The authors of the Constitution wanted to be sure that no person or group would seize power and control the American government. To insure that this would not happen, our United States government, under the Constitution, was divided into three parts: the executive, the legislative, and the judicial. Each of these three branches has a check on the powers of the others. These checks provide a system of balance in our government, and that is why we call the system checks and balances.

You may also hear this system referred to as a separation of powers. Although not directly mentioned in the Constitution, the first three articles mark the responsibilities of the executive, legislative, and judicial branches. It gives some power to each branch of government instead of giving all the power to one branch.

These are the most important checks and balances:
1. Executive branch has the power to check the legislative branch by vetoing laws that Congress wants to pass
2. Legislative branch may check the executive branch by passing laws over the veto by two-thirds vote in each house.

A System of Checks and Balances

**Legislative Branch**
- make the laws
  - must approve appointed judges
  - have impeachment powers over federal officers
  - may propose amendments to overturn judicial decisions
  - may declare a law unconstitutional

**Executive Branch**
- enforce the laws
  - president can veto laws Congress wants to pass
  - president can make foreign treaties

**Judicial Branch**
- interpret the laws
  - Supreme Court justices cannot be fired by the president
  - may rule that a presidential action or law is unconstitutional
  - president appoints federal judges

3. Judicial branch may check both the legislative and executive by declaring laws unconstitutional.

Obviously, this is not the whole system, but it is the main idea. Other checks and balances include:

**Executive over the judicial branch.** The president appoints all federal judges.

**Legislative over the executive branch.** The legislative branch must approve appointments that the president makes; the Senate must approve treaties that the president makes; and the legislative branch may investigate the executive branch.

**Legislative over the judicial branch.** The legislative branch must approve the president’s choice of judges to the judicial branch; may propose constitutional amendments to overturn judicial decisions.

**Legislative over the executive and judicial branch.** The legislative branch has impeachment powers over all federal officers.

**Judicial over the executive branch.** Supreme Court justices cannot be fired by the president.

continued
There are other checks and balances in the American government besides those between branches of government. They include:

### Senate and House of Representatives.

The Senate and House are able to check each other by rejecting bills passed by the other. The House has the added check of sole power to start revenue bills.

### Checks on the people.

A president is not elected directly by the people; only one-third of the Senate is elected at one time; and judges are not elected by the people.

### Power to the people.

As you have learned from earlier chapters, the Constitution also protects the people from a too-powerful government. The Constitution grants you, the American people, select powers. You have the right to elect members of government and limits how long government leaders can be in office.

In addition to the federal government, most state and local governments have the mechanics of a system of checks and balances.

### Federalism

Another check and balance is the theory of federalism. This is a division of power between the federal government and the state government. In many ways this is a natural division of functions. Local affairs are handled by local governments; national affairs by the federal government.

The Constitution lists certain specific powers that belong to the federal government. These are called enumerated powers. In addition, Congress has the authority to pass laws that are "necessary and proper" to fulfill the purposes of the Constitution. Powers under this authority are called implied powers.

Since the Constitution does not list in detail the powers belonging to the states, there have been many conflicts over their respective powers. The Constitution does say that any powers not delegated by the Constitution to the federal government are reserved to the states or the people. These are called reserved powers.

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**QUESTIONS**

1. Why is there a system of checks and balances?

2. Name the three branches of the federal government?

**TRUE OR FALSE?**

- 1. The judicial branch has no check on the other branches.
- 2. The Constitution says the states may have no powers.
- 3. The theory of federalism is a division of power between the states and federal government.
- 4. There are checks on the people, too.
- 5. The Supreme Court judges are appointed by Congress.
- 6. Once a Supreme Court judge is appointed, he/she may never be removed.
- 7. The president's veto is part of the system of checks and balances.
- 8. Reserved powers refers to the powers reserved to the states or the people.
- 9. Implied powers are the powers specifically listed in the Constitution.
- 10. The legislative branch has impeachment powers.

**FILL IN THE BOXES (CHECKS & BALANCES)**

- Executive
- Legislative
- Judicial

a. president appoints federal judges
b. must approve appointed judges
c. may pass laws by overriding a veto
d. may declare laws from Congress unconstitutional
e. may veto laws passed by Congress
f. Supreme Court justices may not be fired

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**James Madison (1751 - 1836)**

Known as the "Father of the Constitution," James Madison campaigned vigorously for a system of checks and balances in the governmental framework. In the Federalist Papers, Madison wrote extensively on this balance of power and how this would control the interests of various groups. Madison argued that the larger the society, and the more diverse interests of its citizens, the more likely each faction would be to thwart the interests of other factions seeking control. These concepts helped lead to the success of the Constitution and its ultimate ratification. Madison would later become the fourth President of the United States.
Our Constitutional form of government can be changed without revolution or rebellion. The authors of the Constitution, revolutionaries themselves, felt there should be provisions for orderly change.

The amendment process is discussed in Article 5 of the Constitution. To make an amendment to the Constitution, the amendment must be proposed by either the states or Congress, and then ratified by the states.

**There are two methods of proposing amendments to the Constitution:**
1. Congress may propose amendments approved by a two-thirds majority, in each house, or
2. The legislatures of two-thirds of the states may require Congress to summon a constitutional convention to consider amendments.

**There are two ways of ratifying amendments:**
1. An amendment is official when three-fourths of state legislatures approve it, or
2. When special conventions in three-fourths of the states approve it.

Every amendment except the 21st was approved by using the first method of proposing and ratifying.

**Miscellaneous Constitutional Information**

In Article 4 of the Constitution, debts made under the Articles of Confederation were declared valid under the new government of the Constitution.

Article 6 of the Constitution lists no religious tests for government office. John F. Kennedy was the first Catholic to be elected to the presidency, and there has never been a Jewish president. Article 6 requires government officials take an oath supporting the Constitution.

Amendments to the United States Constitution may be adopted whenever the need arises. The 16th Amendment was passed to allow income taxes after an earlier income tax law was found to be unconstitutional by the U.S. Supreme Court. This is not to say that the U.S. Constitution is changed without much thought and consideration. Since the adoption of the U.S. Constitution in the late 1700s, there have only been 27 amendments. By comparison, Alabama has made 452 amendments to its state constitution, which is approximately 90 years old.

To repeal an existing amendment there must be another amendment added. There has been only one amendment repealed, the 18th (prohibition). The 18th will remain in the Constitution, but a notation has been added to note that it has been repealed by the 21st.

**Conclusion**

The responsibility and importance of voters has increased with the growth of our country and our government. The only way to safeguard our rights and interests is to understand the Constitution, and become an interested voter. Though our government costs a great deal in money and effort, Americans have always been willing to work for effective, democratic government.

**Amending the Constitution**

Methods of Proposing Constitutional Amendments

- By Congress with a two-thirds vote of both houses,
- or
- By national convention called by Congress at the request of two-thirds (34) of the state legislatures.

Methods of Ratifying Constitutional Amendments

- By state legislatures in three-fourths (38) of the states,
- or
- By state conventions in three-fourths (38) of the states.

**QUESTIONS**

1. Describe the most common process used in amending the Constitution.

2. Does the Constitution outline religious qualifications for the president?

3. How many states does it take to ratify an amendment?

4. What is the 16th Amendment?

5. How many amendments to the Constitution have been made?

6. Which article of the Constitution describes the amending process?
On June 14, 1777, less than a year after the Declaration of Independence was signed, the Continental Congress adopted the stars and stripes as the flag of the United States. Original plans to provide a new star and a new stripe for each new state proved impractical and it was decided that only a new star would be added with each new state. So our flag today retains 13 stripes in honor of the 13 original colonies and 50 stars, one for each of our 50 states.

We look upon our flag as a symbol of union, freedom, and justice. Historically, the red of the flag stands for courage, the white for liberty, the blue for loyalty. Since the number of stars show the growth of our nation, the flag is not only an emblem, but a history of our nation as well.

It should be important to all Americans to fly the flag from their homes on national holidays and other patriotic occasions. When we pledge allegiance to our flag, it is not a pledge to any person or political party but to the United States Constitution and its ideals.

When the flag passes in a parade or during the ceremony of raising or lowering the flag, all persons present should face the flag, stand at attention, and salute, and men should remove their hats.

The Pledge of Allegiance

"I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all."

All Americans should follow the flag code very closely in the use and display of the flag. Some of the main points of the flag code are shown here. Consult a copy of the complete code, found in your library or on the internet, when you have other questions about the flag.

Some Flag Code Rules

1. The flag should be flown only from sunrise to sunset.
2. The flag should be hoisted briskly and lowered ceremoniously.
3. When displayed against the wall, the union should be on top and to the flag's own right, your left.
4. The flag may be used to cover a casket but should not be lowered into the ground.
5. In a procession the flag should always be in the front.
6. Shown with flags of states or other groups the flag should be in the center and highest.
7. Shown with flags of other nations the American flag should not be flown higher than others.
8. The flag should never be used as a cover or carrying device.
9. The flag should be displayed daily and especially on national holidays.
10. The flag should never be used for advertising.
11. Nothing should be attached to the flag.
12. The flag should not be bowed or lowered to any person or thing.
13. The flag should never touch the ground.
14. Worn flags should be burned and not thrown in the trash.
15. On a speaker's platform the flag should be displayed at the right if it is on a staff or on the wall behind the speaker if it is flat.
16. Flags flown from fixed staffs are placed at half staff to indicate mourning. The flag so used should be first raised to the peak and then lowered to half staff; it is again raised to the peak before lowering.

Contrary to popular belief, the flag code is not a law with penalties. It is a guide for American citizens on what is the best etiquette for displaying and honoring the American flag. The Supreme Court has ruled that even those who desecrate the flag by burning or mutilating the flag are simply exercising their rights of free speech and cannot be prosecuted. However, most Americans heed the flag code and treat it very seriously.

Questions

1. What do the stars of the flag stand for? 

2. What do the stripes of the flag stand for?

TRUE OR FALSE?

__ 1. A staff flag should be put on the speaker's right.
__ 2. The flag should be used to advertise only if the products advertised are in good taste.
__ 3. The flag should be in the rear of a procession and centered.
__ 4. The flag should be flown only on holidays.
__ 5. The flag can be displayed on public buildings.

Who designed the flag? Probably not. Historians have been unable to find solid evidence that Betsy was involved in either making or designing the flag. Best guess as to who did? Probably Francis Hopkinson, a naval flag designer, who billed Congress for that service in 1781.