

# The Philadelphia Inquirer

## Reimagining the presidency: 3 constitutional revisions that might bring America back from the brink

January 16, 2021

As the country prepares to inaugurate our 46th president, we are living in a time of unprecedented challenges to the U.S. Constitution. The vision of rioting mobs attacking the seats of government, exemplified by Shays' Rebellion, was what led the Founding Fathers to gather in Philadelphia to draft the Constitution in 1787. And during the Constitutional Convention, the Framers cited the failed democracies of Greece and Rome to warn against demagogues who would inflame violent factions into being governed by passion rather than reason.

Despite these profound threats to the rule of law, our institutions held, and the Constitution prevailed. But recent events raise a profound question: Does the Constitution need updating? How can its guardrails be strengthened to protect the thoughtful deliberation that Madison considered crucial to the survival of the new republic?

Our Constitution, written just over 230 years ago, and amended 27 times since, has bound together the United States and made us the longest-lasting democracy in history. But, if we could rewrite it today, what would it look like?

To answer that question, the National Constitution Center launched the Constitution Drafting Project, which gathered some of America's leading progressive, conservative, and libertarian scholars into teams to write their own ideal constitutions. Although all three teams disagreed about many details, they converged around the vibrancy of the Constitution itself, and all decided to reform the Constitution rather than start from scratch. In addition, the teams unexpectedly agreed on certain reforms, including limiting executive power. Before the transfer of presidential power, the excerpts below highlight one proposed change to the executive from each team. And on Jan. 27, at 2 p.m., the drafting team leaders will discuss how they drafted their constitutions and where the project should go next at a free online event. Learn more at [constitutioncenter.org/debate](https://constitutioncenter.org/debate).

— *Jeffrey Rosen, president & CEO, National Constitution Center*

### **The Conservative Constitution: Limit the presidency to one 6-year term**

*By Robert P. George, Michael W. McConnell, Colleen A. Sheehan, and Ilan Wurman*

As conservatives, we were tempted to leave the Constitution largely unchanged, amending only those provisions most obviously in need of alteration. However, in the spirit of this project, we attempted to think more boldly and propose changes we believe would improve the Constitution to meet the exigencies of our era.

Our country today is fraught with civic disrespect and, all too often, a disregard for the lives of others. America is in need not only of civic healing, but of a better and deeper understanding of the fundamental principles of our nation and its founding documents. It is these principles, more

than the specific provisions of our existing Constitution, that we have sought to preserve. To this end, our committee dedicated many hours of discussion to major structural changes to our charter, as well as to several specific changes to certain powers and rights.

One important structural change is to presidential selection. Returning to a proposal that was almost adopted by the original Constitutional Convention, we limit the president to a single six-year term. This will make it less likely that the president will make important decisions with a view to reelection rather than to the common good, and prevent presidents from improperly using the perquisites of incumbency to gain electoral advantage. It may be too much to hope, but maybe presidents will focus on their presidential role rather than their position as leaders of political parties.

**Original:** The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years ... *(Editor's note: The two-term limit for the presidency was enacted in 1951 via the 22nd Amendment.)*

**Rewrite:** The executive power shall be vested in a President of the United States of America, who shall hold office for a term of six years and be ineligible for reelection ...

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## **The Progressive Constitution: Abolish the Electoral College**

*By Caroline Frederickson, Jamal Greene, and Melissa Murray*

Progressives' relationship with the Constitution has long been fraught. At various points in history, progressives have loudly complained that the Constitution ratified in 1788 was designed for an agrarian society of slaveholding white males. It created sclerotic political institutions that are frightfully ill-equipped to meet the demands of a modern, global, and pluralistic society.

But as we embarked upon this exercise, we wanted to make clear our own view that the Constitution, as drafted in 1787, is not completely incompatible with progressive constitutionalism. Indeed, the original Constitution establishes a structure of divided government that is a necessary precondition for a constitutional democracy with robust protections for individual rights. We took this exercise as an opportunity to strengthen those structural protections for democratic government that we believe serve the exercise of individual rights.

It isn't enough, for example, to give Americans voting rights if the institutions they are voting for are themselves antidemocratic. Accordingly, our Constitution eliminates the indefensible Electoral College, replacing it with a national popular vote for president. That vote would be conducted under ranked-choice voting, which would make it easier for candidates with broad support to win the presidency — under a Constitution for all the people, the one national office should not be held by an extreme partisan.

**Original:** The President ... together with the Vice President, chosen for the same Term, [shall] be elected, as follows:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each...The Person having the greatest Number of Votes shall be the President...

**Rewrite:** The President ... together with the Vice President ... [shall] be elected by a national popular vote conducted using a ranked-choice voting method.

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### **The Libertarian Constitution: Expand grounds for impeachment**

*By Ilya Shapiro, Timothy Sandefur, and Christina Mulligan*

This was probably an easier project for us than for our conservative and progressive counterparts because the current United States Constitution is fundamentally a libertarian or, more precisely, classical liberal document. So much so that, at the outset, we joked that all we needed to do was to add “and we mean it” at the end of every clause.

After all, the Constitution set out a government of limited and enumerated powers, powers divided both “horizontally” among the three branches of the federal government and “vertically” in a federalist system that recognizes, while limiting, the sovereignty of states, in order to protect “the blessings of liberty.”

Speaker of the House Nancy Pelosi (D-CA) presides over the vote to impeach U.S. President Donald Trump for the second time in a little over a year in the House Chamber of the U.S. Capitol on Jan. 13, 2021, in Washington, DC. The House voted to impeach Trump on the charge of "incitement of insurrection" after a mob of his supporters attacked the U.S. Capitol where Congress was working to certify the Electoral College victory of President-elect Joe Biden on Jan. 6.

Of course, there have been some developments in the 230 years since the original Constitution and Bill of Rights took effect and the 150 years since the post-Civil War amendments were ratified, that have demonstrated certain deficiencies from a libertarian perspective. Today’s imperial presidency militates for a reweighing of checks and balances.

In particular, we think impeachment is underused. Congress should impeach far more officials than it does. What’s more, some have denied that officials can be impeached for dangerous incompetence or gross negligence — so we’ve again clarified something that is already law by saying explicitly that they can be impeached for “behavior that renders them unfit for office.” Since it takes two-thirds of the Senate to convict and remove, we think it unlikely that this will

render the president “subordinate” to Congress — and in any event, in an age of “imperial” presidents, stronger checks are probably warranted.

**Original:** The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

**Rewrite:** The president, vice president and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, other high crimes and misdemeanors, or other behavior that renders them unfit for office.

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