**Chapter 3: The Presidency and The Electoral College**

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**Introduction**

How does someone become President of the United States of America? What are the requirements to be President? What are the powers of the **Executive Branch** of government headed by President of the United States? Can the President do anything they want?

Many Americans believe that when they go to their polling places every four years to cast their votes for President of the United States, that they are voting directly for the candidate of their choice. However, this is far from accurate. On the first Tuesday of November in a presidential election year, voters actually vote for the “electors” of their candidate; not directly for their chosen candidate. This process is known as the “**Electoral College**” and has come under substantial scrutiny of late.[[1]](file:////DCE514B3-E66B-4102-BDD0-C324C772D288%23_ftn1)

Five times in history—1824, 1876, 1888, 2000 and 2016—the candidate who won the popular vote actually lost the presidential elections because they failed to garner sufficient votes in the electoral college. As in the legislative branch, states with smaller populations have disproportionate influence in Presidential elections due to the electoral college system.

Assignment:Click on the link for ONE of the following five elections ([1824](https://www.youtube.com/watch?v=HjS9b0laRPs),[1876](https://www.youtube.com/watch?v=E4Z3sbU43y4),[1888](https://www.youtube.com/watch?v=j9iGGOavA6M),[2000](https://www.youtube.com/watch?v=Odv3oqWIx8g)and[2016](https://www.youtube.com/watch?v=vT2-S9z9140)) before writing a paragraph about what might have been different had the popular vote decided who was president.

**Who Can Be President?**

The requirements to be President of the United States are established within Article II, Section 1 of the United States Constitution. They are:

* The person must be a “Natural Born Citizen”
* The person must be 35 years of age or older
* The person must be “14 years a resident” of the United States.[[2]](file:////DCE514B3-E66B-4102-BDD0-C324C772D288%23_ftn2)

These are the three things that would qualify a person to run and be elected to the presidency. So, let’s examine what each of these requirements means.

A “**Natural Born Citizen**” is someone who is born in the United States (also known as birth right citizenship) OR someone with an American parent born in any part of the world.

For example, former Senator John McCain (R), who won the Republican nomination for President in 2008, was born in Panama. Given that both of his parents were American citizens when he was born in Panama, he was a natural born citizen according to the United States Constitution. Similarly, Senator Ted Cruz, (R) was born in Canada to a Cuban father and an American mother. The fact that Senator Cruz’s mother was an American citizen when he was born made him a “Natural Born Citizen.” As long as one of their parents is an American citizen, the child is considered a Natural Born Citizen and can run for President.

Just because someone is a citizen of the United States, however, does not mean that that person can become President. A “naturalized” U.S. citizen cannot become President, because a “naturalized citizen” is not a “Natural Born Citizen.” Naturalization is the process of becoming a citizen of a country. “**Naturalized Citizens**” were born in another country to parents who are citizens of another country and immigrated to the United States as citizens of that other country; and thereby do not fulfill the constitutional requirement of being a “Natural Born Citizen.”

**The Formation of the Democratic and Republican Parties**

https://www.youtube.com/watch?v=AHNoXEwEOLE

In the United States there are two major political parties. The first is the **Democratic Party** which is the oldest political party in the United States and the world. The second is the **Republican Party**, also known as the Grand Old Party (GOP). (Kernell, 2020) Both parties were formed in the years prior to the Civil War.

The political symbol for the Democratic Party is the Donkey. The origins of the Democratic donkey can be traced to the 1828 presidential campaign of Andrew Jackson. During that race, opponents of Jackson called him a jackass. However, rather than rejecting the label, Jackson was amused by it and included an image of the animal in his campaign posters. (Nix, 2020) Jackson upended politics in the early 19th century by pursuing universal suffrage (the right to vote) for all white males and destroying the National Bank. Previously, in many places in the United States, the right to vote was reserved only for property owning white men. President Jackson was also the President responsible for the “**Trail of Tears**” forcing various Native American groups off their ancestral lands and forcing many to move onto less desirable land west of the Mississippi River. (Kernell, 2020)

Resolving the Native Question

The [Presidency ofAndrew Jackson](https://www.youtube.com/watch?v=beN4qE-e5O8) in the 1820s and 1830s would decimate the Native population. Jackson, both as a military leader and as President, pursued a policy of removing tribes from their ancestral lands. This relocation would make room for white settlersand often for white land agents who made large profits from the purchase and sale of land.([The Trail of Tears — The Indian Removals](http://www.oercommons.org/courses/24f-the-trail-of-tears-the-indian-removals/view))

The Cherokee used legal action in the U.S. courts to resist the Jackson Administration. By the 1830s they had adopted the markers of civilization according to the Southern White Anglo-Americans attempting to push them off their land. The Cherokee developed their own written language, printed newspapers, owned slaves, elected leaders to representative government and formed their own nation. When the government of Georgia refused to recognize Cherokee sovereignty and threatened to seize their lands, the Cherokees took their case to the U.S. Supreme Court and won a favorable decision. John Marshall’s opinion for the Court majority inCherokee Nation v. Georgia was essentially that Georgia had no power over the Cherokees, nor to their lands. But Georgian officials simply ignored the decision and President Jackson refused to enforce it. Jackson was furious and personally affronted by the Marshall ruling, stating, "Mr. Marshall has made his decision. Now let him enforce it!"([The Trail of Tears — The Indian Removals](http://www.oercommons.org/courses/24f-the-trail-of-tears-the-indian-removals/view))To Georgians, President Jackson wrote, “Light a fire under [The Cherokee]. They will move.” (Takaki) White Georgians proclaimed native assemblies illegal, erased the Cherokee borders, violently removed the Cherokee from their homes and divided plots of land among white settlers.

Federal troops came to Georgia to remove the tribes forcibly. About 20,000 Cherokees were marched westward at gunpoint on the infamous Trail of Tears. Nearly a quarter perished on the way, with the remainder left to seek survival in a completely foreign land. A constitutional crisis resolved with devastating consequences for the Cherokee and for the desire by members of the Judiciary and Legislative Branches who hoped to check the power of the President of the United States (POTUS).([The Trail of Tears — The Indian Removals](http://www.oercommons.org/courses/24f-the-trail-of-tears-the-indian-removals/view))

The question of Native American sovereignty remains an obstacle for the U.S. legal system. In 2020 the question of the enforcement of laws in native territory in Oklahoma, assigned in 19thcentury treaties, is before the Supreme Court. In South Dakota a battle between the Sioux and the white governor is being waged over who has authority in the fight against Corona.

The symbol for the Republican Party is the elephant. Created by cartoonist Thomas Nast, this image was first used in Harper’s Weekly in 1874 to represent “The Republican Vote.” The first president elected out of the Republican Party was President Abraham Lincoln, elected in 1860, less than a decade after the party was formed on an anti-slavery platform. Lincoln was the President of the United States throughout the Civil War (1861–1865): the war between the Northern States (the Union, also called the United States of America) and the 11 Southern States that attempted to leave the United States and create their own country (the Confederate States of America or simply the South). Chattel slavery, the process whereby enslaved persons become the personal property of their owner, was practiced in many parts of the United States, and was core to the southern states’ hope to secede from the United States and form their own country.

President Lincoln has gone down in history as the President who kept the United States together by winning the Civil War and ended slavery. That, and the fact that he was the first president elected out of the Republican Party, is why that party today is still called, “The Party of Lincoln.” Abraham Lincoln also has the tragic honor of being the first American President to be assassinated in 1865, when he was shot by actor John Wilkes Booth at Ford’s Theatre. He would die a few days later.[[3]](file:////DCE514B3-E66B-4102-BDD0-C324C772D288%23_ftn3)

*Assignment: After reading "The Formation of the Democratic and Republican Parties" and watching*[Political Parties](https://www.youtube.com/watch?v=AHNoXEwEOLE), please watch either [The Democratic Party](https://www.youtube.com/watch?v=Z6R0NvVr164)***OR****the*[*Republican Party.*](https://www.youtube.com/watch?v=s8VOM8ET1WU)*For whichever party you chose, write a paragraph explaining the evolution of either the Democratic Party or the GOP.*

**Third-Party Candidates in Presidential Elections**

[embed]https://www.youtube.com/watch?v=u6R6bQ23LEw[/embed]

While Democrats and Republicans have dominated U.S. politics since the 1860s, they are by no means the only parties to influence U.S. politics and U.S. elections over the past 150 years. However, since the election of Abraham Lincoln (the Republican Party was a third-party that supplanted the Whig Party), third party candidates have never succeeded in winning the Presidency.

Assignment: After watching[*The History of Third Parties in the United States*](https://www.youtube.com/watch?v=u6R6bQ23LEw), click on one of the links below of third-party Presidential campaigns and in a paragraph explain why ONE of these third-party candidates ran for President. You can earn extra credit by writing about more than one of these candidates. NOTE: These are not the only significant third-party candidates in U.S. history.

1. 1856 –[John C. Frémont](https://www.youtube.com/watch?v=3PFKg5Bpd9A)
2. 1900, 1904, 1908, 1912 & 1920 –[Eugene V. Debs](https://www.youtube.com/watch?v=pn34My_Dcqc)
3. 1992 & 1996 –[*Ross Perot*](https://www.youtube.com/watch?v=79u4kwZignk&t=8s)
4. 1968 –[George Wallace](https://www.youtube.com/watch?v=cQIDkRIx_68)
5. 2016 –[Jill Stein](https://www.youtube.com/watch?v=qcUIFsOu-bY)and[*Gary Johnson*](https://www.youtube.com/watch?v=viP1WzlYPM0)

**Presidential Powers**

The powers granted to the American President is found in Article II of the United States Constitution. The Presidency was designed by the authors of the Constitution to have limited power that would be checked by Congress. The Founding Fathers feared a powerful “Chief Executive” might operate too much like a King. From the very first President George Washington to the 46th President Joseph Robinette Biden, the powers of the president have been laid out by the U.S. Constitution, but those powers have also expanded incrementally and sometimes dramatically over time. Particularly in times of crisis, like after the September 11, 2001 attacks, an atmosphere of fear has encouraged elected officials to grant more power to the President. Historically, the Executive Branch is very reluctant to give up the powers assumed in times of crisis, even after the crisis is over.

https://www.youtube.com/watch?v=uXPZ4OXFhiI

Assignment: The Patriot Act was passed shortly after the attacks of September 11, 2001 and most of the provisions that allow the government to surveil U.S. citizens have been preserved to this day. After watching[*Here is Why The Patriot Act is So Controversial*](https://www.youtube.com/watch?v=KP9VklrXPZs), write a paragraph arguing whether or not 20 years after 2001 it is appropriate for this law to remain largely intact?

Article II of the Constitution stipulates that the President is Commander in Chief of the American military. The President is also the head of the government of the United States empowered to carry out the laws of the United States. In addition, the President is the Head of State, able to welcome foreign officials on behalf of the United States.

The President has a cabinet of individuals that the President appoints, with the approval of the Senate, to assist in carrying out the federal laws. Should the President die or become incapacitated, there is an established order of succession. Imagine that the President, Vice-President, Speaker of the House, and the President of the Senate Pro Tempore could not serve as president (these are the first four in the line of succession), 15 other individuals in the “[Order of Succession](https://www.youtube.com/watch?v=zwwxzAFFN4s&ab_channel=Mr.SBK)” can become President of the United States.

The President can also appoint judges to the federal bench and the United States Supreme Court. Presidential judicial appointees must also be approved and accepted by the United States Senate. If the Senate does not approve an individual nominated by the President, the President must nominate someone else.

Every January 20th the President must deliver, to the Congress and thereby to the nation, a **State of the Union address**. This is required by the U.S. Constitution. The “State of the Union” address—before President Woodrow Wilson (1913-1921) it was just a letter delivered to congress—is an opportunity for the President to summarize what has been accomplished, and what are the plans for the future. Typically, the address ends up being a pretty partisan affair. One political party generally praises the speech, while the other party punches holes in it to show flaws and weaknesses. Since the mid-1960s the party not in power has selected a representative or representatives to deliver a rebuttal immediately following the President’s speech.

**Amendments to the Constitution Impacting the President**

There are five Amendments to the U.S. Constitution that may directly impact the American Presidency: the 20thAmendment (added 1933); the 22nd Amendment (added 1951), the 23rd Amendment (added 1961), the 24thAmendment (added 1964); and the 25th Amendment (added 1967).

The 20th Amendment (1933) to the U.S. Constitution changed when the President-elect’s term would begin, shifting the date from in March to Noon of the 20th day of January. By 1933, with the invention of trains, planes and automobiles, travel time had been substantially reduced from the 1780s, facilitating easy access to and from the capital.

The 22nd Amendment (1951) simply states that no person can serve as president for more than two terms (that is, a total of eight years). This amendment was added after President Franklin Delano Roosevelt won four consecutive presidential elections beginning in 1932 and with him dying in office in 1945.

The 23rd Amendment (1961) permitted the residents of Washington D.C. (District of Columbia), the capital of the United States, to vote in presidential elections. Washington, D.C. was, and still is, a territory without voting representation in congress. Other American territories are not allowed to vote in Presidential elections and do not have voting representation in Congress.

The 24th Amendment (1964) states that there is no need to pay a poll tax in order to vote for president. Poll taxes were fees that people were required to pay in order to vote. They were imposed selectively and with discriminatory impact on poor individuals, especially poor Black individuals in the U.S. South. This amendment was part of a wave of legislations that were passed in the mid-1960s in response to the Civil Rights Movement.

The 25th Amendment (1967) addresses “Presidential Incapacity.” If the President cannot fulfill his role as President, the Vice-President becomes President. The “new” President can fill the vacancy in the Office of Vice President. Section 3 of this Amendment elaborates on what happens if the President cannot complete the term in office.

Assignment: Write a paragraph explaining why historical context matters in the passing of these five constitutional amendments impacting the Presidency.

**The Electoral College and the Presidency**

The President of the United States is not elected by direct vote but by the [Electoral College](https://www.youtube.com/watch?v=OUS9mM8Xbbw&t=7s&ab_channel=CGPGrey). The Electoral College is identical to the number of persons serving in Congress from each state. The minimum number of persons who can serve in Congress from a state is three. Since the passage of the 23rd Amendment, three additional electors are chosen from D.C. despite the fact that they do not have voting members of Congress. While U.S. citizens living abroad can vote by absentee ballot in the state they last resided; those living in the U.S. territories of Puerto Rico, American Samoa, Guam, the Northern Mariana Islands and the U.S. Virgin Islands are unable to cast ballots for the Presidency.

Thus, at a minimum, every state will have at least three electors to the Electoral College because every state has two senators and at least one member of the House. Because of this the electoral system favors states with smaller populations like Wyoming who, in the 2020 election, got three electors, one elector for every 192,930 citizens vs bigger states like California, which received 55 electors, or one elector for every 645,172 citizens. Every state, except two (Maine and Nebraska) is winner take all, meaning even if a candidate wins a state by one vote, that candidate will get all of that state’s electoral votes.[[4]](file:////DCE514B3-E66B-4102-BDD0-C324C772D288%23_ftn4)

The votes begin to get tallied on Presidential election night, the first Tuesday in November every four years. The first candidate to reach 270 Electoral Votes becomes the President-elect of the United States until that person takes the “Oath of Office” on January 20th of the following year. After the November election, in early December, the various state electors come together in their states and certify their state’s election results. They essentially certify that the specific candidate who won that state will receive the states electoral votes. Then in early January, the Congress certifies the Electoral College’s result. They certify the election of the President and Vice-President.

**Summary**

The Executive Branch of government is widely considered the most powerful branch. This, however, was not the intention of the founding fathers who established the Presidency in Article 2 of the U.S. Constitution.

Throughout U.S. history, Presidential power has expanded, particularly in times of crisis when people were more willing to hand over authority to a single person capable of making quick and urgent decisions. While always having the title of “Commander in Chief” as the civilian is head of the military, Presidential influence in foreign policy has increased dramatically in the twentieth century. For example, while the Constitution authorizes Congress with the sole power to declare war, Congress has not done so since World War II, leaving, in practice, that power completely in the hands of the executive branch.

Despite their broad sweeping power, U.S. Presidents are not selected directly by the people of the United States. In fact, five times in U.S. history the winner of the popular vote “lost” the Presidential election. As is the case with the Legislative Branch, in choosing a President the Electoral College gives more influence to states with smaller populations and no influence to U.S. citizens and nationals living in U.S. territories.

**Assignments**

1. Click on the link for ONE of the following five elections ([1824](https://www.youtube.com/watch?v=HjS9b0laRPs), [1876](https://www.youtube.com/watch?v=E4Z3sbU43y4), [1888](https://www.youtube.com/watch?v=j9iGGOavA6M), [2000](https://www.youtube.com/watch?v=Odv3oqWIx8g) and [2016](https://www.youtube.com/watch?v=vT2-S9z9140)) before writing a paragraph about what might have been different had the popular vote decided who was president.
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   3. 1992 & 1996 – [Ross Perot](https://www.youtube.com/watch?v=79u4kwZignk&t=8s)
   4. 1968 – [George Wallace](https://www.youtube.com/watch?v=cQIDkRIx_68)
   5. 2016 – [Jill Stein](https://www.youtube.com/watch?v=qcUIFsOu-bY) and [Gary Johnson](https://www.youtube.com/watch?v=viP1WzlYPM0)
4. The Patriot Act was passed shortly after the attacks of September 11, 2001 and most of the provisions that allow the government to surveil U.S. citizens have been preserved to this day. After watching [Here is Why The Patriot Act is So Controversial](https://www.youtube.com/watch?v=KP9VklrXPZs), write a paragraph arguing whether or not 20 years after 2001 it is appropriate for this law to remain largely intact?
5. Write a paragraph explaining why historical context matters in the passing of these five constitutional amendments impacting the Presidency.

**Key Terms**

* Executive Branch
* Natural Born Citizen
* Naturalized Citizen
* Democratic Party
* Republican Party
* The Trail of Tears
* Order of Succession
* State of the Union
* Amendments of Presidential Powers
* Electoral College

**Resources**

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Kernell, S., Jacobson, G., Kousser, T. & Vavreck, L., The Logic of American Politics (Thousand Oaks, CA: Sage 2020).

Nix, E. "[How the Republican and Democratic Parties Got their Animal Symbols.  Why the Elephant and the Donkey?](https://www.history.com/news/how-did-the-republican-and-democratic-parties-get-their-animal-symbols)" History.com,August 19, 2020.

U.S. Const. amend. XX.

U.S. Const. amend. XXII.

U.S. Const. amend. XXIII.

U.S. Const. amend. XXIV.

U.S. Const. amend. XXV.

**Footnotes**

[[1]](file:////DCE514B3-E66B-4102-BDD0-C324C772D288%23_ftnref1) Following the November election, state electors meet to certify their state’s election.  These electors are not the same persons who serve in Congress.  They are ordinary citizens from their respective states who meet in early December to certify the November election. These electoral, from their respective states, add up to the number of individuals from that state who is serving in Congress as senators and congresspersons.  For example, New York state has 29 electoral votes.  This means that there are a total of 29 persons serving in the Congress from New York State (2 in the Senate and 27 in the House of Representatives). When they come together in December the electors certify that the presidential candidate who won their particular states will get all that state’s electoral votes.  Then in January, the Congress will meet and certify the Electoral College’s certification.  The Congress will certify the election of the President and the Vice-President.

[[2]](file:////DCE514B3-E66B-4102-BDD0-C324C772D288%23_ftnref2) Notice that the Constitution says “resident” and not citizen. Thus, even if you are a natural born U.S. citizen you cannot spend your life living abroad, return to the United States and immediately run for President.

[[3]](file:////DCE514B3-E66B-4102-BDD0-C324C772D288%23_ftnref3) President Andrew Jackson was the first president to survive an assassination attempt. In addition to President Lincoln, three other American Presidents have succumbed to assassin’s bullets (James A. Garfield in 1881, William McKinley in 1901, and John F. Kennedy in 1963).

[[4]](file:////DCE514B3-E66B-4102-BDD0-C324C772D288%23_ftnref4) It must be pointed out that the electors in the states are not the same persons as those representing the state in Congress. The electors are ordinary persons chosen by the political parties to be electors in that state.