

***Systems of Government in Some Foreign Countries:
The United States***

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EXECUTIVE SUMMARY

1. The United States (US) Constitution provides for an elected President who is both the Head of State and the Head of Government. Potential candidates for the President pass through a complex party nomination process which encourages participation of the party members. An indirect election process is prescribed in the Constitution for the voters to choose the electors, and the electors to choose the President.
2. As the Head of State, the President possesses the powers to mobilize the army, to represent the US in foreign relations and to grant reprieves and pardons. As the Head of Government, the President possesses the powers to oversee the executive departments, to appoint officials and judges, and to recommend legislation. The President can also form the Executive Office of the President and the Cabinet to assist him. Cabinet members can only be removed from office by the President.
3. The Congress is a bicameral legislature, which is composed of the House of Representatives and the Senate. Members of the two chambers are elected by direct universal suffrage in two elections. The Congress possesses legislative powers, the powers to approve budget, to scrutinize the executive and to propose constitutional amendment. The Senate stands on equal footing with the House of Representatives in law making process.
4. As regards the Executive-Legislative relationship, the President has no power to dissolve the Congress. The President and the Cabinet do not hold collective responsibility to the legislature as in a parliamentary system of government. The executive can be removed from office by impeachment. Under a system of checks and balances, the President may influence the law making process by legislation recommendations and veto power. The legislature can monitor the executive by congressional hearings and investigation and create congressional offices to scrutinize the budget proposals of the President.
5. There is no federal laws pertaining to the formation and organization of political parties. However, there are legal regulations on contributions for election campaigns. The limits for campaign expenditure are voluntary.
6. There have been five constitutional amendments related to political reforms, of which all were concerned with the expansion of voting rights.

SYSTEMS OF GOVERNMENT IN SOME FOREIGN COUNTRIES: THE UNITED STATES

PART 1 - INTRODUCTION

1. Background

1.1 In January 2000, the Panel on Constitutional Affairs requested the Research and Library Services (RLS) Division of the Legislative Council (LegCo) Secretariat to conduct a study on systems of government in some foreign countries.

1.2 This report forms part of the series of studies discussing systems of government. There are seven separate research reports (RP03/99-00 to RP09/99-00) on this subject.

2. Scope

2.1 The scope of the research, as agreed by the Panel, covers

- the election or appointment of the Executive;
- the election or appointment of the Legislature;
- the structural and operational, formal and informal inter-relationships between the Executive and the Legislature; and
- other features of political participation, e.g. referendum, constitutional assembly or constitutional convention, political parties, etc.

2.2 This research studies the systems of government of the United States of America (the United States), the United Kingdom, the French Republic (France), Federal Republic of Germany (Germany), Japan, New Zealand and Republic of Singapore (Singapore). The United States is chosen because it is a typical form of presidential government. The United Kingdom is chosen because its Executive ministers are all members of the Legislature. France is chosen because its Executive ministers are not allowed to be members of the Legislature. Germany is chosen because it allows but does not require Executive ministers to be members of the Legislature. Japan, New Zealand and Singapore are chosen because their electoral laws have been reformed in recent years.

3. Methodology

3.1 Information for this report is obtained from the Internet, government reports and relevant reference materials.

PART 2 - SOME BASIC INFORMATION

4.1 The United States (US) is a federal republic, made up of 50 states, one district and 14 dependent areas.¹ It has a population of 275 million.² The US government consists of a President and a Cabinet, a bicameral legislature and a judiciary. The president is chosen by popular election for a fixed term of four years; the Cabinet is responsible to the President.

4.2 The US Constitution was adopted in March 1789 and was last amended in May 1992. Unless specified otherwise, all reference to articles in this report is to the articles in the Constitution of the United States, as amended up to 1992. The Constitution applies the doctrine of separation of powers, which means the three branches of government, the executive, the legislature and the judiciary, are separated from one another with divided mandate of power conferred by the Constitution.

¹ The 50 states and the District of Columbia comprise 51 administrative divisions of the United States. *The World Factbook 1999*, CIA: <http://www.cia.gov/cia/>

² Home page of the US Census Bureau: <http://www.census.gov/>

PART 3 - THE EXECUTIVE

5. Head of State /Head of Government

5.1 The President of the United State is both the Head of State and Head of Government.

The Election of President

Selection of Candidates

5.2 Under Article II, Presidents are elected for a fixed term of four years. Only native born US citizens who are at least 35 years of age and have been a resident in the US for 14 years are eligible to be elected as the President. No person may be elected to the office more than twice (Constitution Amendment XXII, Section 1) .

5.3 Presidential candidates can be nominated by political parties or if they are independents, they have to show that they have public support.

Party Nomination of Presidential Candidates

5.4 The process to nominate Presidential candidates can be broken down into two stages. Stage one refers to primary elections or party caucuses held in the 50 States and the District of Columbia. Stage two refers to the national nominating convention held by each political party.

(a) Stage One: Primary Election or Party Caucus

Primary Election

- The aim of primary election or party caucus is to elect party delegates to the national nominating conventions where party candidates for President and Vice-President are determined and the party's platform approved.
- Each state is free to decide whether to hold a 'closed' primary election or an 'open' primary election. In a 'closed' primary election, only registered members of the party can vote. In an 'open' primary election, voters registered with other parties and independent voters may also vote. Most states choose the 'closed' primary election³.

³ <http://usinfo.state.gov/usa/usa.htm/politics/govworks/na2.htm>.

Party Caucus

- Under the caucus system, election of delegates occurs in stages. In the first stage, party members meet in local voting districts known as precincts. They elect their own delegates for the next stage, the county conventions. At the county conventions, delegates from precincts in turn elect county delegates to state conventions. At the state conventions, county delegates elect state delegates to represent the state at the national nominating convention.

(b) Stage Two: National Nominating Conventions

- Each party holds its own national nominating convention. At the convention, delegates vote for the person they want their party to nominate for the Presidency office. The candidate who has received the majority vote becomes the party's Presidential candidate. The same rule applies to the election of the candidate for the Vice-President. The candidates for the President and the Vice-President then compete with candidates of other parties and independent candidates, if any, in the Presidential election.
- The national party platform is also approved in the national nominating convention.

Independent Candidates

5.5 An independent candidate is required by law to have a minimum number of registered voters to nominate him as a candidate.

Presidential Election

Legal Basis

5.6 The Constitution stipulates that the President elected by an Electoral College consisting of Presidential Electors⁴. Presidential electors are elected on a state basis and the election method is left to be determined by the state legislature concerned. On the Presidential election day, the Presidential Electors meet in their own states and cast their votes for the Presidential candidates.

⁴ Article II, Section I of the Constitution.

5.7 The whole process of presidential election is, in practice, quite complex. It can be split up into several stages.

(a) *Stage One: Nomination of Presidential Electors*

- After the political parties have determined their Presidential and Vice-Presidential candidates, each state political party names a list of Presidential Electors who are committed to the party's Presidential and Vice-Presidential candidates. That is, if they were elected as Presidential Electors, they would have to cast their electoral votes for the Presidential candidate that they have pledged to support. The number of Presidential Electors on the list is equal to the number of the state's electoral votes⁵.
- These Presidential Electors are usually important party leaders or prominent party members. They are usually nominated as a reward for past service to the political party. The number of Presidential Electors elected in each state is equal to the number of the corresponding state's Senators and Representatives combined.

(b) *Stage Two: Election of Presidential Electors*

- State legislatures determine the electoral system by which Presidential Electors are elected. In most cases, Presidential Electors are directly elected by the people in each state. The list of Presidential Electors receiving the highest popular vote in each state is elected.
- Since the Presidential Electors are bound by their pledges, voters are actually making their choice among the Presidential candidates. In many states, the names of Presidential Electors do not even appear on the ballot paper; the voters only see the names of the candidates for the President and the Vice-President. Therefore, the election outcome is deemed to be reflecting the popular votes for the candidates for the President.

⁵ The number of electoral votes held by each state depends on the size of the State's population.

(c) *Stage Three: Presidential Election*

- On the Presidential election day, the Presidential Electors meet in their respective states and officially vote for the President and the Vice-President. The candidate who wins a plurality of votes within a state receives all of that state's electoral votes, regardless of the size of the margin⁶.
- As the Presidential Electors are bound by their pledges, the vote is a mere formality to ratify the outcome.

(d) *Stage Four: Announcement of Results*

- Certified lists of the electorate votes are sent to the President of the Senate. These votes will be counted in a joint session of the Congress. The 'winner-takes-all' arrangement is adopted. That is, all the electoral votes in a state are awarded to the Presidential candidate who receives the highest number of votes. An absolute majority of the electoral votes, that is 270 out of 538, is required for a candidate to be elected.
- In case no candidate secures the required number of votes, the House of Representatives elects one person from amongst the three candidates securing the highest number of electoral votes. In such a case, all Representatives from the same state combining to cast one vote for that state. The candidate obtaining the absolute majority of votes is elected. If this attempt also fails, the Vice-President automatically succeeds to the Presidential office.

Removal of President

5.8 Presidents can only be removed from office by impeachment on being convicted of treason, bribery, or other serious crimes and misdemeanors. The proceedings of impeachment consist of three steps:

- The House of Representatives sets up a judiciary committee to prepare a report of investigation on the case. The committee permits the President's counsel to offer arguments and to examine witnesses. The judicial committee decides by a majority vote whether impeachment is recommended, and then reports to the House of Representatives;

⁶ Maine is an exception where the losing candidates may get part of the vote.

- The House of Representatives considers the recommendation and decides by a majority vote whether the recommendation should be adopted or otherwise; and
- The Senate will act as a judicial tribunal for impeachment with the Chief Justice of the Supreme Court presiding at the meeting. Senators will listen to the report of the judiciary committee and then vote. Impeachment has to be approved by a two-thirds majority vote.

5.9 So far, three attempts have been made to impeach a President. These attempts were made in 1868, 1972 and 1998 against President Johnson, President Nixon, and President Clinton respectively. None of the attempted impeachment was successful.

Functions and Powers

5.10 The Constitution stipulates that the President must "take care that the laws be faithfully executed." He also has other functions and powers which include:

- to recommend legislation to the Congress;
- to call special sessions of the Congress in case the Congress adjourn without acting on proposals which the President believes is necessary;
- to sign or veto bills passed by the Congress;
- to appoint federal judges, heads of federal departments and agencies and other principal federal officials;
- to issue executive orders which have binding force of law upon federal agencies;
- to manage foreign relations;
- to exercise the function of commander-in-chief of the armed forces; and
- to grant pardons for offences against the US.

6. Vice President

6.1 The Office of Vice President is created along with that of President by the Constitution. The Vice President has two functions. These include (a) to succeed the President in case of death, resignation or removal by impeachment and (b) to preside over the Senate.

6.2 The role of the Vice President in policy making process is ambiguous. Some academics have opined that “the office of the Vice President is a very weak office because no significant role is assigned to it”.⁷ Vice President usually runs for presidential election if the incumbent does not seek re-election.

7. Executive Office of the President

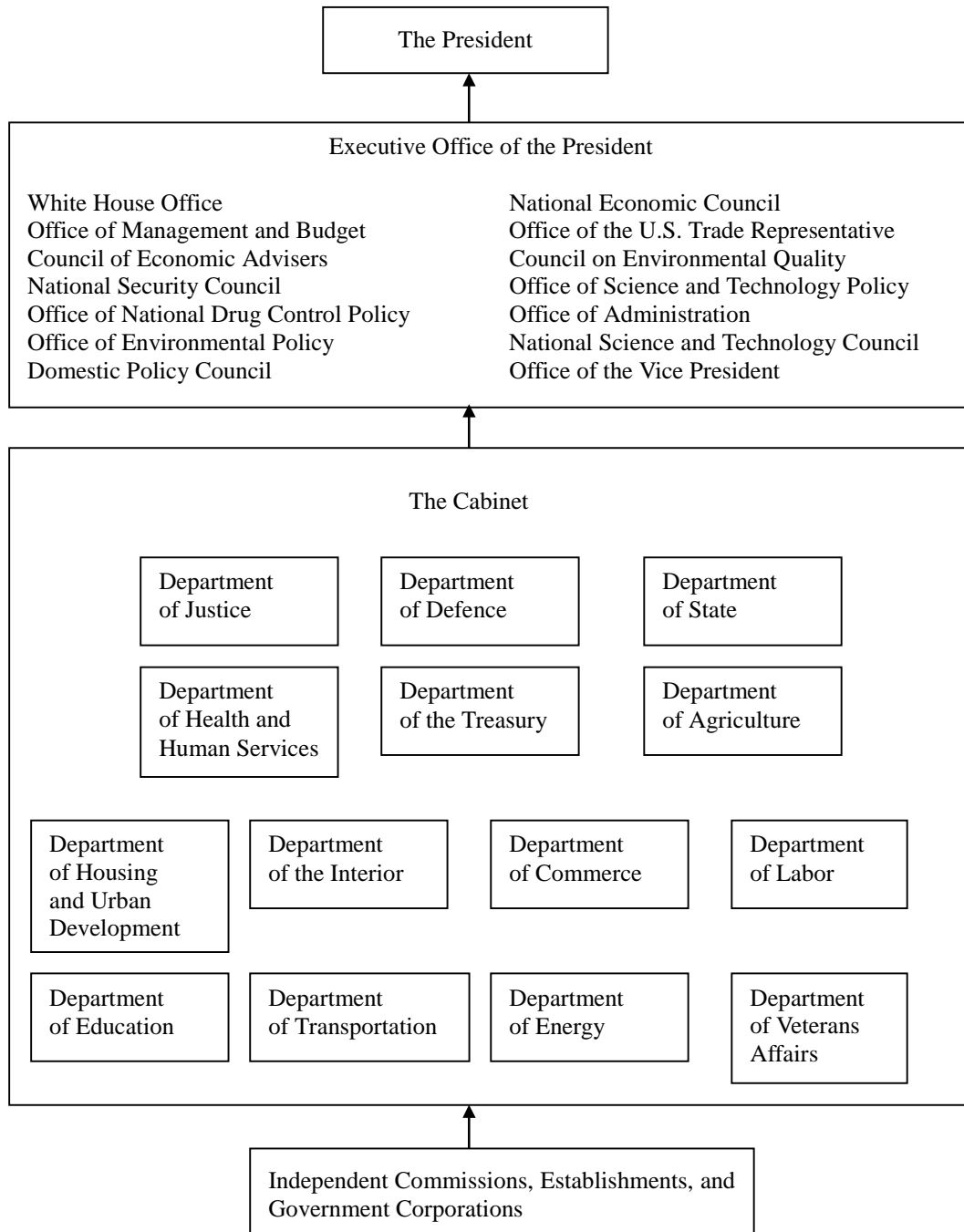
7.1 The Executive Office of the President consists of 14 executive departments⁸ and a number of staff organizations⁹. The executive departments are created with the approval of Congress to carry out the day-to-day enforcement and administration of federal laws. The departments are divided into divisions, bureaus, offices and services, each with specific duties. All departments are headed by a secretary, except the Justice Department, which is headed by the Attorney General. Figure 1 below provides an illustration of the relationship among the President, the Executive Office of the President and the Cabinet.

⁷ *The Constitution of USA*, p.57

⁸ The 14 executive departments include the Department of Agriculture, Department of Commerce, Department of Defense, Department of Education, Department of Energy, Department of Health and Human Services, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labour, Department of State, Department of Transportation, Department of the Treasury and Department of Veterans Affairs.

⁹ The staff organizations include the White House staff, the National Security Council, the Office of Management and Budget, the Council of Economic Advisers, the Office of the US Trade Representative and the Office of Science and Technology.

Figure 1 - Executive Office of the President



Note : * Arrows are used to indicate lines of responsibility.

Source : *Congressional Quarterly's Washington Information Directory*, 1994-1995 (Washington, DC: Congressional quarterly Press, 1994), p. 4.

8. The Cabinet

8.1 The Cabinet consists of heads of various executive departments chosen by the President and subject to the approval of the Senate. When the President leaves office, his Cabinet members are expected to resign.

8.2 The Constitution makes no provision for a presidential Cabinet. There are also no specific constitutional qualifications for service in the Cabinet. The Constitution only provides that the president may ask opinions, in writing, from the principal officer in each of the executive departments on any subject in their area of responsibility. The Cabinet has no collective responsibility for policy and is not a decision-making body; it is only one of many sources of advice to the President. All recent Presidents have maintained large staffs to provide advice independent of the executive departments and their agencies.

9. The Independent Agencies

9.1 The independent agencies are not part of the executive departments, but they have important responsibilities for keeping the government working smoothly.¹⁰ The nature and purpose of these agencies vary widely. Some are regulatory groups, with powers to supervise certain sectors of the economy. Others provide special services, either to the government or to the people. In most cases, the agencies have been created by Congress to deal with matters that have become too complex for the scope of ordinary legislation.

10. The Senior Public Officials

10.1 In 1998, there were 2.8 millions of federal employees working for the US Government, among whom 11% are at supervisory level who have opportunities in policy-making.¹¹ There are rules and procedures to govern the recruitment, promotion, discipline and dismissal of civil servants in order to reduce the ability of politicians to use civil service posts as patronage.

¹⁰ Examples of some important independent agencies include The Central Intelligence Agency, The Environmental Protection Agency, The Federal Communications Commission, The Federal Reserve System, The Federal Trade Commission, The General Accounting Office, The General Services Administration, The National Aeronautics and Space Administration, The National Labour Relations Board, The United States Agency for International Development, The United States Arms Control and Disarmament Agency and The United States Information Agency.

¹¹ United States Office of Personnel Management, *The Fact Book - Federal Civilian Workforce Statistics*, 1999 edition

PART 4 - THE LEGISLATURE

11.1 The United States (US) legislature, the Congress, consists of two chambers, the House of Representatives and the Senate. Article I provides that “all legislative powers shall be vested in a Congress”. Unlike other bicameral legislatures, the US Senate possesses real law-making power and stands on an equal footing with the House of Representatives.

11.2 As a federal republic, the Congress and the state legislatures share legislative powers. Amendment X stipulates that “the powers not delegated to the United State by the Constitution, nor prohibited by it to the States, are reserved to the States respectively”. This means that the Constitution enumerates the powers of Congress and leaves the residual powers to be exercised by the state legislatures.

12. The House of Representatives

Composition

12.1 The House of Representatives consists of 435 members, each of whom is elected from a voting district.

12.2 It is a tradition to nominate the leader of the majority party in the House of Representatives as the Speaker. Apart from presiding at meetings of the House of Representatives, the Speaker interprets and enforces the rules of the chamber, refers bills to committees and attends to other procedural matters.

Election Method

12.3 Elections of the House of Representatives are held every two years. The single member district system is used. Each state, county, city or ward is divided into voting districts on the basis of equal population size. To be eligible for the House of Representatives, a person must have been a citizen for at least seven years and be at least aged 25 and an inhabitant of the state from which he or she is elected.

13. The Senate

Composition

13.1 The Senate is composed of 100 members, two from each state. The principle of equal suffrage among states in the Senate is laid down in the Constitution and cannot be amended without the consent of all states.¹² The Vice President presides at meetings of the Senate of which he is not a member and in which he seldom votes.

Election Method

13.2 Senators are elected for a six-year term. One third of the Senate membership comes up for election every two years. Senators must be at least aged 30 and a citizen for nine years in addition to being inhabitants of the state from which they are elected.

14. Powers of Congress

14.1 Each house of the Congress has the power to introduce legislation on any subject except revenue bills, which must originate in the House of Representatives. The large states may thus appear to have more influence over the public purse than the small states. In practice, however, each house can vote against legislation passed by the other house. The Senate may disapprove a revenue bill -- or any bill, for that matter -- or add amendments which change its nature. In that event, a conference committee made up of members from both houses must work out a compromise acceptable to both sides before the bill becomes law.

14.2 The Senate also has certain powers especially reserved to that body, including the authority to confirm presidential appointments of high officials and ambassadors of the federal government as well as authority to ratify all treaties by a two-thirds vote.

14.3 Regarding impeachment of federal officials, the House of Representatives has the sole right to bring charges of misconduct that can lead to an impeachment trial. The Senate has the sole power to try impeachment cases and to determine whether officials are guilty or not guilty. A finding of guilt results in the removal of the federal official from public office.

¹² Article V of the Constitution lays down the conditions and procedures for constitutional amendment. This article stipulates that "*no state, without its consent, shall be deprived of its equal suffrage in the Senate*". Such arrangement is to avoid domination of Congress by larger states in terms of population size.

14.4 The broad powers of the whole Congress are spelled out in the eighth section of the first article of the Constitution:

- to levy and collect taxes;
- to borrow money for the public treasury;
- to make rules and regulations governing commerce among the states and with foreign countries;
- to establish bankruptcy laws for the country as a whole;
- to set up a system of federal courts;
- to declare war;
- to raise and support armies;
- to call out the militia to enforce federal laws, suppress lawlessness or repel invasions by foreign powers; and
- to make all laws necessary to enforce the Constitution.

15. Officers of the Congress

15.1 The Constitution provides that the Vice President shall be the President of the Senate. He or she has no vote, except in the case of a tie. The Senate chooses a President to preside when the Vice President is absent.

15.2 The House of Representatives chooses its own presiding officer -- the speaker of the House. The Speaker and the President of the Senate are always members of the political party with the largest representation in the respective house.

15.3 At the beginning of each new Congress, members of the political parties select floor leaders and other officials to manage the flow of proposed legislation. These officials, along with the presiding officers and committee chairmen, exercise strong influence over the making of laws.

16. Legislative Procedures

16.1 Bills are introduced by a variety of methods. Some are drawn up by standing committees; some by special committees created to deal with specific legislative issues; and some may be suggested by the president or other executive officers. Citizens and organizations outside the Congress may suggest legislation to members, and individual members themselves may initiate bills. After introduction, bills are sent to designated committees which, in most cases, schedule a series of public hearings to permit presentation of views by persons who support or oppose the legislation. The hearing process, which can last several weeks or months, opens the legislative process to public participation.

16.2 When a committee has acted favorably on a bill, the proposed legislation is then sent to the floor for open debate. In the Senate, the rules permit virtually unlimited debate. In the House of Representatives, because of the large number of members, the Rules Committee usually sets limits. When debate is ended, members vote either to approve the bill, defeat it, table it -- which means setting it aside and is tantamount to defeat -- or return it to committee. A bill passed by one house is sent to the other for action. If the bill is amended by the second house, a conference committee composed of members of both houses will attempt to reconcile the differences.

16.3 Once passed by both houses, the bill is sent to the President, for constitutionally the president must act on a bill for it to become law. The President has the option of signing the bill -- by which it becomes law -- or vetoing it. A bill vetoed by the president must be re-approved by a two-thirds vote of both houses to become law.

16.4 Only a small number of bills introduced will become a law. In a recent two-year session of Congress, for example, a total of 11 602 bills were introduced into the House of representatives and 4 080 into the Senate. Out the 15 682 bills introduced, 664 bills (or 4.2% of the total) were enacted into law.

PART 5 – EXECUTIVE-LEGISLATIVE RELATIONSHIP

17. Ministerial Responsibility

17.1 There is no provision in the Constitution for the Congress to initiate a vote of 'no confidence' on the executive. Cabinet members are appointed by the President and do not hold any collective responsibility to Congress. The Cabinet is not required to be not accountable to Congress as in a parliamentary system. Cabinet members and staff of the Executive Office of the President are dismissed at the President's discretion.

17.2 Cabinet members may be removed from office on impeachment by the Congress.

18. Initiation of Bills

18.1 Under the Constitution, all legislative powers are vested in the Congress. Only legislators have the power to initiate bills. Legislators may make any laws other than those prohibited in the Constitution. The prohibitions include the following:

- laws which condemn persons for crimes or unlawful acts without a trial;
- laws which retroactively makes a specific act a crime;
- laws which give favourable treatment in commerce or taxation; and
- laws which authorize any titles of nobility.

18.2 Congressmen may initiate any private bills other than those prohibited by the Legislative Reorganization Act of 1946. The Act prohibits the consideration of any private bill in three areas: (1) the payment of money to individuals; (2) the construction of bridge across navigable streams; and (3) the correction of a military or naval record. From 1949 to 1955, the number of private bills introduced was about 500 a year. After the Act had been enacted, the number fell to around 50 a year from 1970 to 1997.

Presidential Legislative Recommendations

18.3 Under the Constitution, the President may recommend legislative proposal to the Congress. These recommendations are put forward to the Congress through the State of the Union Address and the budget.

19. The Presidential Veto

19.1 The Constitution gives the President three choices when presented with a bill passed by Congress: sign the bill into law; regular veto, i.e., veto the bill and return it to the chamber where it originated within 10 legislative days after presentation (Sundays excluded); or, pocket veto, i.e., do nothing. If the president does nothing, the bill becomes law automatically after ten legislative days. This provision prevents Presidents from thwarting the majority will of Congress through simple inaction. The exception to this rule occurs when Congress passes a bill and then adjourns before ten legislative days elapse. Any bill not signed by the President when Congress so adjourns dies automatically. It cannot become law. This condition is called a pocket veto.

19.2 From 1789 to 1998, the number of bills vetoed was 2 540, of which 1 473 were regular vetoes and 1 067 were pocket vetoes.¹³ The number of vetoes averaged about 12 a year.

Vetoes Overridden

19.3 Two situations may happen once a President vetoes a bill and returns it to Congress. If the legislature fails to act at all, the bill is considered as failed. If two-thirds of the members present in each chamber pass the bill once again, it becomes law automatically despite presidential disapproval.

19.4 There have been 105 vetoes overridden, accounting for only 4% of the vetoed bills from 1789 to 1998.¹⁴ This is because to sustain a veto, the President needs to gain only one-third plus one of the votes of those present in any one of the chambers.

¹³ *Ibid*, p.162-163

¹⁴ *Ibid*, p.162-163

20. The Legislative Veto

20.1 Legislative veto is a preemptive provision attached to new statutes, which requires advance approval for bureaucratic action in specific areas within a definite period of time. It is not a veto power provided for in the Constitution. Instead, it is a legal device to require prior legislative approval which serves the purpose of a veto.

20.2 Take the legislative veto granted by the Joint Committee on Atomic Energy (JCAE) of Congress as an example. In 1954, JCAE passed the bill to set up the Atomic Energy Commission to develop nuclear reactor programmes. But the Commission was required to keep JCAE informed of the development and to consult committee members before any decisions could be made.

20.3 250 legislative veto provisions were enacted from 1789 to 1983. In 1983, the Supreme Court ruled on this congressional power in Immigration and Naturalization Service v. Chadha. The court held that the legislative veto in this case (which was the legislative veto provision attached to the Immigration and Nationality Act) was unconstitutional.

20.4 Notwithstanding the above ruling, Congress continues to place legislative vetoes in bills and Presidents continues to sign such bills into laws. The dispute has not been brought to a conclusion.

21. Monitoring of the Executive

Congressional Powers of Investigation

21.1 One of the most important non-legislative functions of the Congress is the power to investigate. This power is usually delegated to committees -- either the standing committees, special committees set up for a specific purpose, or joint committees composed of members of both houses. Investigations are conducted to gather information on the need for future legislation, to test the effectiveness of laws already passed, to inquire into the qualifications and performance of members and officials of the other branches, and on rare occasions, to lay the groundwork for impeachment proceedings. Frequently, committees call on outside experts to assist in conducting investigative hearings and to make detailed studies of issues.

21.2 There are important corollaries to the investigative power. One is the power to publicize investigations and their results. Most committee hearings are open to the public and are widely reported in the mass media. Congressional investigations thus represent one important tool available to lawmakers to inform the citizenry and arouse public interest in national issues. Congressional committees also have the power to compel testimony from unwilling witnesses, and to cite for contempt of Congress witnesses who refuse to testify and for perjury those who give false testimony.

Committee System

21.3 One of the major characteristics of the Congress is the dominant role that committees play in its proceedings. Committees have assumed their present-day importance by evolution, not by constitutional design, since the Constitution makes no provision for their establishment.

21.4 At present the Senate has 16 standing (or permanent) committees; the House of Representatives has 22 standing committees. Each specialises in specific areas of legislation: foreign affairs, defense, banking, agriculture, commerce, appropriations and other fields.

22. Scrutiny of Public Expenditure

22.1 The federal budget has to be approved by the Congress. The President make annual budget proposals to the Congress and the Office of Management and Budget (OMB), which is a Presidential office, is responsible for drafting the budget proposals.

22.2 Owing to the technicality of the budget, the Congress passed the Budget and Impoundment Act in 1974 to create the Congressional Budget Office (CBO). This office is tasked: (1) to provide a competitive source of expertise and budgetary information; and (2) to make analysis on the Presidential budget proposal. The provides Congressmen with technical support in revising the Presidential budget proposals.

22.3 The CBO also prepares an annual report on budget alternatives, which include fiscal policy options, level of tax revenue and budget priorities. In addition, every year, it issues five-year budget projection for spending and taxation, and projects the long-term costs of bills approved. Special reports on economic and budgetary issues are provided occasionally.

PART 6 - SOME FEATURES OF POLITICAL PARTICIPATION

23. Political Parties

23.1 Freedom of association is protected in Amendment I of the Constitution. There is no legal requirement for political parties to register at the federal level. State statutes may require political parties to register as a condition for the names of the parties to be shown on the ballot.

23.2 The restrictions on the activities of political parties are limitations to election campaign contributions and prohibition of violent activities to overthrow the government.¹⁵

24. Campaign Finance

Background

24.1 In 1972, the Watergate scandal exposed the alleged involvement of members of the Nixon Administration in unlawful campaign finance the activities. As there was criticism on possible abuses of the federal election law, Congress amended the Federal Election Campaign Act in 1974, which introduced four electoral reforms:

- to impose contribution limits for election campaigns;
- to impose expenditure limits for election campaigns;
- to establish a matching fund system for Presidential election; and
- to set up a Federal Elections Commission to monitor the administration of the law.

¹⁵ *Encyclopedia of the American Constitution*, p.772

Contribution Limits

24.2 The Federal Election Campaign Act provides for limits to campaign contributions to candidates for presidential and congressional offices:

- an individual can contribute a maximum of US\$1,000 (HK\$7,758)¹⁶ to a candidate for each election and he may contribute an overall maximum of US\$25,000 (HK\$193,950) each year; and
- multi-candidates political organizations can contribute a maximum of US\$5,000 (HK\$38,790) to each candidate for each election.

24.3 In addition, the Act requires candidates and their election campaign committees to keep contribution records and to submit them to the Federal Elections Commission for monitoring.

Expenditure Limits and Matching Fund

24.4 In 1976, the Supreme Court ruled the election expenditure limits unconstitutional because the limits violated the right to free speech. The remaining three reforms were still in force.

24.5 In response to the Supreme Court ruling of 1976, the matching fund system was revised. The matching fund system was a system to provide public funds to a candidate for federal office. As the mandatory election expenditure limits were repealed in the Supreme Court's ruling, a system of voluntary spending limit was introduced instead. In 1974, the election campaign limit was set at US\$20 million (HK\$155 million). This limit is adjusted at each subsequent election by the Federal Elections Commission, which is responsible for administering the matching fund system, to take into account changes in the voting population and the cost of living. The limit for the Year 2000 presidential election campaign expenditure has been set at US\$66.12 million (HK\$513 million).¹⁷

¹⁶ In 1999, the exchange rate of the United States currency was US\$1= HK\$7.758.
¹⁷ the press release of the Federal Elections Commission on 7 July 1999

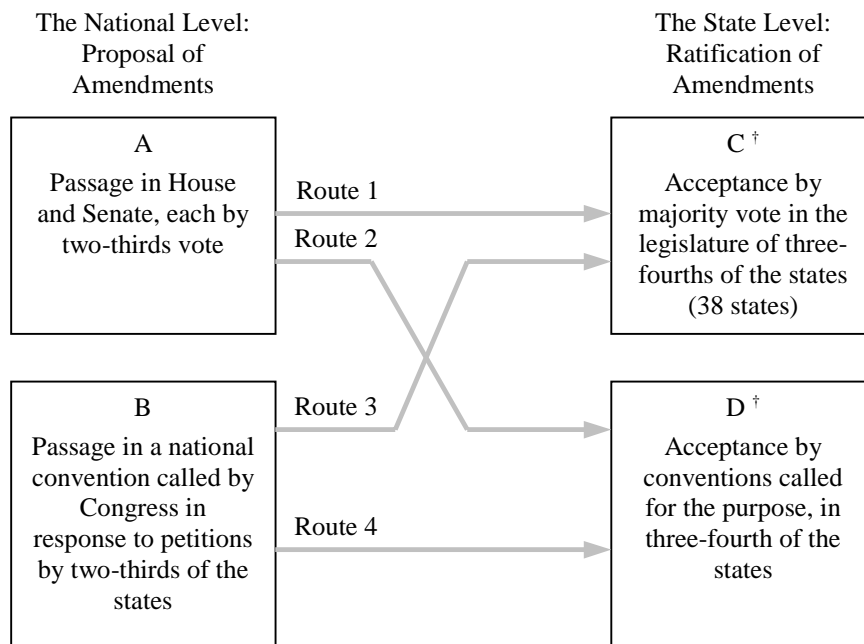
24.6 A candidate has to follow the spending limit mentioned above as a condition for receipt of public funds under the matching fund system. Candidates submit information on contributions received to the Federal Elections Commission on a voluntary basis in order to receive matching funds for the first US\$250 (HK\$1 940) of each contribution. After reviewing the submissions, the Commission discloses the contribution information to the public and grants the matching fund to candidates. In return, the candidates who receive such funding limit their total campaign expenditures to the level set by the Commission.

25. Constitutional Amendments

25.1 Constitutional amendments may be initiated at national level or state level. The amendments have to be ratified at state level subsequently in a manner according to Article V. Article V provides for four methods of amending the Constitution:

- Proposed by two-thirds of members of both chambers of Congress; and then ratified by majority vote of the legislatures of three-fourths (thirty-eight) of the states; or
- Proposed by two-thirds of members of both chambers of Congress; and then ratified by conventions called for the purpose in three-fourths of the states; or
- Proposed in a national convention called by the Congress in response to petitions by two-thirds of the states; and then ratified by majority vote of the legislatures of three-fourths of the states; or
- Proposed in a national convention called by the Congress in response to petitions by two-thirds of the states; and then ratified by conventions called for the purpose in three-fourths of the states. An illustration is provided in Figure 3 below.

Figure 3 - Four Possible Routes for Constitutional Amendment



[†] In each amendment proposal, Congress has the power to choose the method of ratification, the time limit for consideration by the states, and other conditions of ratification.

25.2 The method of amending the Constitution by petitions of two-thirds of the states has never been employed. This means that amendment routes 3 and 4 have never been attempted.

25.3 So far, there have been five amendments related to political reforms. All of them are concerned with the expansion of voting rights. For details of the amendments on voting rights, please refer to Appendix I. The most recent amendment was approved in 1992 to impose a ban on mid-term congressional pay raises.

25.4 In addition, the Supreme Court possesses the power to interpret the Constitution. As constitutional amendment procedures are rigid, the Supreme Court has been described as "a continuous Constitutional convention".¹⁸ By making new interpretation, the court has facilitated the growth of the Constitution without formal amendment.

¹⁸ "The Constitution of U.S.A.", p.131-135

26. Referendums and Initiatives

26.1 Initiatives are the means to amend the state's constitution or to create a new law. Referendums are the means to pass a judgement on any issue which could be considered by the legislature.

26.2 The Constitution does not provide a channel for referendums and initiatives at national level. However, state constitutions provide channels for referendums and initiatives at state and local levels. They are to be passed by a percentage of registered voters, as set down by the state's legislature.

26.3 As regards initiatives to amend a constitution, the constitutions of 18 states have provisions which allow citizens to use initiatives to amend the state's constitution. Sixteen states allow citizens to act directly without prior approval from the state legislature while two require initiatives to be submitted to the state legislature for prior approval.

26.4 As regards initiatives to enact new laws, 21 states allow their citizens to exercise this initiative, of which 13 allow direct action, six require prior approval from legislature, and two permit both means. In addition, matters relating to revenues and appropriations, public health, safety and peace are off limits to initiative as a general principle.

26.5 The constitutions of 24 states allow referendums. Among them, 11 states restrict the subject matter of the proposed referendums in the same way as the initiatives.

Appendix I

Constitutional Amendments to Expand the Electorate

Amendment	Purpose	Year Proposed	Year Adopted
XV	Extended voting rights to all races	1869	1870
XIX	Extended voting rights to women	1919	1920
XXIII	Extended voting rights to residents of the District of Columbia	1960	1961
XXIV	Extended voting rights to all classes by abolition of poll taxes	1962	1964
XXVI	Extended voting rights to citizens aged 18 and over	1971	1971

Source: Homepage of the Congressional Research Services

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