loose constructionist view of the Constitution. For example, in *Griswold v. Connecticut*, the court ruled that the Fourth, Ninth, and Fourteenth Amendments implied the right to privacy. This precedent underpinned later court decisions. In later courts, the majority of justices have taken a strict constructionist view of the Constitution, including striking down earlier court decisions and decades-long precedents.

Federal judges, including Supreme Court justices, are nominated by the president and confirmed by the Senate. Over time, the confirmation process has become lengthier and more contentious. Between 1789 and 1941, the Senate confirmed seven Supreme Court justices on the same day that they were nominated. From 1789 to 1962, the Senate confirmed another sixty-one justices within ten days of nomination. Since 1954, however, the average time to confirm a Supreme Court justice has stretched to about fifty-four days. A major reason for this change is increased partisanship in the Senate; modern justices are increasingly confirmed along party lines. For example, Earl Warren was confirmed by a voice vote in 1954 (no formal ballots cast) and Thurgood Marshall by a vote of 69–11 in 1967, compared to the more narrowly decided confirmation of Samuel Alito (58–42) in 2005.

Just as the country has become more diverse, so has the court. Historically, the Supreme Court has been composed of white, Protestant men; however, this has changed over time. Roger Taney (served 1836–64) was the first Catholic to serve on the Supreme Court; as of 2024, six of the nine Supreme Court justices were Catholic. Louis D. Brandeis (1916–39) was the first Jewish justice to serve on the court; seven Jewish justices have served since, including Elena Kagan (2010–present). Thurgood Marshall (1967–91) was the first of three African American justices appointed to the court, followed by Clarence Thomas (1991–present) and Ketanji Brown Jackson (2022–present). Sandra Day O'Connor (1981–2006) was the first woman appointed to the court. Five other women have since been appointed to the Supreme Court: Ruth Bader Ginsburg (1993–2020), Sonia Sotomayor (2009–present), Elena Kagan, Amy Coney Barrett (2020–present), and Ketanji Brown Jackson. Sotomayor is the first Hispanic justice appointed to the court.

About Governments in the United States (Federal, State, Local, Tribal)

The U.S. Constitution establishes a federal system of government, in which the national government and state governments share power. In addition, states establish and delegate powers to local governments. The United States also contains tribal reservations, over which tribal governments have authority. Each level of government has its own unique role within the federal system and some degree of independence.

Federalism in Action

The Founders conceived of a federal system that would limit the power of the national government. In practice, federalism offers other benefits; the division of power across multiple levels of government helps ensure that the varied and diverse needs of individuals and communities are met. For example, the U.S. Congress is responsible for enacting legislation for the entire country. However, state and local communities are better positioned to enact laws, codes, and ordinances that meet the more granular needs of their respective populations. State and local governments are also better positioned, for example, to administer police and fire departments, public schools, and infrastructure, such as roads and bridges. In short, state and local governments are the levels of government that interact the most with the people, making them more closely attuned to their day-to-day needs.

The Constitution dictates what functions the federal government must fulfill and what functions are left for the states. The states determine what powers they will delegate to local governments. Under the federal system, the national government and state governments collaborate on a variety of issues and programs, ranging from economic investment and defense partnerships to disaster preparedness, environmental monitoring and restoration, health, and education. Here are some ways the state of Louisiana and the national government are cooperating:

- Louisiana Economic Development, a state executive agency, works with private and federal stakeholders and agencies, including the Army Corps of Engineers, to improve state infrastructure like the Port of New Orleans.
- The U.S. State Department works with the Louisiana National Guard in the State Partnership Program to promote U.S. interests and build relationships with partners in Haiti and Belize, including planning joint training missions, fostering economic bonds between the state and partner countries, and participating in joint operations.
- The Federal Emergency Management Agency (FEMA) Flood Mitigation Assistance (FMA) program works with Louisiana's Coastal Protection and Restoration Authority (CPRA) to restore marshlands to reduce the effects of flooding caused by hurricanes. CPRA also works with the U.S. Army Corps of Engineers and the National Oceanic and Atmospheric Administration (NOAA) to improve infrastructure, disaster preparedness, and flood control and restore wildlife habitats. One project is the Houma Navigation Canal Lock Complex, intended to provide a safe harbor for ships during hurricanes and restore wetlands on the Louisiana coast.
- The U.S. Fish and Wildlife Service works with the Louisiana Natural Heritage Program and the Louisiana Department of Wildlife and Fisheries to monitor and protect threatened and endangered species like manatees and the Louisiana black bear.
- The U.S. Department of Health and Human Services (HHS) and the Louisiana Department of Health work together to administer Medicaid benefits to Louisianans.
- The U.S. Department of Education provides grants to the Louisiana Department of Education to support various initiatives, including the Comprehensive Literacy State Development program, which supports literacy education in high-need schools identified by the state.

The Louisiana state government also works closely with municipal governments. For example, the Louisiana Division of Administration's (DOA's) Local Government Assistance Program allocates funds to parishes to support community projects like fire and police protection, drainage systems, road repair, and land acquisition. The DOA also manages the Community Water Enrichment Fund, which helps municipalities provide clean drinking water to residents by rehabilitating and improving water sources and building new water projects.

Generating Revenue

Governments at all levels of the federal system must generate revenue to fund government operations and provide services to the people. About 95 percent of the federal government's annual revenue is generated through taxes: about 50 percent from individual income taxes, 10 percent from corporate income taxes, and 35 percent from Social Security and Medicare taxes. The other 5 percent comes from things like leases of government-owned property, customs duties, and selling natural resources.

At least 10 percent of the federal government's annual budget is allocated to grants for states and local governments. Note that receiving federal funding is often contingent upon following federal mandates. Mandates are a way for the federal government to compel the other levels of government to take a specific action. One example is the Uniform Minimum Drinking Age Act of 1984, enacted by the U.S. Congress. This law did not set a national minimum drinking age; instead, it reduced the amount of federal highway funds states would receive if they continued to allow people under the age of twenty-one to legally purchase alcohol.

In 2019, approximately 45 percent of Louisiana's state revenue came from federal funds. Most of the state's additional revenue comes from individual income taxes, sales and use taxes, and severance taxes (a tax on the extraction of nonrenewable natural resources for use by other states). Louisiana, like other states, also generates revenue from things like fishing licenses, driver's licenses, and gaming. Like the federal government, the Louisiana state government allocates a percentage of its revenue to help fund local governments in the state.

Louisiana's Legal System

In 1762, France ceded Louisiana to Spain; seven years later, Spanish colonial governor Alexander O'Reilly replaced existing French civil law with the *Siete Partidas*, the Spanish civil code written between 1256 and 1265 CE. Civil law is a legal system based primarily on written codes. In contrast, English common law prioritizes precedents established by case law and the history of judicial interpretations. For example, in the civil law system, judges apply their understanding of the law or code to make a ruling. Under the common law system, judges interpret the intended meaning of the law, as well as how earlier courts and judges ruled on similar cases. Precedent is an influential factor in how the U.S. Supreme Court makes decisions. The *Siete Partidas*, or seven parts, was broken into seven sections, each pertaining to a different aspect of the law. The *Siete Partidas* remained in effect until the Louisiana Purchase in 1803.

Because the rest of the United States had grown under British colonial rule, states and territories other than Louisiana followed common law. When Louisiana came under American rule, the Territory of Orleans adopted a system that combined both civil and common law.

The territorial legislature worked to codify the Territory of Orleans's laws, in part so that the existing laws could be meshed with U.S. law, which would now govern the territory. This included translating the *Siete Partidas* from their original Spanish. Another purpose was to determine which Spanish laws still made sense for Louisiana. For example, the translators dropped one of the *partidas* in its entirety because it pertained to the Spanish monarchy, which had no jurisdiction in the United States.

Translated copies of the *Siete Partidas* were used by Louisiana courts to rule on civil cases. When the Digest of 1808 (the code of laws adopted by the territorial legislature for the Territory of Orleans) and the Civil Code

of 1825 (the body of laws adopted by the state legislature that combined both civil and common law) were enacted, they did not automatically nullify existing civil laws under the *Siete Partidas*. As a result, laws that did not contradict these documents were allowed to stand. Thus, a legal system combining civil law and common law came to govern Louisiana. This combined system is still in use today, making Louisiana the only U.S. state that uses civil law in any fashion. In Louisiana, civil law is used to adjudicate disputes that occur between private parties in the state—for example, in cases between consumers and businesses. Meanwhile, common law is used to adjudicate criminal cases when someone breaks a state law. While terminology within Louisiana's civil code may vary from legal wording in other states—such as in the area of property law—adaptations over time have typically prevented major discrepancies from cropping up between Louisiana and other states. Additionally, conflict of law provisions exist to address differences between jurisdictions.

Comparing Constitutions

Since becoming a state, Louisiana has had ten constitutions. The state's first constitution, adopted in 1812, was brief; like the U.S. Constitution, it comprised a preamble and seven articles. The 1812 constitution also mirrored the U.S. Constitution in that it established three branches of government and a bicameral legislature.

Starting in 1845, Louisiana leaders established a pattern of adopting new constitutions (in lieu of amending the existing document) in response to issues, events, and trends at the state and national levels. Louisiana adopted subsequent constitutions in 1852, 1864, 1868, 1879, 1898, 1913, 1921, and 1974.

The structure and size of the Louisiana Constitution has also changed over time. The 1845 and 1852 constitutions consisted of 153 articles, while the 1898 constitution swelled to 326 articles. The 1974 constitution, the document still in effect today, has just 14 articles. While much smaller than all but one of its predecessors, the modern Louisiana State Constitution is much more granular and comprehensive than the U.S. Constitution. It includes detailed enumerations of state government powers, individual rights, local government structures and powers, state revenues and finances, education, natural resources, public officials and employees, and elections. This document has also been amended more than three hundred times in only fifty years, compared to the twenty-seven amendments made to the U.S. Constitution since 1789.

Local Governments in Louisiana

Under French and Spanish rule, the area that became the Territory of Orleans had been divided into parishes. Each parish was both an ecclesiastical and a political division, delineated by the bounds of a congregation served by a priest, reflecting the region's Catholic heritage. Initially, the Territory of Orleans was divided into twelve counties. However, these proved too large to effectively govern, and the division by county was met with hostility by the people. The system was quickly revised to divide the region into nineteen parishes along lines similar to those of the twenty-one that had previously existed. Despite these newly defined parishes not having any religious affiliation, the word *parish* was kept because people understood it and were used to it.

Starting in 1811, each parish was administered by a judge, a justice of the peace, and a group of twelve residents called jurors. Collectively, they were known as a police jury. The original purpose of police juries was to oversee the institution of slavery in Louisiana; under the original law, police juries could establish a *gendarmerie*, or armed force, to track and capture enslaved people who ran away.

With some modifications since its inception, the police jury remains the way many parishes in Louisiana are administered today. Police juries are no longer required to have twelve members; instead, parishes may determine membership based on population, with anywhere from three to fifteen elected officials. Instead of a judge, police juries are now led by a police jury president; the jurors elect a fellow member of the police jury to this position.

Today, Louisiana has sixty-four parishes, thirty-eight of which are governed by the police jury system. Twenty-six parishes have voted to replace the police jury system with a home rule charter, a type of constitution adopted by citizens that establishes the government structures of a municipality. Home rule charters offer several benefits to parishes, including giving them more independence from the state and permitting them to exercise any power not expressly denied to it by the state.

Police Jury		Home Rule Charter	
Acadia	Jackson	**PRESIDENT–COUNCIL**	**COMMISSION-ADMINISTRATOR**
Allen	Jefferson Davis	Ascension	Caddo
Assumption	LaSalle	Iberia	**CONSOLIDATED**
Avoyelles	Lincoln	Iberville	East Baton Rouge
Beauregard	Madison	Jefferson	Lafayette
Bienville	Morehouse	Lafourche	Terrebonne
Bossier	Ouachita	Livingston	**CITY-PARISH**
Calcasieu	Rapides	Natchitoches	Orleans
Caldwell	Red River	Plaquemines	
Cameron	Richland	Pointe Coupee	
Catahoula	Sabine	St. Bernard	
Claiborne	St. Helena	St. Charles	
Concordia	Tensas	St. James	
DeSoto	Union	St. John the Baptist	
East Carroll	Vermilion	St. Landry	
East Feliciana	Vernon	St. Martin	
Evangeline	Webster	St. Mary	
Franklin	West Carroll	St. Tammany	
Grant	Winn	Tangipahoa	
		Washington	
		West Baton Rouge	
		West Feliciana	

Tribal Governments in Louisiana

Tribal governments play an important role within the federal system. Tribes and projects to benefit the tribes and their members generally involve multiple jurisdictions, including tribal government, state government, and the federal government. Cooperation among these entities is imperative for mutual success. For example, the Bureau of Indian Affairs, under the U.S. Department of the Interior, works with federally recognized tribes in

Louisiana and elsewhere to provide grants for Native American business development, Internet access, language preservation programs, energy development, entrepreneurship, and tourism. The United States also has a trust responsibility to tribes. This means that the federal government is obligated to protect and uphold rights established by tribal treaties. It also means that the federal government must protect the "lands, assets, and resources" of Native Americans and Alaska Natives.

The Louisiana Office of Indian Affairs, under the Office of the Governor, also works to promote tribal members' interests. It works closely with tribal members and tribal communities to understand and work through federal, state, and local policies; to help tribes address and troubleshoot different areas of concern; and to support cultural awareness within the state. Under the Office of Indian Affairs is the Native American Commission, a group of tribal leaders who work to advise Louisiana's governor on programs and initiatives that pertain to Native American tribes in the state. Their functions include promoting Native American Heritage Month, making scholarship awardee recommendations, and identifying barriers that prevent state agencies from providing services to Native Americans in the state. For example, the Native American Commission identified issues with census regions that could affect statistical data about Louisiana tribes and, in turn, the allocation of state and federal funding to the tribes. The commission also logs concerns and challenges encountered by tribes working through the state tribal recognition process.

The federal government recognizes 574 tribes. Federal tribal recognition means that the federal government acknowledges a tribe's right to self-determination and self-government within the larger federal system, allowing tribal leaders to make decisions in the best interest of their people. Federal recognition also means that tribes are eligible to participate in federal programs and receive federal funding. Similarly, state tribal recognition makes Louisiana tribes eligible for state funding.

There are four federally recognized tribes in Louisiana: the Chitimacha Tribe of Louisiana, the Coushatta Tribe of Louisiana, the Jena Band of Choctaw Indians, and a merger of two tribes, the Tunica-Biloxi Tribe of Louisiana. Understanding the rich histories and cultures of these tribes will help ground understanding of their contemporary existence.

The Chitimacha Tribe of Louisiana

The Chitimacha Tribe of Louisiana is the only Louisiana tribe that still lives on part of its ancestral lands. The tribe's original territory encompassed a large part of southeastern Louisiana, from Lafayette to New Orleans and the Gulf Coast. The tribe was made up of matrilineal clans that hunted, gathered, and farmed to survive. The Chitimacha were and continue to be accomplished craftspeople, producing intricately woven cane baskets.

The Chitimacha were the most powerful tribe in Louisiana at the time of European contact. In the early 1700s, conflict between the Chitimacha and French settlers led to a twelve-year war that ended in 1718. The French enlisted Native American allies against the Chitimacha, causing the near destruction of the tribe; many of those who survived were enslaved. The remaining population moved farther inland to Bayou Teche and Grand Lake.

After the Louisiana Purchase in 1803, the Indian Nonintercourse Act protected some of the Chitimacha's land rights. In 1826, the Chitimacha claimed 5,440 acres (22 sq km); however, this land was whittled away over time by federal sales of tribal land. By 1903, just 470 acres (1.9 sq km) of the original Chitimacha claim remained. The land was divided yet again, leaving the Chitimacha with about 262 acres (1 sq km). In 1916, the land was placed in a trust to form the Chitimacha Reservation in present-day St. Mary Parish. Over time, the Chitimacha purchased another 701 acres (2.8 sq km) of land, bringing the total acreage to 963 (3.9 sq km), a little less than half of which belongs to the trust. The federal government recognized the Chitimacha tribe in 1916. The tribe continued to be governed by a tribal chief until 1970, when the Chitimacha adopted the constitutional government that is still in power today.

As of 2024, the Chitimacha Tribe of Louisiana has about 1,300 members, most of whom live in Louisiana. The tribe owns multiple lucrative enterprises, including the Cypress Bayou Casino and Hotel, the Raintree Market

grocery chain, and several government contractors that operate in the technology and defense spaces. Tribal revenue is used to support a variety of programs, such as a museum and cultural preservation office, an assisted living facility for elderly tribe members, a health clinic, and fire and police departments. The Chitimacha have also partnered with the software company Rosetta Stone to make Chitimacha language lessons available to people around the world.

The Coushatta Tribe of Louisiana

The Coushatta Tribe of Louisiana has lived in southwest Louisiana for more than a century. The Coushatta people first made contact with Europeans in 1540 CE with the arrival of Hernando de Soto; at this time, the Coushatta lived along the Tennessee River. After this meeting, the Coushatta relocated for the first of many times to avoid Europeans encroaching on their lands. In the 1700s, the Coushatta settled in Alabama along the Coosa and Tallapoosa Rivers. They also joined the Creek Confederacy but remained culturally distinct from the Creek people, including by maintaining their own language. During the late 1700s and early 1800s, the Coushatta returned to Spanish Louisiana, though they continued to move frequently within the neutral territory between American, French, Mexican, and Spanish lands—an area established from the Sabine River to the Arroyo Hondo that served as a buffer between the western Louisiana Territory and Spanish territory (now present-day Texas).

In the 1880s, about three hundred Coushatta formed a permanent settlement at Bayou Blue in southwest Louisiana (present-day Allen Parish), where the tribe continues to reside today. The tribal government began lobbying the federal government for support during the early twentieth century, eventually receiving federal funding for tuition for Coushatta children in the late 1930s and then funding for medical care several years later. In 1953, the Bureau of Indian Affairs ended financial support to the Coushatta, leading the tribe to launch a concerted effort to gain federal recognition starting in 1965. The Louisiana State Legislature recognized the Coushatta Tribe of Louisiana in 1972, and the federal government followed suit in 1973.

Since the 1970s, the tribal government has worked to promote the economic well-being of the tribe, including by investing in businesses like the Coushatta Casino Resort. The casino employs more than 1,450 people, making it an important part of the Allen Parish and state economies. There are about 960 members of the Coushatta Tribe of Louisiana today, most of whom live in Allen Parish.

The Jena Band of Choctaw Indians

The earliest written records of the Choctaw people date back to 1540 CE and the arrival of Spanish explorers in the southeastern part of the present-day United States. At this time, the Choctaw lived in the area of present-day southern Mississippi; they then spread west into present-day Louisiana and east into present-day Alabama by the early eighteenth century.

The Choctaw signed their first treaty with the United States, the Treaty of Dancing Rabbit Creek, in 1830. The treaty gave the Choctaw $300,000 in exchange for eleven million acres (44,515 sq km) of land; it also resulted in the forced removal of ten thousand Choctaw to the Indian Territory in present-day Oklahoma, an event that came to be known as the Trail of Tears. Many Choctaw died of disease, exposure, and starvation during the long journey.

Other Choctaw settled in present-day Catahoula, Grant, and LaSalle Parishes. But the Choctaw population declined over time; by 1910, just forty Choctaw lived in Catahoula and LaSalle Parishes. They lived apart from the rest of Louisiana society, maintaining their traditional way of life. Access to education for Choctaw was limited. The Penick Indian School opened in 1932; however, insufficient funding caused the school to close temporarily. It was not until after World War II that Choctaw children could attend public schools.

The Choctaw tribe experienced several significant changes from the 1960s to the mid-1990s. After the tribe's last traditional chief died in 1968, tribal members held their first election to choose a chief in 1974. In 1995, the Jena Band of Choctaw Indians was formally recognized by the federal government.

In the past thirty years, the tribal government has worked to promote the general well-being of the tribe's four hundred members by investing in economic development, providing housing assistance, and funding cultural and education programs. The Jena Band of Choctaw Indians has also undertaken environmental efforts; for example, the tribe supports wildlife and natural resource conservation as well as sustainable energy use.

The Tunica-Biloxi Tribe of Louisiana

The Tunica and Biloxi peoples lived in Mississippi at the time of European contact—the Tunica in the Yazoo River basin and the Biloxi in the Pascagoula River basin. The first written account of the Tunica tribe dates to 1694 with the arrival of French Jesuits. However, it is possible that Hernando de Soto first encountered the tribe in 1541 CE. Written accounts indicate that the Spanish may have encountered members of the Biloxi tribe in the 1540s CE and again in the 1560s CE; however, the first definite encounter between the Biloxi and Europeans occurred in 1699 as French missionaries explored the Gulf Coast.

The Tunica formed a close alliance with the French during the early 1700s, leading the tribe to move its settlement closer to the growing city of New Orleans. The Tunica's location near the Mississippi and Red Rivers meant they played an important role in regional trade. They also acted as a buffer between French and Natchez territory. (The Natchez are an Indigenous American people who originally inhabited territory in the lower Mississippi valley.) The Tunica fought in the French and Indian War alongside the French; however, their allegiance later changed to the Spanish after the Louisiana Territory passed from France to Spain. The Tunica also fought in the American Revolution, attacking the British force garrisoned in Louisiana. After the war, the Tunica and Biloxi settled in Louisiana, near present-day Marksville, at the invitation of the Spanish territorial governor.

After the Louisiana Purchase, small tribes in Louisiana, including the Tunica, lost their lands through fraudulent land claims. Unlike most Southeast tribes, the Tunica managed to avoid forced relocation to Indian Territory. In 1848, after a four-year-long legal battle, the Tunica reclaimed 132 acres (0.5 sq km) of land in Louisiana, which was used to establish a reservation for the tribe.

From the mid-1800s to the early 1900s, the Tunica maintained a fairly traditional way of life. They engaged in subsistence farming, hunted, and fished. They also earned U.S. money by harvesting pecans and raising cotton. And like the Chitimacha, the Tunica wove cane baskets, which some Tunica women sold at local stores. Starting in 1919, many Tunica left the reservation in search of work in Texas, contributing to cultural decline.

Around this time, two key developments unfolded. First, the Tunica instituted a formal election process for their chief and subchief. And in 1924, the Biloxi gave their leader, Eli Barbry, permission to merge their tribe with the Tunica. Members of both these small tribes hoped the merger would strengthen the odds of their receiving federal recognition and the benefits that came with it. Barbry then succeeded in forming a tribal alliance with the Coushatta and the Chitimacha so that all of Louisiana's tribes could work together for their mutual benefit.

During the Great Depression, the Tunica-Biloxi lobbied the government to acknowledge their land claims and to provide education and economic relief funds. The federal government, however, continued to disregard the Tunica-Biloxi's requests. It was not until 1981 that the tribe received federal recognition. During the intervening years, the Tunica-Biloxi experienced cultural decline, as poverty forced many tribe members to leave the reservation in search of work.

In 1995, the Tunica-Biloxi opened the Grand Casino Avoyelles (later renamed the Paragon Casino Resort), creating an important revenue stream for the tribe and bolstering the economy of Avoyelles Parish by increasing tourism, which resulted in further economic development and an increase in living standards. The Tunica-Biloxi also work to revive and preserve their tribes' culture; for example, the Tunica-Biloxi Cultural and Educational Resources Center features historic artifacts, museum exhibits, a library, and a conservation laboratory.

About Structures, Powers, and Functions of the U.S. Government

U.S. Congress

While Article I of the Constitution establishes biennial elections for the House of Representatives, outlines requirements for members of both houses of Congress, and enumerates certain powers, many aspects of the modern House of Representatives and Senate resulted from traditions that developed over time.

House Investigative Powers

The Founders understood that investigations would be an important way for Congress to find out information before enacting legislation. The power to conduct investigations is not stated directly in the Constitution, though it is implied. The British House of Commons possessed investigative powers, setting a precedent for the U.S. House of Representatives.

The House established the first committees, including the Rules Committee and the Ways and Means Committee, during the First Congress in 1789. It conducted its first investigation the following year when Robert Morris, a prominent leader during the American Revolution, asked the House to investigate his own financial dealings to clear up an accusation of impropriety. (Morris was the superintendent of finances during the period of the Continental Congress and faced allegations that he had used his position to benefit himself financially during the revolution.) Instead of all members of the House participating in the investigation, Morris's request was sent to a select committee, establishing a precedent for future investigations.

The House issued its first subpoena in 1827. Members were debating if and how to reform the Tariff of 1824; during their original investigation, members asked volunteers to testify before Congress, but the information they gathered was insufficient. The House issued subpoenas to compel people to testify before Congress on the topic. The subpoena process was standardized in the mid-1800s, as was how the House would deal with people found in contempt of Congress. When a person is found in contempt for failing to comply with a subpoena for their testimony or specific documents, they are investigated by the U.S. Department of Justice; depending on the results of the investigation, the person may face fines and/or imprisonment.

The House still conducts hearings today. Modern hearings are typically held for one of three purposes: to gather information for upcoming legislation, to investigate issues related to potential future legislation, or to exercise oversight of the executive branch's execution of federal programs.

House Leadership

Article I, Section 2, of the Constitution specifies that "the House of Representatives shall chuse their Speaker and other Officers." The Constitution does not, however, explain what the job of the Speaker is; instead, this role has developed over time.

The title *Speaker of the House*, like many other aspects of the House of Representatives, has its origins in the British House of Commons. Starting in the 1300s CE, the House of Commons elected a speaker to represent the legislative body to the British monarch. Frederick A. C. Muhlenberg of Pennsylvania was elected the first Speaker of the House in 1789; delegates from Pennsylvania nominated Muhlenberg to the position in the hope that he would advance their state's interests, including relocating the U.S. capital city (this did not happen). Starting in 1811, Henry Clay, a representative from Kentucky, began to define the role. He placed more emphasis on national issues over regional issues, and he used his cleverness and personality to influence policy in the House.

The development of the two-party system during the mid-1800s reinforced the importance and power of the Speaker, who, up until 1911, chaired the House Rules Committee and had the sole power to appoint members to standing House committees. It was around this time that Thomas Brackett Reed used his influence as Speaker to change House rules to prevent members of minority parties from delaying and/or preventing votes on legislation. This made the legislative process more efficient but also strengthened majority rule.

Because the majority party in the House has more members to vote on the choice for Speaker, the Speaker of the House is a member of the majority party; the minority leader is elected by the minority caucus by a separate secret ballot to represent their interests in the House. The Constitution does not identify the role of minority leader—this is a position that emerged over time. James Madison is considered the first minority leader as the leader of the "loyal opposition" to Federalist policies during the First Congress. James Richardson, however, is generally considered the first recognized House minority leader, in the late 1800s.

Senate Leadership

Senate leadership is not outlined in the Constitution. Instead, the positions of party floor leaders—the Senate majority leader and Senate minority leader—developed from the traditional positions of conference chairs during the late 1800s and early 1900s. The conference chairs were elected to represent the interests of major parties in the Senate; over time, they acquired more power, especially concerning how business is managed on the Senate floor.

The Democratic Party was the first to elect formal Senate leadership, starting in 1889. The Republican Party adopted this practice starting in 1913, marking the first year that the Senate had both a majority leader and a minority leader. That same year, the Democratic Party elected its first party whip. The role of the whip is to count supporters ahead of a vote and to round up members for votes and quorum calls. Two years later, the Republican Party elected James W. Wadsworth to fill the combined role of party whip and party secretary; the party separated these positions in 1924 and empowered the floor leader to appoint the whip. The Republican Party had no whip in 1935 due to its small caucus in the Senate (just twenty-five members—Roosevelt's handling of the Depression won Democrats a landslide in the 1934 elections); they brought the position back in 1944. Over time, both major parties have referred to the party whip as an assistant leader; however, as of 2024, both parties refer to this position as a party whip, and the Democratic Party has a separate position of assistant leader, which is considered beneath the whip.

Note that the Senate never "expires," as it always includes the two-thirds who continue on after the other one-third of seats are up for election.

Senate Traditions

The Senate has developed many unique traditions since 1789, including how seating is assigned, saying goodbye to members leaving office, opening a daily session, and a dedicated desk for special treats.

During the mid-1800s, desks were distributed equally in the Senate chamber: fifty on one side and fifty on the other. In 1877, senators began moving desks from one side to the other so that members of the majority party could sit together on one side. Senators who did not belong to a majority party decided which side they wanted to sit with. Today, Democrats sit on the left side of the Senate chamber (on the presiding officer's right), while Republicans sit on the right side of the Senate chamber (on the presiding officer's left). Senators are assigned a desk at the start of each Congress; those with more seniority have higher priority to move their seats, either to a better location in the chamber or to sit where a former senator once sat. Three desks are assigned according to specific rules: The senior senator from New Hampshire sits at the Daniel Webster Desk, the senior senator from Kentucky sits at the Henry Clay Desk, and the senior senator from Mississippi sits at the Jefferson Davis Desk.

At the end of each Congress, senators who have retired or were not reelected give speeches about their time in office and say goodbye to fellow members. Returning senators may also give speeches in tribute to their outgoing colleagues. At the end of a presidential administration, senators gather to say goodbye to the outgoing vice president.

At the start of each day, the presiding officer (vice president, president pro tempore, or other officer) calls the Senate into session. Next, the Senate chaplain says a prayer—a tradition that dates back to 1775 with the First Continental Congress. Finally, members of the Senate recite the Pledge of Allegiance.

At the start of each Congress, the Senate assigns one of its members to maintain the candy desk, a designated desk stocked with sweet treats for senators to snack on while they work. California senator George Murphy began the tradition in 1965; as of 2024, eighteen senators have overseen the candy desk.

The Legislative Process

To become a law, a bill must be approved by both houses of Congress. Legislation can be introduced in either house except for bills to raise revenue, which must pass in the House before they pass in the Senate.

The process of passing legislation differs in the two houses. In the House of Representatives, the Rules Committee sets rules for each bill regarding such things as scheduling, how much debate will be allowed, how many amendments may be proposed, what types of amendments may be allowed or disallowed, and which sections may or may not be amended. The Rules Committee has four members from the minority and nine from the majority party, giving the majority leader considerable power over the legislative process.

Once the rules are determined, the bill moves to the House floor for debate and then to a vote. Bills pass the House if they receive a simple majority of the vote.

While House leadership strictly controls the debate process, debate in the Senate is much more flexible. The Senate can set time limits on debate, but this generally does not happen; instead, senators are granted as much time as they'd like to speak. As a result, senators can employ a tactic called a filibuster to delay or prevent voting on a bill by speaking for extended periods of time. The first filibuster occurred during the First Congress in 1789, but the tactic did not become more common until the late 1800s and early 1900s. In 1917, the Senate adopted Senate Rule 22, which allowed for cloture; two-thirds of members could vote to limit debate on a bill. Senate Rule 22 did little to curb filibusters because it was difficult to obtain the required two-thirds majority. During the Civil Rights Movement, Southern senators used the tactic to prevent the passage of civil rights laws. Strom Thurmond of South Carolina set the record for longest speech (twenty-four hours, eighteen minutes) when filibustering the Civil Rights Act of 1957.

In the 1970s, the Senate changed the cloture rules in order to enable the Senate to work around a filibuster and continue working on other bills. As a result, today a senator can conduct a silent filibuster, which puts work on a specified bill on indefinite hold; no speeches are required—not even attendance is required. During the 2010s, the rules were again changed to reduce the required vote for cloture on approving nominees to a simple majority, in order to ensure that important positions in the government can be filled (relatively) promptly. A supermajority is still required to end a filibuster on legislation.

U.S. Presidents by the Numbers

Between 1789 and 2024, forty-five people—all men—served in forty-six presidencies (a discrepancy due to Grover Cleveland's two nonconsecutive terms as president, as noted in the list below). U.S. presidents have come from a variety of demographics and states, served varied terms in office, and exercised executive power to different degrees.

Demographics

- **Median age at first inauguration:** fifty-five
- **Oldest president at inauguration:** Donald Trump (seventy-eight years, 220 days)
- **Youngest president at inauguration:** Theodore Roosevelt (forty-two years, 322 days)
- **Born on the Fourth of July:** Calvin Coolidge (1872)
- **Died on the Fourth of July:** John Adams and Thomas Jefferson (1826), James Monroe (1831)
- **First African American president:** Barack Obama
- **Religious affiliations:** Protestant (forty presidents), unaffiliated (Thomas Jefferson, Abraham Lincoln, Andrew Johnson), Catholic (John F. Kennedy, Joe Biden)

In Office

- **Fewest vetoes (0):** John Adams, James Madison, James Monroe, William Henry Harrison, Zachary Taylor, Millard Fillmore, James Garfield
- **Most vetoes:** Franklin D. Roosevelt (635), Grover Cleveland (584)
- **Fewest executive orders:** William Henry Harrison (0), John Adams (1), James Madison (1), James Monroe (1)
- **Most executive orders:** Franklin D. Roosevelt (3,721), Woodrow Wilson (1,803)
- **Shortest State of the Union address:** 1,089 words (George Washington, 1790)
- **Longest State of the Union address:** 33,667 words (Jimmy Carter, 1981)
- **Longest-serving president:** Franklin D. Roosevelt (12 years, 39 days)
- **Shortest-serving presidents:** William Henry Harrison (31 days), James A. Garfield (199 days)
- **First president with a telephone in the White House:** Rutherford B. Hayes
- **Presidents who resigned from office:** Richard Nixon (1974)
- **Presidents who died in office:** William Henry Harrison (1841), Zachary Taylor (1850), Abraham Lincoln (1865), James A. Garfield (1881), William McKinley (1901), Warren G. Harding (1923), Franklin D. Roosevelt (1945), John F. Kennedy (1963)

The Judicial Branch

Of the three branches of the U.S. government, the judicial branch is typically slowest to evolve because federal judges are appointed to lifetime terms. As of 2024, there have been just 17 chief justices and a total of 116 justices. Justices serve for an average of sixteen years. Fewer than half of all justices have died in office; most have opted to retire first, though some left their posts for other jobs in the government.

When Congress passed the Judiciary Act of 1789, it created the Supreme Court, complete with one chief justice and five associate justices. As Supreme Court justices were expected to preside in U.S. circuit courts at times, the number of justices on the highest court increased as the number of circuits increased, moving to a total of seven justices in 1807, nine justices in 1837, and then ten justices in 1863. In 1869, Congress passed a law that capped the total justices at nine to match the current nine circuits—which the Supreme Court justices were no longer compelled to serve on. This total has remained the same since that legislation.

Supreme Court Statistics
• **Longest-serving chief justice:** John Marshall (1801–35), thirty-four years, five months, eleven days • **Shortest-serving chief justice:** John Rutledge (1795), five months, fourteen days • **Longest-serving associate justice:** William O. Douglas (1939–75), thirty-six years, seven months, eight days • **Shortest-serving associate justice:** John Rutledge (1790–91), one year, eighteen days • **Youngest chief justice at time of appointment:** John Jay (1789–95), forty-four years old • **Oldest chief justice at time of appointment:** Harlan F. Stone (1941–46), sixty-eight years old • **Oldest associate justice at time of appointment:** Horace Lurton (1910–14), sixty-five years old • **Oldest associate justice at time of retirement:** Oliver Wendell Holmes Jr. (1902–32), ninety years old • **Justices born outside of the United States:** six • **Individuals who have served as president and chief justice of the Supreme Court:** William Howard Taft

About The U.S. Constitution and the Bill of Rights

The Constitution of the United States

The United States has the oldest currently operative written constitution in the world. One reason for its success is its adaptability. The Founders built an amendment process into the document. Yet only twenty-seven amendments have been added since ratification, and the Constitution remains remarkably similar to what it was in 1789. It should be noted, however, that the Constitution is much more inclusive today than when it was first ratified. Amendments, Supreme Court interpretations, and laws enacted by Congress have expanded suffrage, due process, equal protection, and the application of the Bill of Rights over time.

Influences on the U.S. Constitution

The U.S. Constitution was influenced by Enlightenment philosophers, contemporary European governments, and the experiences of the colonists. These experiences included colonists' observations of and interactions with Native Americans. (Students read about the confederation of the Haudenosaunee—often called the Iroquois historically—in Unit 1.)

The Declaration of Independence reflected and attempted to actualize John Locke's beliefs that all people have certain natural rights and that the only just government is one in which citizens are presumed to enter into a social contract with the government in exchange for the protection of these rights. If the government fails to fulfill its end of the social contract, then the citizens have the right to overthrow the government. Meanwhile, the political ideas of the Baron de Montesquieu largely influenced James Madison as he helped draft the U.S. Constitution. Montesquieu believed in the separation of powers in government. Dividing power and responsibility among three branches according to their functions—legislative, executive, and judicial—prevents any one part of government from becoming too powerful and oppressing its people. Madison adopted the concept of separation of powers when drafting the U.S. Constitution, outlining the three distinct branches that make up the U.S. government to this day.

Although Great Britain was ruled by a monarch, the Founders viewed the idea of the British Parliament favorably and drew inspiration from it when creating the federal legislative branch. Like Parliament, Congress is divided into an upper and a lower house. The House of Representatives is reflective of the British House of Commons, a body elected by the people and considered the lower house; the Senate, considered the upper house, is comparable to the House of Lords, which has a more enduring membership and is a step removed from the people.

The Constitution was also influenced by the colonists' experiences under British rule. The Founders opted for an elected executive leader with a specified term of office to avoid creating an American monarchy with an absolute ruler like King George III. They also included checks and balances on the president's power—and indeed on the powers of all three branches—to further protect against tyranny. The Constitution also requires that the president be a natural-born citizen so as to mitigate the influences that foreign powers might have over the U.S. government and its executive leader, including allegiance to a monarch overseas. The Third Amendment in the Bill of Rights protects against quartering soldiers in private homes—an abusive practice approved by Parliament.

Parts of the U.S. Constitution

The U.S. Constitution consists of a preamble and seven articles.

Preamble: Introducing the U.S. Constitution

The Constitution begins with a preamble that explains the purpose of the document. The preamble states that "We the People of the United States" are establishing the government and agreeing to live under its laws. It establishes the government on the principles of the consent (or agreement) of the governed and popular sovereignty, or rule by the people.

The preamble also states the intended purposes of the government the Constitution creates: to "establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty" for both current and future generations.

The preamble to the U.S. Constitution influenced the language of state constitutions. With the exception of Virginia, each state constitution includes a preamble that introduces the document and the signers' beliefs about the purposes of government. Most state constitutions include some version of "We the People" to indicate who the state constitution is for and by.

Articles I–III: The Three Branches of Government

After the preamble, the first three articles of the Constitution establish separation of powers across three branches of government. Article I describes the powers of the legislative branch; Article II outlines the powers of the president and the executive branch; and Article III specifies the powers of the judiciary.

The framers of the Constitution devised a federal form of government in which power is divided between the national, or federal, government and the states. Article I, Section 8, Clauses 1–17 enumerate the powers of the federal government; these are known as enumerated, or listed, powers. All powers not listed in Clauses 1–17 are reserved to the states, which may pass some of them on to local governments serving counties, cities, townships, and special-purpose districts. The Tenth Amendment further states that all powers that do not rest with the federal government, "nor [are] prohibited by it to the States, are reserved to the States respectively, or to the people."

Note that separation of powers existed in the American colonies prior to the American Revolution. Colonies had elected bodies called assemblies that made laws for the colony. Each colony was led by an executive called a governor, who, with a few exceptions, was appointed by the king of England. Governors enforced the laws of the colony; they could also veto laws and dissolve colonial assemblies. A colonial council acted as the judicial branch; councils were appointed by the assembly or by the governor and ruled on criminal and civil cases.

Legislative Branch

The legislative branch, Congress, has the sole power to enact laws for the country, although it has delegated some of this power by empowering agencies to write regulations that have the force of law. Congress comprises two houses: the House of Representatives and the Senate. A valid law must be approved by both houses. The current House has 435 members, each elected for two-year terms. The total number of representatives is based on legislation, and the number per state is proportionally based on each state's population. The Senate has 100 members, two from each state, each elected for six-year terms. The terms are staggered, so every two years, about one-third of the Senate seats are elected.

Every two years, a new Congress is seated; newly elected members are sworn in, and the House and Senate choose their officers and assign members to committees. Each Congress holds two sessions. A session begins when Congress meets in January and ends when Congress adjourns in December.

The House has the sole power to initiate bills that raise revenue. The Senate has the sole authority to confirm or reject foreign treaties negotiated by the executive branch; senators also have the power to confirm or reject presidential nominees, such as potential judges, ambassadors, and agency heads.

Executive Branch

The president heads the executive branch. Second to the president is the vice president, who has minimal power and responsibilities. Both are elected by a small group of people who are individually referred to as "presidential electors" and collectively referred to as the Electoral College. In the Electoral College, each state has one vote for each member of its congressional (Senate and House) delegation, making for a national total of 538 votes today. Voters in each state vote for electors pledged to the candidate, and in all but two states, the winner of the vote in the state wins all of the state's electors. After the election, the electors cast their votes. A simple majority of electors—270 at present—is required to elect a president. It can happen, and has happened, that a candidate can win the Electoral College but lose the popular vote. This happened most recently in 2000 (Bush vs. Gore) and 2016 (Clinton vs. Trump).

At the next level of the executive branch are the heads of the fifteen executive departments. Except for the attorney general, who heads the Department of Justice, the department heads are called secretaries. The department heads also serve in the president's cabinet as advisors.

Many functions of the executive departments are carried out by subdepartments, generally known as agencies. For instance, the Internal Revenue Service, which collects taxes, is an agency of the Treasury Department, and the Census Bureau, which produces a variety of demographic and economic statistics, is an agency of the Commerce Department. Beyond the departments are government corporations, commissions, and regulatory agencies, which have their own assigned functions for carrying out the laws as directed by Congress.

There are some four thousand top-level managers within the cabinet departments and in regulatory agencies, government corporations, and commissions. The president, with the approval of the Senate, appoints them as well. These are non–civil service jobs, so the appointees do not take civil service examinations and serve "at the pleasure of the president." An example of a regulatory agency is the Securities and Exchange Commission, which protects investors by regulating the stock market. Amtrak, the federally subsidized passenger railroad company, is an example of a federal corporation. One commission is the U.S. Commission on Civil Rights, which helps inform civil rights laws enacted by Congress.

In all, more than two million people work for the federal government, not including members of the military or the employees of Congress or the federal judiciary. These are career employees, and they are covered by provisions of the civil service law.

Judicial Branch

The federal judiciary is headed by the U.S. Supreme Court, which is led by a chief justice. There are currently nine justices on the court. (This number has changed throughout history.) All Supreme Court justices and most lower federal court judges are appointed for life. The Supreme Court determines the constitutionality of both federal and state laws. It is almost exclusively an appellate court, not a trial court. The few exceptions are cases against one or more states or against officials of foreign countries. When asked to issue a writ of certiorari—a notice to a lower court that it must provide information because a higher court wants to review the case—the Supreme Court can refuse. In choosing which cases to hear, the justices generally select those whose outcome would

affect the entire country, those that hinge on important legal questions, or those concerning issues that have been decided differently by appeals courts in different federal circuits. The justices conduct hearings on about eighty of the seven thousand to ten thousand appeals it receives each year. Inferior federal courts, those below the Supreme Court, deal with about 1 percent of all the court cases heard in the United States annually, meaning that about 99 percent of court cases concern state laws and are heard within the state judicial systems.

Checks and Balances

The powers of each branch outlined in Articles I–III are designed not only to enable the government to get things done but also to limit the powers of the other two branches. This is called checks and balances and includes the following powers and responsibilities:

Legislative Branch	Executive Branch	Judicial Branch
• Congress can impeach and remove a president or a federal judge for wrongdoing in office. • Congress can override a president's veto. • The Senate must approve treaties and presidential appointments. • Congress must authorize all spending by the executive and judicial branches.	• The president must provide an annual report to Congress. • The president can veto a bill passed by Congress. • The president must propose a federal budget for congressional approval.	• The Supreme Court can review and modify or nullify legislative and executive actions. • The chief justice presides at a president's impeachment trial.

Vetoes

If the president disagrees with a bill that Congress has passed, the president may veto, or reject, it. The president can do this in one of two ways:

1. If Congress will be in session for more than ten days, the president returns the bill, explaining why it will not be signed.
2. If Congress will adjourn within ten days, the president does nothing. This is known as a pocket veto.

To override a president's veto, both the House and the Senate must reconsider the bill and reapprove it by a two-thirds majority. A pocket veto cannot be overridden; the bill would need to be reintroduced in a future session of Congress.

Article IV: Relationships Between the States

Article IV primarily describes the relationship between the states and includes four sections:

- Section 1 includes the full faith and credit clause, which requires each state to respect the laws enacted by other states.

- Section 2 requires that states extradite people who have been charged with a crime in another state to that state.
- Section 3 explains how new states may be admitted to the Union.
- Section 4 requires that all states have a republican form of government. It also guarantees that the federal government will protect the states if they are invaded or experience domestic violence.

Article V: Amending the Constitution

Article V outlines the two-step process for amending the U.S. Constitution: proposal and ratification. Constitutional amendments may be proposed as a joint resolution by two-thirds of both houses of Congress or by a constitutional convention called by two-thirds of state legislatures. So far, all twenty-seven amendments to the Constitution have been proposed by the former method. Congress has the power to determine whether amendments should be ratified by state legislatures or by state ratifying conventions; both methods require a three-fourths majority—thirty-eight states—for ratification.

More than eleven thousand constitutional amendments have been proposed since 1789. Of these, Congress has endorsed thirty-three, though only twenty-seven have been ratified by the states. The time it takes to ratify an amendment varies. The Twenty-Sixth Amendment was the fastest amendment to be ratified, in just four months; by contrast, the Twenty-Seventh Amendment was proposed as a part of the Bill of Rights and was not ratified until more than two hundred years later, in 1992.

Article VI: Constitutional Catchall

Article VI of the Constitution is three short paragraphs addressing miscellaneous points:

- The new government assumes all of the debts and contracts of the previous government.
- The Constitution and federal law are "the supreme Law of the Land" (the supremacy clause).
- All state and federal elected officials are required to swear an oath to uphold the Constitution.
- No candidate may be excluded from office by a religious test.

Article VII: Ratifying the Constitution

Article VII specifies that the Constitution will go into effect after nine of the thirteen states ratify it.

Bill of Rights

The first ten amendments to the Constitution are known as the Bill of Rights. These amendments guarantee certain basic rights against the federal government. (Based on the equal protection clause of the Fourteenth Amendment [1868], over time, the Supreme Court has extended most of these rights to apply to the state governments as well. This is discussed in Topic 3, The U.S. Government over Time.)

During the ratification process, proponents of the 1787 Constitution, known as Federalists, promised to add a bill of rights in order to ease the fears of those who thought the new national government would have too much power. A bill of rights consisting of twelve amendments was proposed by the first Congress in 1789. Ten of the amendments were ratified by 1791.

Amendment	Right(s)	Meaning
First	Freedoms of religion, speech, the press, assembly, and petition	The government may not establish an official religion or prevent anyone from practicing their faith. The government may not punish people for expressing opinions in speech or print (except in cases of libel and slander) or keep people from holding peaceful meetings or objecting to government actions and criticizing officials. Note that free speech protections also extend to symbolic speech, including artwork, clothing, and creative performance.
Second	Right to bear arms	"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." **Note:** This amendment was originally interpreted to mean the states could each maintain their own militias. Since 2008, however, the amendment has been interpreted to mean individuals have the right to bear arms.
Third	Limits on quartering (housing) troops	"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."
Fourth	Protection against unlawful search and seizure	The government must obtain a warrant prior to conducting any search and/or seizure of a person and/or goods. A judge may only issue a warrant with probable cause.
Fifth	Due process: rights of the accused in criminal proceedings	No person shall be deprived of life, liberty, or property without due process of law; no person shall be charged with a capital crime unless indicted by a grand jury; no person shall be tried twice for the same crime; no person shall be compelled to testify against themselves.
Sixth	Rights of the defendant in a criminal prosecution	A defendant has the rights to be told the charges against them, to receive a speedy and fair trial, to question prosecution witnesses, to compel witnesses to testify, and to have an attorney.
Seventh	Rights in a civil suit	In a civil lawsuit for damages greater than $20, either party may request a jury trial, and it must be granted.
Eighth	Protection against excessive or cruel and unusual punishment	"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."
Ninth	Non-enumerated rights: powers reserved to the people	The people have rights that are not listed in the Constitution.
Tenth	Powers reserved to the states or people	Rights and powers not assigned in the Constitution belong to the states or the people.