

# SOLUTIONS MANUAL

SHEA

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livingdemocracy

THIRD EDITION

BRIEF EDITION

# Chapter 2 - Early Governance and The Constitutional Framework

## Table of Contents

### [I. Chapter Overview](#)

[A. Learning Objectives](#)

[B. Chapter Summary](#)

### [II. Student Assignments – Pre-Lecture](#)

### [III. Lecture Resources](#)

[A. Lecture Slides](#)

[B. Additional Lecture Suggestions](#)

### [IV. Student Assignments – Post-Lecture](#)

[A. Class Discussion Questions](#)

[B. Class Activities](#)

[C. Research Assignments](#)

### [V. Quantitative Assessment](#)

### [VI. Resources for Further Study](#)

[A. Books](#)

[B. Articles](#)

[C. Media](#)

[D. Web Resources](#)

## **I. Chapter Overview:**

### **A. Learning Objectives**

- 2.1 Identify the difference between government and politics.
- 2.2 Differentiate between different types of governments.
- 2.3 Describe how forces in Colonial America helped set the stage for the American Revolution.
- 2.4 Identify the core principles of the American Revolution.
- 2.5 Determine the reasons for the failure of the Articles of Confederation.
- 2.6 Assess how compromises at the Constitutional Convention shaped our political system.
- 2.7 Identify the core principles of the Constitution.
- 2.8 Analyze how the ratification debate structured the nature of our democracy.

[↑ Return to Chapter 2: Table of Contents](#)

### **B. Chapter Summary**

Constitutions briefly outline the structure, authority, interaction, and responsibilities of governmental institutions. Although the American Constitution has been a model for many other governments, there are numerous other examples of constitutions including Great Britain's which is unwritten, but based upon other documents and common law. A student must have a basic knowledge of the types of governments, and the powers that can be created in order to understand a particular nation and its people's choices.

The final constitution a nation writes reflects fundamental political, economic, and power relationships including the rich and powerful and the poor and powerless. The constitution is determined by the culture, values and interests of the people who wrote it, and the conditions in the time when it was written. One must understand the political, economic, and power relationships of the Colonial Period, and the time under the Articles of Confederation to fully understand parts and the entire U.S. Constitution.

Perhaps the greatest strength of a democracy is the ability of citizens and factions to compromise and peacefully settle differences. Totalitarian regimes by definition don't compromise, and change is more difficult as divisions arise. The vital importance of compromise is reflected in the Constitution and its ratification process. Without compromises there would have been no Constitution and United States of America, as we know it.

[↑ Return to Chapter 2: Table of Contents](#)

## **II. Student Assignments – Pre-Lecture**

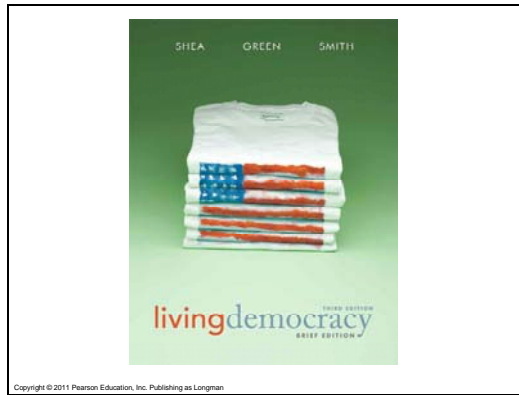
- A. Student Required Reading: Chapter 2 - Early Governance and The Constitutional Framework
- B. Administer Reading Comprehension Quiz (see Test Bank, Chapter 2)

[↑ Return to Chapter 2: Table of Contents](#)

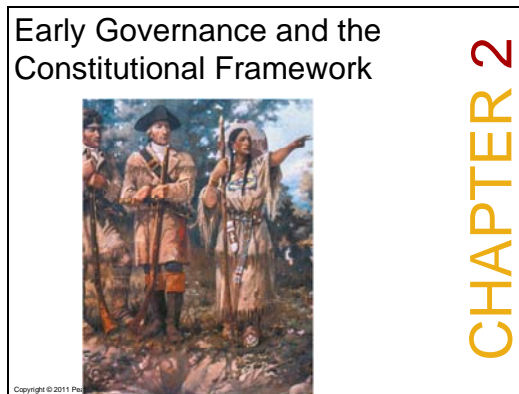
## III. Lecture Resources

### A. Lecture Slides

Slide 1



Slide 2



Slide 3

### Key Objectives

Click on buttons to go to the relevant slide.

- 2.1 The Nature of Government and Politics**  
Identify the difference between government and politics.
- 2.2 Types of governments**  
Differentiate between different types of government.
- 2.3 Early Governance in America**  
Describe how forces in Colonial America helped set the stage for the American Revolution.
- 2.4 The American Revolution**  
Identify the core principles of the American Revolution.

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Slide 4

## Key Objectives

Click on buttons to go to the relevant slide.

- 2.5 The Articles of Confederation**  
Identify the difference between government and politics.
- 2.6 The Constitutional Convention**  
Identify how compromises at the Constitutional Convention shaped our political system.
- 2.7 The U.S. Constitution**  
Identify the core principles of the Constitution.
- 2.8 The Struggle over Ratification**  
Analyze how the ratification debate structured the nature of our democracy.

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Slide 5

## Government and Politics

**2.1** Identify the difference between government and politics.

- Government is the *formal structures and institutions* through which binding decisions are made for citizens of a particular area.
- Politics is the *process* by which the character, membership, and actions of a government are determined.

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- Government is the organization that has formal jurisdiction over a group of people who live in a certain place. Government is *not* the process by which things take place in a political system; rather, it is the “rules of the game” and the structures (the institutions) that make and enforce these rules.
- Rules can take the form civil or criminal laws. **Civil law**, if violated, requires citizens to pay money as a penalty. **Criminal law**, by contrast, prescribes that citizens who do not follow regulations pay a monetary penalty (a fine), be removed from society for a period of time or even permanently (through a sentence of death or of life imprisonment without parole), or both.
- The words “power and authority” are related to government’s ability to enforce its rules and collect resources. **Power**, in the political context, is the ability to get individuals, groups, or institutions to do something. Power determines the outcome of conflicts over governmental decisions; it charts the course of public policy. **Authority** is defined as the recognized right of a particular individual, group, or institution to make binding decisions.
- The key difference you should keep in mind is that politics is the process, whereas government involves the rules of the game.

Slide 6

2.1

**FIGURE 2.1 Government and Politics: What's the Difference?**

It is important that you understand the difference between government and politics. We suggest government is analogous to the official rules of baseball, and politics is similar to how the game is actually played. —What is another analogy that might help you and your classmates better understand the difference between governmental institutions and the political process?

Baseball		American Government	
Official Rules (Government)	How the Game is Played (Politics)	Official Rules (Government)	How the Game is Played (Politics)
1. Pitchers can start from either the windup or the stretch position.	Pitchers grip the ball in different ways to throw fastballs, curveballs, or knuckleballs. Also, pitchers release the ball at different points to change the batter's view of the ball.	Article I, Section 2 The House of Representatives shall choose their speaker and other officers.	The majority party uses their power to elect a speaker and other officers from their party, thus enabling them to push their legislative agenda.
2. Batters must keep both feet in the batter's box while hitting.	Batters can "crowd the plate" by standing close to the inside edge of the box.	First Amendment Freedom of the Press	Congressmen congratulate each other on their legislative agenda.
3. A batter will run to first base after hitting a ball in fair territory.	Batters do not always make a full swing with the bat (for example, bunting).	Article I, Section 7 Presidential Veto	Presidents can threaten to veto a bill before it passes through Congress in order to influence the legislators.
4. All batters must be in fair territory when the pitcher delivers the ball.	Defense can shift to accommodate for a batter who tends to hit in a certain direction.	Article I, Section 3 Each Senator shall have one vote.	Lobbyists can provide information on issues and influence the vote of a Senator or Representative voter.
SOURCE: www.usconstitution.net		Article I, Section 2 The House of Representatives shall be composed of members chosen every second year by the people of the several States.	Candidates raise money and campaign before election day to influence the opinions of the voters.

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Slide 7

**Types of Governments**

2.2 Differentiate between different types of governments.

**TABLE 2.1 Types of Government Systems**

GOVERNMENT SYSTEMS	DEFINITION	EXAMPLES
Who is Allowed to Participate?		
Monarchy	Individual ruler with hereditary authority holds absolute governmental power.	Bhutan, Saudi Arabia, Swaziland
Constitutional Monarchy	Monarch figurehead with limited power; actual governing authority belongs to another body.	Denmark, Japan, United Kingdom
Dictatorship	Individual ruler with absolute authority; often comes to power through violent uprising.	Maoist's Iraq, North Korea
Oligarchy	A small group of the rich or powerful controls most of the governing decisions.	Tunisia, 20th-century South Africa, Pakistan
Pluralism	Multiple centers of power vying for authority.	Canada, Great Britain, United States
How Are Decisions Reached?		
Pure Democracy	Citizens make all governmental decisions.	Some Swiss states, some towns in New England
Representative Democracy	Citizens elect representatives to carry out government functions.	United States, Germany, France
Totalitarian Regime	Leaders have no limits on authority.	Nazi Germany, 1920s Italy
Authoritarian System	Leaders have no formal legal restraints on authority but are limited by informal forces (i.e., the military, religious leaders).	South Korea, Singapore, Taiwan
Constitutional System	Government has both informal and legal restraints on the exercise of power.	United States, Germany, France, Mexico

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- **Monarchy** is a system of rule in which one person, such as a king or queen, possesses absolute authority over the government by virtue of being born into a royal family and inheriting the position. Monarchies have been the most common form of rule in world history, and they are still in place in some nations around the globe. Almost all kings and queens today head **constitutional monarchies** in which they perform ceremonial duties but play little or no role in actually governing their country.
- **Dictators** are also sole rulers, but often this person arrives at the position of power through a violent overthrow of the previous government. Dictators theoretically have unlimited control of the government, but again, this power is often limited by the bureaucracy, the military, the ruling party, or even members of the dictator's family.
- In an **oligarchy** a small group, such as military leaders or the economic elite, holds the reins of power. Decisions in such systems are often made through a council.
- **Pluralism** occurs when a number of groups in a system struggle for power. In a pluralist system there are multiple centers of power.
- A **democracy** is a political system in which all citizens have a chance to play a role in shaping government action and are afforded basic rights and liberties.
- A **republic** is a system of government in which a small group of elected representatives acts on behalf of the many. If these representatives closely follow the wishes of their constituents (the people they are sent to represent), and are elected through a fair and open process in which everyone has the same opportunity to participate, the system is considered a **representative democracy**.

Slide 8

### Types of Governments (cont'd) 2.2

- Totalitarian regimes have no constraints on their processes or decisions.
- Authoritarian regimes have informal constraints on their processes and decisions.
- Constitutional regimes have both formal and informal constraints on processes and decisions.

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- **Totalitarian regime**, leaders have no real limits on how they proceed or what they do. Formal constitutions might exist in such regimes, seemingly full of limits on power, but in practice, such limits are meaningless.
- **Authoritarian regime**, government policies are kept in check by informal limits, such as other political forces (maybe political parties), the military, and social institutions (for example, religious groups). Leaders face real limits, but there are no formal or legal restrictions.
- **Constitutional governments** are constrained by both informal and legal limits. Government action is controlled by strong social and political forces (including religions, interest groups, political parties, and the media) and by what the laws, the courts, and the constitution allow.

Slide 9

### Early Governance in America

**2.3** Describe how forces in Colonial America helped set the stage for the American Revolution.

- Mayflower Compact
- Colonial assemblies and English Crown appointed governors
  - Loyalists versus colonists
  - French and Indian War
  - The Great Squeeze
- Sons of Liberty

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- In 1620, a tiny group of English people sailed to America on the *Mayflower*. Some members of this group were **Pilgrims**, who were seeking religious freedom. The **Mayflower Compact** was a document legalizing their position as a “civil body politic” under the sovereignty of King James I. Most of the colonies were established by charters. There was no question that these settlements would be governed under English rule.
- Ideas favoring self-governance grew in intellectual circles both in America and in England. The compromise came in the form of colonial assemblies. Here, colonists elected representatives to speak on their behalf and to counsel the governors, appointed by the Crown, on the best courses of action. Every colony had an assembly, usually located in the largest city. This mix of appointed rule and self-governance seemed to work, at least at first. Two pressures jeopardized this arrangement: many colonists brought with them political customs and traditions that included the debate respecting royal authority and new financial pressures were thrust on the colonists in the mid-1760s because of the French and Indian War.
- Because the war had been fought to protect the colonists, it seemed logical that they should bear much of the responsibility for paying the bill. Thus began a period known as the **Great Squeeze**, in which Parliament passed one measure after another, including the Sugar Act (1764), the Stamp Act (1765), the Townshend Acts (1767), and the Tea Tax (1773), all



### The American Revolution

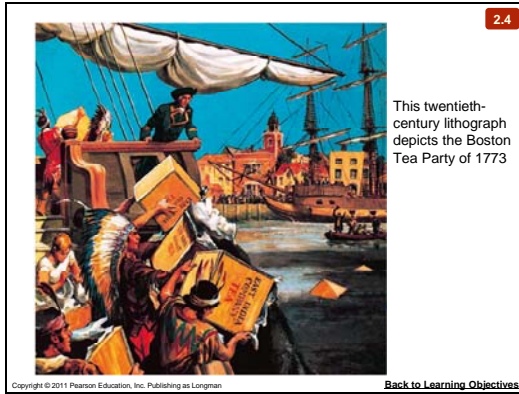
2.4 Identify the core principles of the American Revolution.

- “No taxation without representation.”
  - The Boston Tea Party
  - Coercive Acts (Intolerable Acts)
- “Natural Rights”
  - John Locke
  - Adam Smith
  - Thomas Paine

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- Core principles of the Revolution can be divided into two broad categories: financial (pragmatic) and ideological. The Great Squeeze made life in the colonies harder and the prospects for a profitable future seem dimmer for all colonists.
- After Parliament imposed another tax, this time giving the bankrupt but politically powerful East India Company a monopoly on importing tea into the colonies, a band of enraged colonists, disguised as Indians, stormed a merchant ship in Boston Harbor and threw the tea overboard. For many colonists, the so-called Boston Tea Party was a galvanizing event that rallied patriotic sentiment. Parliament quickly passed five new measures, which the British called the **Coercive Acts** and the colonists referred to as the **Intolerable Acts**. In short, these were punitive measures, designed to punish the rebellious colonists.
- During this period, a good deal of attention was paid to the writings of great philosophers on the rights of citizens and the proper conduct of government. The English political theorist, **John Locke**, had written a number of widely read essays on the subject, most notably *Two Treatises of Government*, in which Locke argued that all legitimate governing authority is based on the consent of the governed and that all individuals have “natural rights.” Later, in the eighteenth century, the Scottish economist **Adam Smith** wrote about the importance of limiting government in order to protect the economic rights of citizens. **Thomas Paine** wrote a highly influential and persuasive tract, *Common Sense*, promising freedom, equality, and the prospect of democracy.

Slide 11



What similarities, if any, are there between the modern day Tea Party movement and the Boston Tea Party of 1773?

Slide 12

### The Declaration of Independence

- Battle of Lexington
- Second Continental Congress (1775)
- Declaration of Independence
  - Natural rights
  - Social contract
- Revolution
  - A few key victories
  - Thomas Paine's "Crisis" papers
  - French support

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- By September 1774, events seemed to be spinning out of control. Every colony except Georgia sent delegates to the First Continental Congress in Philadelphia. A few openly spoke of breaking ties with Great Britain but most still hoped to find a compromise. The delegates called on the colonists to boycott all British goods.
- Royal troops had to retreat and were attacked repeatedly as they marched back to Boston. In the end, some 270 British soldiers and 95 colonists were killed. The event sent shockwaves throughout the colonies and across the Atlantic Ocean. The wheels of war had been set in motion. Many of those who had protested British abuses still remained loyal to England. At the very same time that delegates were arriving at Philadelphia, petitions were circulating in towns and villages throughout the colonies calling for reconciliation with Great Britain. A committee of five was formed, and the task of writing a clearly written rationale for rebellion was given to a young, rather shy delegate from Virginia by the name of Thomas Jefferson.
- The Declaration established that individuals possess certain privileges—certain guarantees by virtue of being human; these rights are *not granted* by government but by a *Creator*. Further, Jefferson introduced the **social contract theory**, drawn in large measure from the writings of John Locke, who argued that governments are created by the people to protect their rights, and are limited; they get their powers from the will of the people and no one else. When a government fails to respect the will of the people—that is, when it appears no longer to be limited—it becomes the right, indeed the obligation, of citizens to change the government.

- The leadership of George Washington, led the Continental Army to a few high-profile victories. Thomas Paine espoused the virtues of democracy in his sixteen famous “Crisis” papers, which Washington required the troops to read. The French government decided to support the Revolutionary forces after a prolonged diplomatic effort by Benjamin Franklin.

Slide 13

### The Colonial Experience and the Pathways of Change 2.4

- Governments whose citizens yearn for liberty are stable only if those citizens have avenues of change.
- What pathways of change had been available to the colonists?
  - Elections?
  - Petitioning or lobbying Parliament?
  - Filing lawsuits in court?
  - Protests and violence?

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Slide 14

### The Articles of Confederation 2.5

**2.5 Determine the reasons for the failure of the Articles of Confederation**

**TABLE 2.2 Powers of Congress Under the Articles of Confederation**

WHAT CONGRESS COULD DO	WHAT CONGRESS COULD NOT DO
Borrow money	Regulate commerce
Request money from states	Collect taxes from citizens
Conduct foreign affairs	Prohibit states from conducting foreign affairs
Maintain army and navy	Establish a national commercial system
Appoint military officers	Force states to comply with laws
Establish courts	Establish a draft
Establish a postal system	Collect money from states for services
Control Indian affairs	

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Slide 15

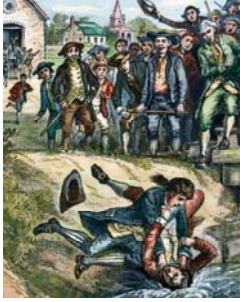
### Limitations of the Articles of Confederation 2.5

- No enforcement power.
- No taxing authority.
- Could not regulate commerce.
- Could not effectively negotiate foreign affairs.
- Unanimous amending required.

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- The idea of the Articles of Confederation was to draw the 13 states together but, at the same time, to allow each to remain independent. A one-house Congress was created, in which each state had one vote. The delegates to the Congress were appointed to their posts by the state legislature, paid by the states, and they could be removed by the state legislature at anytime
- The Articles did not give the national government the power to force its policies on the states, nor did it allow the levying of taxes to support the federal government.

Slide 16



2.5

Shays's Rebellion, shown here, was an armed uprising that shocked the nation in 1786 and led to the Constitutional Convention a year later.

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- During the mid-1780s, the nation had experienced an economic depression, hitting farmers exceptionally hard. They received much less for their crops than in previous years due to a flood of imports. Desperate for relief, a group of farmers led by Daniel Shays, gathered to demand changes. Violence broke out as the group clashed with state militia forces and the governor and state legislature appealed for assistance in putting down the protest, which they argued had deteriorated into a full-blown riot. But there was no person or group outside Massachusetts to take the call for assistance, and no help was available.

Slide 17

### The Constitutional Convention

2.6 Assess how compromises at the Constitutional Convention shaped our political systems.

- Governor Edmund Randolph (VA) argued for throwing out the Articles
- Several options
  - Virginia Plan
  - New Jersey Plan
  - The Connecticut Plan

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- In May, 1787, 55 delegates from every state except Rhode Island came together at the Pennsylvania State House in Philadelphia for the purpose of proposing changes to the Articles of Confederation. The **Constitutional Convention** was the meeting in Philadelphia in 1787 at which delegates from the colonies drew up a new system of government. The finished product was the Constitution of the United States.
- The delegates were not “average” men but rather included many of America’s leading political, economic, and social figures of the time.
- Opening the convention, Governor Edmund Randolph of Virginia offered a series of resolutions that amounted to an assault on the Articles. Rather than attempting to modify them, Randolph argued, the Articles should be dumped altogether, thus changing the goal of the Convention.
- The **Virginia Plan** was named for the home state of its principal author, James Madison. The delegates from the more populous states favored it.

Slide 18

### Virginia Plan

- Divided power between a legislature, executive, and judiciary
- Checks and Balances
- Bicameral Congress
- Selected Executive
- Independent Judiciary
- "Council of Revision"
- National Supremacy

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- A plan made by delegates to the Constitutional Convention from several of the larger states, calling for a strong national government with a bicameral legislature, a national executive, a national judiciary, and legislative representation based on population.
- The Legislature would be bicameral, with an upper and lower house. The lower house would have members elected popularly and the upper house would have members nominated by the states' legislatures and selected by the members of the House. Representation in the legislature would be based upon population.
- The executive would be chosen by the legislature and would serve a single term of office
- A national judiciary would be established with appointed judges, serving life terms.
- Established a "council of revision," with members from both the executive branch and the judiciary, which would review all national and state laws; this body would have some control over national legislation and an absolute veto over state legislation.
- Be supreme over the state governments—that is, acts of the new national government would override state law.

Slide 19

### New Jersey Plan

- Divided government—legislature, executive, and judiciary
- Unicameral Congress, each state represented equally by one vote
- A "multi-member" Executive
- An independent Judiciary
- National Supremacy

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- The **New Jersey Plan** was an alternative plan, supported by delegates from smaller states. This plan called for a divided government, composed of three branches, a national legislature, an executive council, and a judiciary.
- A unicameral legislature gave each state one vote, and states would be taxed based upon population.
- A multi-person executive council, chosen by the legislature, with the responsibility of executing national laws; its members could be removed by a vote of a majority of state governors.
- An independent judiciary, with magistrates appointed by the executive council, but no authority over states.
- This national government would be supreme to states.

## Compromise


2.6

- The Great Compromise
  - Three branches
  - Bicameral legislature with the ability to tax and regulate commerce
  - Single executive
  - Independent judiciary empowered with judicial review
  - National Supremacy
- The Three-Fifths Compromise
  - Census
- The Sectional Compromise
  - Simple majority of both houses of Congress to regulate commerce

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- Roger Sherman of Connecticut presented a compromise plan that took the best from the Virginia and the New Jersey plans.
- Under the **Connecticut Compromise**, the national legislature would have a House of Representatives, based on proportional representation (as under the Virginia Plan), but a second branch, the Senate, would contain an equal number of representatives from each state (as under the New Jersey Plan).
- A single executive which could be impeached
- An independent judiciary, having judges appointed for life would have the power, through judicial review, to consider whether state laws harmonized with the Constitution.
- In order to ensure fair representation in the lower house, which was based upon population of a state, a national **census** would be necessary. The lower house would be reapportioned each decade to account for migration and growth of the population among the states. States with significant numbers of slaves were satisfied, but those without balked. In order to accommodate the latter, it was determined that slaves would be counted proportionately---5 slaves for every 3 free white men.
- While the institution of slavery was viewed by many delegates as an evil, the delegates agreed that until 1808, slavery would not be interfered with by Congress.
- In exchange for getting the clause into the Constitution, it was agreed that a simple majority of both houses of Congress would be needed to regulate commerce.

2.6



One of the tragic ironies of our nation's formative period is that while notions of freedom and equality warmed the hearts of patriots, slavery was not eliminated in the Constitution. Indeed, it took two centuries, a bloody civil war, and the courageous acts of untold men and women to advance the cause of racial equality. Here, Rosa Parks, who Congress later called the "mother of the modern day civil rights movement," refuses to sit in the back of the bus.

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Do you think our nation's history of slavery and racism is something that should be continually recounted? Or, is it something that is best relegated to the history books? Why?

### The US Constitution

**2.7** Identify the core principles of the Constitution.

- Divided government—3 branches
- Separate, shared powers
- Checks and balances
- Representative republicanism
- Federalism
- Reciprocity among the states
- Ability to accommodate change
  - Bill of Rights

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- Simply stated, the legislature would *make the laws*, the president would *enforce the legislature's will*, and the judicial branch would *interpret the laws and resolve disputes* according to the law.
- Framers granted specific powers for each branch while at the same time making each branch partly dependent on the others for carrying out its powers. This is called the **sharing of powers**, which, according to the US Constitution, grants specific powers to each branch of government while making each branch also partly dependent on the others for carrying out its duties.
- Checks and balances within the Constitution provide that each branch can review, and in some ways restrict, the acts of the other branches.
- The Constitution also reflects the idea of a representative republic, in which a small group of elected leaders speak and act on behalf of the many. Members of the House are elected directly by the voters; under the original Constitution, senators were to be selected by the state legislatures (changed later by the Seventeenth Amendment).
- Federalism is a system of government in which powers and functions are divided among different layers of the system. The Constitution clearly defines many of the powers of the national government, which are referred to as the **expressed powers**. State governments were considered closest to the people and thus best able to look after their health, safety, and well-being. These powers were called **police powers**.
- Reciprocity is designed through the full faith and credit clause (Article IV, Section 1) which requires each state to accept the legal proceedings of the other states, and the privileges and immunities clause (Article IV, Section 2) mandated that out-of-state citizens have the same legal rights as citizens of that state.
- Amendments to the Constitution could be achieved through one of two ways (by states or by Congress) described in Article V.
- **The Bill of Rights** are the first ten amendments to the U.S. Constitution, ratified in 1791, protecting civil liberties and designed to address concerns of the Constitution's critics made during the ratification process.



Slide 23

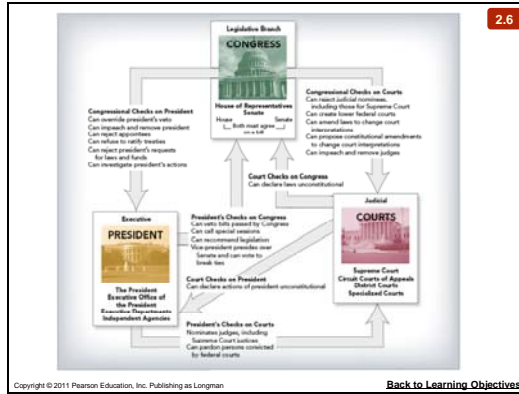


Figure 2.2. Shared Powers, Checks and Balances

Slide 24

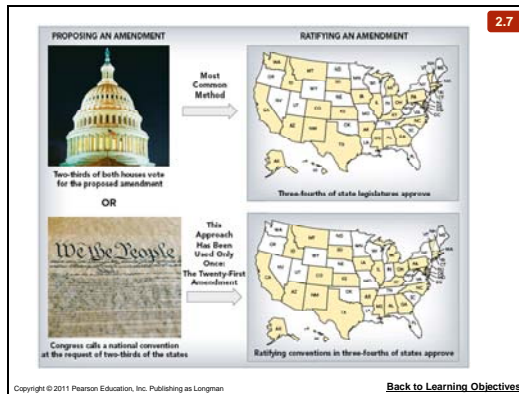


Figure 2.3. How the Constitution Can Be Amended

Slide 25

### The Struggle over Ratification

**2.8** Analyze how the ratification debate structured the nature of our democracy

- Nine of Thirteen required to ratify
  - Federalists versus Anti-Federalists
- Federalist Papers
  - Madison, Hamilton, and Jay
- Anti-Federalist

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- In order for the Constitution to be ratified, nine of the thirteen states would need to ratify the document. Opponents and proponents emerged, arguing through the use of essays.
- **Federalists**, who supported ratification, believed that a representative republic was possible and desirable—especially if populated by citizens “who possess [the] most wisdom to discern, and [the] most virtue to pursue, the common good of society.” On the other hand, **Anti-Federalists** felt that representatives in any government must truly reflect the people, possessing an intimate knowledge of their circumstances and their needs, which could only be achieved through small, relatively homogeneous republics, such as the existing states.



Slide 26

**The Federalist Papers** 2.8

- A collection of 85 essays arguing in favor of ratification.
- *Federalist No. 10*, (Madison) detailed discussion of the dangers of “factions,” groups that form to pursue the interests of their members at the expense of the national interest

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- The *Federalist Papers* , a collection of 85 essays covering the most fought-over provisions in the Constitution , laid out in clear logic and powerful prose why each element was necessary. The *Anti-Federalist Papers*, expressed concerns about the powers of the new government, but in addition, the lack of protections for individuals against the government’s infringement on rights and liberties.

Slide 27

**The Anti-Federalists’ Response** 2.8

- Echoing traditional republican ideology, one of the important Brutus essays insists that large governments could not heed the wishes of average citizen
- The Anti-Federalists argued that the Constitution did not contain provisions to protect individuals.
- Federalists gave in

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- Federalists gave in because of increasing concerns raised over the lack of protection for individuals under the new government. Provided states were to ratify the Constitution, Federalists agreed that the first matter of business for the new government would be to amend the Constitution to include a list of individual safeguards—a list of individual protections, which became known as the *Bill of Rights*.

Slide 28

**The Anti-Federalists’ Response (cont’d)** 2.8

- Ratification and Compromises
  - By June of 1788, 9 states ratified
  - 12 amendments were initially proposed and voted on
  - 10 of these amendments were successful and were made part of the Constitution as the Bill of Rights in 1791.

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Slide 29

### A Second Revolution?

- Republicans believed that the economic policies of the Federalists and their moves to stifle criticism were an assault on free government.
- The election of 1800 provided important lessons for the emerging democracy

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- The administration (led by the Federalists) was removed from power peacefully being replaced by its political rival. Efforts to stifle criticism of government leaders, through the Alien and Sedition Acts (measures passed by Adams and the Federalists), backfired. The election of 1800 seemed to signify that there should be no privileged class in American politics.

Slide 30

### The Ratification of the Constitution, 1787-1790

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- Clearly, support for ratification of the Constitution was more robust in some parts of the country than others.
- Why was this true? Do you think commercial interests might have been an important factor?

Slide 31

**In political science, the structures that make and enforce the 'rules of the game' are called**

- A. the Constitution.
- B. the body of law.
- C. the political system.
- D. the government.

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Slide 32

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Slide 33

2.4

**Under this notion, individuals exchange certain rights for security.**

- A. Popular sovereignty
- B. Social contract theory
- C. Natural rights
- D. The Great Squeeze

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Slide 34

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Slide 35

2.4

**A political system that allows citizens to play a role in shaping government action is called**

- A. pluralistic.
- B. democratic.
- C. authoritarian.
- D. constitutional monarchies.

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Slide 36

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Slide 37

2.6

**In creating the Constitution, large states would have been more inclined to**

- A. oppose slavery.
- B. support the New Jersey Plan.
- C. support the Virginia Plan.
- D. oppose the Connecticut Compromise.

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Slide 38

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Slide 39

**What do you think?**

Have the expressed powers of Congress eroded the police powers of the states?

**Yes**, an over-powerful Congress, feared by Anti-Federalists exist today.

**No**, the Tenth Amendment assures states the continued authority to handle the health, safety and welfare of their residents.

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Slide 40

**What do you think?**

Were the rights granted under the Constitution really designed to protect the right of the Framers as a class?

**YES**, otherwise, they would have ended slavery and extended suffrage to more people.

**NO**, they risked their own futures in creating a democratic form of government, responsive to the body politic.

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Slide 41

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[↑ Return to Chapter 2: Table of Contents](#)

## **B. Additional Lecture Suggestions**

### **➤ 2.1 Identify the difference between government and politics**

- Distinguish government, seen as “the rules of the game,” from politics, the process by which decisions are made. Also explain other basic concepts such as power and authority.

### **➤ 2.2 Differentiate between different types of governments**

- Explain the trustee model of representation put forth by Edmund Burke.
- Explain the difference between parliamentary and presidential democracies as a way to further classify governments.
- It is important for students to understand that our nation is not strictly based on democratic principles. For we also understand there are some areas where individuals do not have to abide by the will of the majority. But when do individual rights have precedence? Judge Robert Bork, among others, has attempted to explain the seeming anomaly of strongly held personal freedoms in a democratic society where majority rules. Writing in *47, Indiana Law Journal*, 1 (1971), Bork explains that even in our Madisonian system of majoritarianism, there is a counter-majoritarian premise, in that the system assumes that there are some areas of life a majority should not control. There are some things a majority should not do to its people no matter how democratically it decides to do them. These are the areas left by our Constitution to individual decision making. According to Bork, under the Constitution the Supreme Court has the power to define what areas are left to individual decision making. Society consents to be ruled undemocratically within defined areas by certain enduring principles believed to be stated in, and placed beyond the reach of majorities, by the Constitution. But the Supreme Court’s power is only legitimate if it has a valid theory, derived from the Constitution, of the respective spheres of majority and minority freedom. If judges stray from the Constitution, their decisions are not entitled to legitimacy.
- Define and distinguish various forms of government: democracy, dictatorship, oligarchy, and pluralism. Explain the difference between a direct democracy, where each citizen has an active part in all decision making, and a republic, where elected officials make decisions for the whole. Also distinguish between totalitarian, authoritarian, and constitutional governments.

### **➤ 2.3 Describe how forces in Colonial America helped set the stage for the American Revolution**

- While they remained under British rule, the colonists used colonial assemblies to represent the interest of the citizens before the royal governors. The colonists became increasingly dissatisfied as Parliament imposed new taxes (the “Great Squeeze”) and showed favoritism to royal supporters.
- The causes of the American Revolution were both financial and ideological. The Great Squeeze and other “taxation without representation” made it difficult for the colonists to prosper. The financial problems, combined with the growing idea of self-rule, resulted in greater animosity toward continued British rule.

## ➤ 2.4 Identify the core principles of the American Revolution

- Read Jefferson’s specific grievances against George III in the Declaration of Independence.
- Students do not always perceive the different purposes served by the Declaration of Independence and the U.S. Constitution. They often confuse the two, thinking, for example, that the Constitution of 1787 states “all men are created equal” or recognizes inalienable rights.
  - The two documents served different purposes and because of this there are striking contrasts between them.
  - *The Declaration of Independence*: If one word had to be used to summarize the meaning of the Declaration of Independence it would be “liberty.” The document was intended to justify revolution because the colonists thought their liberties were being violated. Thus the document stresses such things as inalienable rights such as life, liberty, and the pursuit of happiness.
  - *The U.S. Constitution*: The one word that summarizes the purposes of the Constitution is “stability.” [Note: This is typically the approach taken by history texts, but there is an alternative view. See, for example, Martin Diamond’s persuasive text, *The Founding of the Democratic Republic*.] As the students learn when reading Chapter 2, the Constitution was a reaction to the failures of the Articles of Confederation. The Convention was called because of actions in the states such as Shays’s Rebellion. In short, citizens (especially the wealthy) were concerned with stability.
  - Below are some additional specific contrasts between the two documents:
    - i. Equality: The Declaration of Independence refers to the “equality of man.” The Constitution does not mention equality until the Fourteenth Amendment, ratified in 1868.
    - ii. Natural Rights: The Declaration of Independence states that people have God-given inalienable rights. The Constitution makes no reference to either God or inalienable rights. Of course, later amendments make reference to rights (especially Amendments one through nine). But even the Fourteenth Amendment makes specific reference to states not depriving people of life, liberty, or property without due process of law. Logic would dictate, and practice has borne out, that the state may constitutionally deprive people of life, liberty, and property as long as due process is followed.
    - iii. Democracy: Conventional wisdom has it that the Declaration of Independence endorses democracy and the Constitution of 1787 is undemocratic. [This view would itself make for interesting class discussion. For specifics, see Martin Diamond’s book mentioned above.] If one accepts these views, the difference between the two documents is obvious. The democratic aspect of the Declaration comes primarily from the reference to legitimate government originating from the consent of the governed (and the entire historical context, seen specifically in the long list of complaints against the British). The undemocratic aspects of the Constitution include filters for electing the president (the Electoral College) and the Senate (state legislatures, until



ratification of the Seventeenth Amendment in 1913). Furthermore, all federal judges are appointed. Also, a majority of Congress cannot propose an amendment to the Constitution. Nor may a majority of Americans ratify an amendment. Another undemocratic criticism of the Constitution is that it guarantees every state, regardless of population, two Senators which were not even directly elected by the people until the ratification of the Seventeenth Amendment in 1913.

iv. Finally, the qualifications of voters are not specified in the Constitution of 1787, allowing states to disenfranchise blacks, women, the young, and whoever else they want. In fact, if the Constitution is a democratic document today, it is because Americans have seen fit to amend it. Here is a list of amendments that have made the Constitution—so the argument goes—more democratic:

- 13th (1865)—prohibition of slavery
- 14th (1868)—legal equality
- 15th (1870)—no denial of vote based on race
- 17th (1913)—popular election of U.S. Senators
- 19th (1920)—no denial of vote based on sex
- 23rd (1961)—citizens of Washington, D.C., are granted electoral votes
- 24th (1964)—poll taxes prohibited
- 26th (1972)—voting age lowered to 18

v. Revolution: A final contrast between the two documents is the right of revolution. The Declaration specifically recognizes the right, while the Constitution makes no reference to it. (In Article III, the Constitution gives Congress authority to punish those found guilty of treason.)

- Violence broke out between the colonists and the British at Lexington and Concord, signaling the beginning of war. To unite opinion on behalf of the revolution, Thomas Jefferson wrote the inspired words of the Declaration of Independence, reflecting the ideas of natural rights and social contract theory set forth by John Locke. Momentum against the British also came from General Washington's victories, the writings of Thomas Paine, and the French support for the revolution.
- There are two additional discussions regarding the declaration of independence that I like to have that are not present.
  - Declaration as instrument of propaganda targeted toward two audiences.
    - i. Internal—the revolutionaries were a minority view. The Continental Congress needed to convince their fellow colonists that revolution was a cause they should support. The declaration justified the revolution and presented a persuasive argument. Copies were made and it was read from the town square in cities and villages throughout the colonies. Viewed this way, the declaration was a great success as public opinion shifted and the majority of the colonists supported the revolution after the declaration. This approach shows that the colonists used some of the same pathways change that modern Americans use.
    - ii. External—the Congress knew that their only hope for success was if they

were able to engage in commerce abroad and buy weapons openly on the international market. This was only possible if other countries recognized the legitimacy of their rebellion. Copies of the declaration were sent to foreign capitals with emissaries. England was the superpower of its day, so foreign governments had to be careful and not antagonize the British. The declaration was successful in this regard as well, as France and Spain ultimately sided with the colonists which turned the tide in the war. This approach puts the American revolution in the larger global context and help students see that foreign relations were as complicated then as they are now.

- Another discussion that could take place (at least I find it useful) is to contrast contemporary declarations of independence with the original. There are militia groups, various ranch compounds in Texas, Montana, and Idaho, and radical individuals who have all issued manifestos or declarations that mirror Jefferson's, declaring their properties to be sovereign states. Students are invited to discuss whether a right to revolution still exists, and identify what criteria need to be met for such a declaration to be legitimate. The instructor can point to key differences that made the original declaration legitimate.
  - i. Most pathways of change were not available to the colonists. They had attempted the ones that were, so revolution was a last resort. Modern would-be American revolutionaries have many more pathways change available to them. Losing the policy battle or failing to sway public opinion does not justify rebellion.
  - ii. The declaration was written "out of respect for the opinions of mankind" and was an attempt to gain support for their position. Most of the modern declarations are written by people who hold the opinion of mankind in contempt. They are manifestoes not attempts to use a pathway of change.
  - iii. The Congress was issuing the declaration as a public declaration of war. The Congress followed the international norms of the day regarding diplomacy and the rules of war. Many of those who are issuing the modern declarations are criminals or domestic terrorists who do not abide by these norms.
  - iv. The most important distinction is that the original declaration was issued by the Continental Congress. These men were sent as representatives of their constituencies. This gave them a legitimacy to declare on behalf of their communities that the social contract had been violated by the British. The modern declarations are for the most part issued by small groups and families who were not elected by anybody and can speak for nobody but themselves. They simply do not have the legitimacy to declare for their community that the social contract has been violated.
- Explain the meaning of the American Revolution, the events leading up to it, and the country's first constitution.
- Summarize the major events leading up to the American Revolution.
- Identify and explain the significance of the five major documents that laid the foundation for the U.S. Constitution.
- List the philosophical principles set out by Thomas Jefferson in the Declaration of Independence.

- What are “natural rights” and how are they granted to citizens?
- What is “social contract” theory?
- What is “the state of nature,” how does it apply to the proper role of government, and how do Hobbs and Locke differ concerning the “state of nature?”

### ➤ **2.5 Determine the reasons for the failure of the Articles of Confederation**

- Play devil’s advocate in class. Summarize for your class the Beard thesis on the economic motives of the framers and present it as a fact. (Charles Beard argued in *An Economic Interpretation of the Constitution of the United States* that the framers were motivated mainly by economic self-interest, creating a strong national government to preserve economic order, to force the payment of debts, and to enforce contracts.) Challenge your students to think about whether the motives of public figures are always based on self-interest, and about whether it is possible for self-interest to be channeled into public good.
- The first “American” government was formed under the Articles of Confederation (1781). It had a weak central government, with most of the power retained by the states. This arrangement reflected the notion that small, local government is the best way to represent the interest of the citizens, and the reluctance of state governments to give up any power to a higher authority.
- The Articles of Confederation failed because the national government was too weak. It had no national president, and lacked sufficient power to tax, regulate commerce, or conduct foreign affairs. This weakness was best illustrated by the inability to respond to Shays’ Rebellion in Massachusetts.
- Did Shays’ Rebellion occur because there were no other pathways for change besides violence? The Massachusetts legislature did not respond to the needs of the poor farmers, while in other states, the interests of the wealthy were often endangered by government policies.
- Describe the government established by the Articles of Confederation.
- Describe the governing problems the Framers of the Constitution attempted to resolve.
- Explain the major weaknesses of the government established by the Articles of Confederation.
- Discuss how and why the transition was made from the Articles of Confederation to the Constitution of 1789.

### ➤ **2.6 Assess how compromises at the Constitutional Convention shaped our political system**

- Summarize the dilemma the framers faced in balancing efficiency and decision making.
- **DRAFTING A CONSTITUTION**
  - Students generally take for granted the fundamental principles contained in the Constitution. A lecture can be built around some of the basic questions that the framers of the Constitution faced:
    - i. How can individual rights be balanced against the will of the majority?
    - ii. What should be the role of the federal government in regulating individual states?

- iii. Who should be able to vote?
  - iv. What should be the role of the national executive?
  - v. Should the Constitution contain a Bill of Rights?
  - vi. How should the national executive be selected?
- THE “COMPROMISE” CONSTITUTION
  - We tend to focus on how well the basic constitutional concepts, such as checks and balances, federalism, and separation of powers, have survived for more than 200 years. But students need to appreciate that the Constitution was a compromise document drafted in a fairly short amount of time by men with conflicting beliefs who possessed the shortcomings of all human beings. A lecture can be built around some of the less successful elements of the Constitution, including:
    - i. The lack of a Bill of Rights.
    - ii. Under Article 1, section 2, slaves were considered three-fifths of a person.
    - iii. Under Article 1, section 3, the vice president serves as the president of the Senate, a role that generally existed only on paper.
    - iv. Under Article 1, section 3, senators were originally elected by state legislatures.
- The principle of liberty that informed the Declaration of Independence ran contrary to the continued existence of slavery. The Constitutional Convention, however, required political compromise that allowed institutionalized slavery to continue. The compromise on slavery at the Constitutional Convention resulted in an uneasy balance of idealism and practical politics that is still reflected in the American search to reach “perfect” justice and freedom
- The convention to revise the Articles of Confederation became a movement to discard the old government and design a new constitution. The Virginia Plan and New Jersey Plan were offered as alternative designs for the new government. The Virginia Plan called for three branches of government, and a bicameral legislature with the number of representatives per state based on population.
- The Great Compromise resolved the debate between the Virginia and New Jersey Plans by creating a bicameral Congress, with representation in the lower house based on population, and equal representation of each state in the upper house.
- Southern states wanted to include slaves when counting population for representation and taxation, while northern delegates objected, as this would give the South more representation. The result was the Three-Fifths Compromise, in which three-fifths of all slaves would be included in the count.
- The Sectional Compromise refers to the tradeoff that southern economic interests would be protected by guaranteeing that the Atlantic slave trade would be allowed to continue for at least 20 years, while northern commercial interests would be helped by agreeing that only a simple majority vote, not a supermajority, was needed to regulate commerce.
- Discuss the role of compromise between large and small states that led to the Great Compromise.
- Explain what the small states lost when they accepted the Constitution.
- Identify the three provisions in the Constitution dealing with slavery.

## ➤ 2.7 Identify the core principles of the Constitution

- Use the example of seditious libel to discuss the notion that under our constitutional separation of powers, if the legislative branch wanted to punish critics for remarks they made about our government, the legislative branch must enlist the cooperation of the other branches—the executive to prosecute and the judicial to try and convict.
- Review with your class the central tenet of American constitutionalism: that all lawful power derives from the people and must be held in check to preserve their freedom. In the beginning, only a few explicit limitations on the exercise of governmental power were thought necessary. It was generally believed that personal freedom could be more readily secured throughout the decentralization of power rather than by express command. From thinkers such as France’s Baron de Montesquieu, the framers had derived the notion that centralized power meant tyranny, and human rights could best be preserved by fragmenting power and distributing it to competing factions. In the constitutional model the framers chose, the separation of powers exists both vertically (federal, state, and local authority) and horizontally (legislative, executive, and judicial branches). The framers’ goal was that no department, branch, or level of government be allowed to dominate all others. Review *The Federalist Nos. 10, 28, 41, 47, and 51*.
- An interesting lecture can be developed around the topic “Which Road to Constitutional Revision: Interpretation or Amendment?” The central thesis here might well be that the difficulty of our amendment process makes it imperative that many changes in governmental powers be made through interpretation. Examples of this kind of change can be drawn from legislation that is based on the power to regulate interstate commerce. The framers could not have anticipated such contemporary issues as automobile theft, interstate prostitution, kidnapping, bank robbery, hotel discrimination, or collective bargaining. Yet by a broad interpretation of the Constitution, we have justified laws dealing with these matters under the commerce clause. Using the power to “lay and collect taxes” as our base, we have built highways, given college scholarships, curbed the sale of sawed-off shotguns and narcotics, regulated gambling, and tried to expel students who brought firearms to school. Compared to this kind of interpretation, the formal changes embodied in the amendments are often minor. In fact, by the time that an amendment secures majority support in three-fourths of the states, the amendment usually confirms common practice. For example, slavery was abolished by the Union Army and the Emancipation Proclamation; women’s suffrage was widespread before the Nineteenth Amendment was added; prohibition existed in many areas before the Eighteenth Amendment; the poll tax had become a relatively minor barrier to black voting before the Twenty-Fourth Amendment. Although the ERA amendment failed, equal rights for women have increased. The conclusion might stress the viability of the Constitution and the political genius of the American people that makes it possible to adapt to the changing world within the framework of this eighteenth-century document. Stress might also be placed on the fact that our government is in a state of perpetual evolution, but because of the barriers against rule by a bare majority, most changes do not occur until an overwhelming majority of the people are in agreement. In other words, we normally approach consensus on the street before amendments are enacted. As a practical matter, most amendments are a kind of “mopping up” operation that affect only the holdouts against change.

- Certainly one of the strangest examples of amending the Constitution is the recent (May 1992) ratification of the Twenty-Seventh Amendment. One of the twelve proposed amendments written by James Madison in the Bill of Rights, this proposal was never ratified by the necessary three-fourths of the state legislatures—until 201 years later. (The other proposed amendment that was not ratified dealt with apportionment of House seats among the states, setting a standard of one seat for every 50,000 people.) At the time of its authoring, Congress did not place a time limit on the ratification process. In fact, as the text points out, the seven-year time frame is a “modern practice.” The Twenty-Seventh Amendment, which prohibits a congressional pay raise from going into effect until after a congressional election has been held, is a reflection of the current discontent with Congress, politics, and Washington, but it also shows that the distrust is not confined to the current day. In the 1790s, the distrust was also present. Mention could also be made of the other proposed amendments that did not have time periods placed on them. One, passed before the Civil War, would prohibit Congress from ever outlawing slavery; another, from the 1910s, would have allowed Congress to regulate child labor. The first, of course, has been made obsolete by the Thirteenth Amendment. The second was also made obsolete shortly after its passage as the Supreme Court changed its interpretation of the interstate commerce clause to allow legislative action in the area of child labor. The existence of proposed amendments, floating in never-never land, being rendered obsolete by changing events, yet still technically viable as they await the necessary three-fourths of the states, can bring home to the student the reason for the adoption, in the twentieth century, of the seven-year rule. For more information on the Twenty-Seventh Amendment, *Congressional Quarterly Weekly Reports* has excellent coverage in several issues from May 1992.
- What is NOT in the Constitution (and the importance of the 85 *Federalist Papers*):
  - Most texts inform students about what is in the Constitution in the chapter on the Constitution. For a good change of pace, this can be taught using a unique (and hence, one hopes, more stimulating) technique. Use a class session to discuss what is NOT in the Constitution. This is also a good time to introduce them to some specifics in *The Federalist Papers*. It can also be a good time to talk about methods of constitutional interpretation, although it would also be appropriate to discuss that during the chapter on the judiciary.
  - Constitutional Principles: If students are asked (and it can be both fun and stimulating to ask this in class) what are the basic ideas or principles of the U.S. Constitution, they will often name the things they learned in secondary school: democracy, separation of powers, checks and balances, judicial review, and federalism. None of these things are in the U.S. Constitution, either in the document as written in 1787 or in any amendments. This is not to say that these ideas are not expressed in the document nor permeate the document, but it is somewhat odd that the things we think of as most important to the Constitution are not to be explicitly found there. And, of course, explicit is the key word here. These are ideas that can be found in the Constitution, they just are not explicit. How do we, for sure, know they are there? The answer for that can be found in *The Federalist Papers*.
  - *The Federalist No. 10*: Simply put, and from a procedural point of view, democracy is rule by simple majority. Although our Framers are accused of creating a republic rather than a democracy, sometimes they used the words interchangeably. Madison did this in one section of *The Federalist No. 10*. After introducing the reader to the

- Democracy or Republic?: In other words, here “republican” is used as synonymous with simple majority rule. If a sinister faction consists of a numerical minority, simple majority rule will defeat it. The majority will prevent it from imposing its will on the rest of society. This is democracy, as Madison saw it, and it will operate under the U.S. Constitution in spite of the fact that the word “democracy” does not appear in that document.
- Separation of Powers: The words “separation of powers” and “checks and balances” do not appear in the Constitution. Some state constitutions do have entire Articles devoted explicitly to recognizing these concepts. These two concepts are central to understanding the Constitution, both how it works and what motivated the Framers in designing it. *The Federalist Papers Nos. 47–51* are devoted to these two concepts and an entire lecture could be spent on what is said there about them. Here are some highlights:
  - i. The classic quote in support of separation of powers appears in *The Federalist No. 47*. “The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.”
  - ii. How does one keep the departments separate? That is a problem because power, in the Framers’ point of view, is encroaching. The branch to be feared the most is Congress. In describing the legislative branch in *The Federalist No. 48*, Madison describes it as “everywhere extending the sphere of its activity and drawing all power into its impetuous vortex.”
- Checks and Balances: Paradoxically, the Framers’ design for keeping the departments separate was by uniting them, giving each a bit of the powers of the other. In Madison’s words, “unless these departments be so far connected and blended as to give to each a constitutional control over the others [what we call “checks and balances”], the degree of separation can never in practice be duly maintained.” In *The Federalist Papers Nos. 49 and 50*, Madison critiques two of Jefferson’s ideas for keeping the departments separate. In both cases, Madison rejects the ideas as unworkable relying instead on the concepts of checks and balances. Madison concludes the series in the often-quoted *The Federalist No. 51*. Having rejected Jefferson’s notion of occasional or periodical conventions to correct imbalances among the three departments, he states:
  - i. “But the great security against a gradual concentration of the several powers in the same department consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the other.”
  - ii. He defines the calculus of establishing a good government: “In framing a government, the great difficulty lies in this: you must first enable the government to control the governed [this was done by giving the national

- iii. What is the fuel that drives the system? Madison states, “Ambition must be made to counteract ambition.” Here and throughout *The Federalist Papers*, students can see the concept of separation of powers and checks and balances.
- Judicial Review: The theory of judicial review is discussed in *The Federalist No. 78*. The framer’s belief in judicial review, although not used by that name, can be seen in Madison’s *Notes of the Constitutional Convention*; see Farrand’s edition. In this essay, Hamilton asserts that the Constitution is a fundamental law. Early on in the essay, Hamilton notes that the Constitution limits what the government may do by specifying the powers of government. It also contains specific limits on what the government can and cannot do. For example, ex post facto laws are prohibited. Then Hamilton makes this statement which is clearly an endorsement of judicial review: “Limitations of this kind can be preserved in practice no other way than through the medium of courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void.”

Federalism: The Framers were aware of only two ways of establishing the legal relationship between the central government and the states: confederation (as in Articles of Confederation) and national (or what today is called unitary). Yet they rejected these two types and created a third: federalism. In *The Federalist No. 51*, Madison notes that federalism provides the citizens of the United States with a double security. There are two levels of government (national and state) to which to appeal, and each level is subdivided into different branches. This fragmentation of government helps prevent tyranny. “The different governments will control each other; at the same time that each will be controlled by itself.” At the same time, federalism helps prevent tyranny of the majority by permitting the creation of a large republic.

- Cover the major structural provisions of the Constitution. Separation of powers into three branches of government would prevent a concentration of power in one institution. A system of checks and balances allows each branch to limit the actions of other branches. Representative government protects against a “tyranny by the majority.” Federalism divides power between the state and national levels. Besides these measures to prevent abuse of power by one group or institution, the Constitution allowed for change via the amendment process.
- Describe the elements of the Constitution that prevent the concentration of power in one group or institution.
- Explain the process by which the Constitution can be amended.
- Describe the ways in which amendments to the Constitution can be introduced and ratified.
- Explain why written constitutions were significant for the creation of the U.S. Constitution.
- Explain how the structure of the Constitution reflected the Founders’ beliefs in national supremacy, federalism, republicanism, and separation of powers, checks, and balances.
- Provide an example in which the federal government exercises supremacy
- OTHER AMERICAN CONSTITUTIONS
  - Many students think of the Constitution adopted in 1789 as the only fundamental law under which this country has been governed. A lecture describing other American constitutions can be intriguing and informative.
  - First, summarize the development of the Articles of Confederation: who drafted it and



- Second, the Confederate States of America were governed under a separate constitution from 1861 to 1865. Similarities and differences with the federal Constitution can be brought out. For example, the CSA had separation of powers and checks and balances, but it proclaimed the states to be sovereign, had a six-year term for the presidency, gave the president a line-item veto, and gave cabinet members nonvoting seats in the Congress. Could some of these measures be useful in today's federal system?
- Third, the instructor could cover in class the fairly large number of state constitutions which have been rewritten in the past 20 years. What procedures have been used by the states to draft constitutions? How does the format of typical state constitutions compare with that of the U.S. Constitution? *The Book of the States*, published biannually by the Council of State Governments, is a useful source for such information.
- Fourth, there are a number of new constitutions being written now throughout the world, especially in European countries. The various republics comprising what used to be the Soviet Union and the Eastern Bloc have all recently redrawn their constitutions, some adopting parliamentary systems, others presidential, and still others drafting their own unique system taking into account different values and historical experiences. Already some of these constitutions are going through crises of legitimacy as ethnic and ideological challenges arise. Similarly, Western Europe has drawn up, and is now implementing, a document to bring the 15 nations of the European Union into a true political integration. Examples of the ups and downs of constitution-building, and in some cases nation-building, can be found practically everyday in newspapers and news magazines.
- Explain how the concept of judicial review gives the Supreme Court veto power over acts of Congress.

➤ **2.8 Analyze how the ratification debate structured the nature of our democracy**

- Explain how the old Congress under the Articles of Confederation was very different from the new Congress that emerged from the Constitutional Convention.
- What emerged from the Constitutional Convention was a national legislative body with its jurisdiction spelled out in a series of specified or “enumerated” powers, expressed in broad terms. This extended listing of national legislative powers takes on added significance when contrasted with the vastly different proposals advanced, but not adopted, at the Constitutional Convention. At one point the Convention tentatively approved a proposal that the national legislature should have the power “to legislate in all cases for the general interests of the Union, and also in those to which the States are separately incompetent.” Hamilton proposed that the national legislature should have “power to pass all laws which they shall judge necessary to the common defense and general welfare of the Union.” Review with your class

- The Constitutional Convention chose not to include a Bill of Rights in the Constitution, generally because of the belief that Congress did not have the powers circumscribed in the Bill of Rights, such as the power to curtail the free exercise of religion. (See *The Federalist No. 84*.) Those who opposed the Constitution focused on the absence of a Bill of Rights, and many of the leading proponents, such as Jefferson, urged amendment of the Constitution to include a Bill of Rights.
- Ratification of the Constitution required approval by nine of thirteen states. The Federalists supported ratification, opposed by the Anti-Federalists.
- James Madison, Alexander Hamilton, and John Jay wrote a series of essays, *The Federalist Papers*, arguing in favor of ratification. These essays are compelling explanations of how the proposed government would protect against abuse of power.
- The anti-Federalists offered two main objections to the proposed Constitution: large governments could not properly represent local interests, and there was no Bill of Rights. The Federalists agreed that if the Constitution was ratified, the first task of the new government would be to adopt a Bill of Rights. This agreement convinced enough people to support the Constitution to bring about ratification.
- Events after the ratification of the Constitution continued to build the foundations of the American political system.
- The 1790s saw a debate over the role of average citizens in governance. The election of Jefferson and the Democratic-Republican Party reinforced the notion that the average citizen should have a role in government. This election also represented the first American peaceful change of parties in power.
- Differentiate between the opposing sides in the battle to ratify the Constitution.
- Explain the differences between the Federalists and the Anti-Federalists.
- Discuss reasons why the Anti-Federalists opposed the new Constitution.

[↑ Return to Chapter 2: Table of Contents](#)

## **IV. Student Assignments Post-Lecture**

### **A. Class Discussion**

#### **➤ 2.1 Identify the difference between government and politics**

- Define government, institutions, civil and criminal law, power, authority, and politics.

#### **➤ 2.2 Differentiate between different types of governments**

- What are the defining characteristics of a constitutional government?
- It often surprises students to learn that Great Britain has no written constitution. Call for class discussion of how democracy can exist in a nation with no written constitution. Broaden the question to include unwritten aspects of the U.S. Constitution.
- What does each term mean: power, authority, and legitimacy? Explain these terms in the context of a specific government decision (real or hypothetical).
- Is our democracy a democracy in the truest sense of the word? Support your answer.
- Why is an active, committed citizenry necessary to make democracy work?

#### **➤ 2.3 Describe how forces in Colonial America helped set the stage for the American Revolution**

- How do the Sons of Liberty compare to groups that protest government policies today like the Tea Parties?
- What factors encouraged the colonists to support the revolution?
- What classic organizing techniques did the Sons of Liberty use against the British?

#### **➤ 2.4 Identify the core principles of the American Revolution**

- How does Locke's identification of natural law fit with the law and government actions of today?
- For a discussion question, ask students to interpret the modern meaning of the phrase "life, liberty, and pursuit of happiness." Using an overhead projector or the blackboard, list the various interpretations and note how many times there is agreement as well as disagreement.
- For an extended discussion, ask students to compare the goals of the Declaration of Independence, especially the phrases "all men are created equal" and "life, liberty, and the pursuit of happiness" to the goals of the failed Equal Rights Amendment. Ask students to debate whether the goals expressed in each are incompatible or similar.
- When are citizens justified in using violence against their government? Was Jefferson right that "The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants"?
- Ask your students how the Declaration of Independence states that all men being created equal, endowed with inalienable rights, and the Constitution can talk about securing the blessings of liberty, at a time when America was a nation of slaveholders.

- Discuss if the students believe whether or not the people have the right to alter or abolish the U.S. government.
- How did the Second Continental Congress attempt to use the Declaration of Independence to build a nation?

### ➤ **2.5 Determine the reasons for the failure of the Articles of Confederation**

- Do the economic and financial difficulties experienced by the United States prior to nationhood differ substantially from those experienced today? In what ways
- Upon reading Charles Beard’s “An Economic Interpretation of the Constitution,” how do you feel about his conclusions? In your understanding of today, are his conclusions justified? Why?
- Consider, for the moment, that the Constitution was not ratified and the Articles of Confederation were maintained, though some changes were made. What changes were essential? What kind of government system would we now have? Compare and contrast it to the current European Union
- How did the history of American politics before 1787 shape the nature of the Constitution?
- What were the weaknesses of the Articles of Confederation that led to the need for a new government?
- What role did Shay’s Rebellion play in the Founding Fathers’ decision to revise the Articles of Confederation?
- Why did the Founding Fathers decide to replace the Articles of Confederation with the Constitution?

### ➤ **2.6 Assess how compromises at the Constitutional Convention shaped our political system**

- Start class with the question: “If there were to be a constitutional convention today, what would it look like and how would it differ from the one in the 1780s?” Have students link the changes discussed to demography, ideology, political culture, and other topics discussed in this chapter.
- Which of the plans prior to the 1787 Constitution do you believe had the most impact upon the final version? Why?
- Identify the specific motives of the 55 men who met in Philadelphia to revise the Articles of Confederation.
- If you, as students, were delegates from [the state in which this class is conducted], and without the experience of the past 200 years with the Constitution, which constitutional proposal would you have supported? The Virginia Plan? The New Jersey Plan? The Connecticut Compromise? Why, in any instance?
- What were the major areas of agreement and disagreement at the Constitutional Convention of 1787?
- What were the most important compromises achieved by the delegates to the Constitutional Convention of 1787?
- As with the more general question of slavery, the Three-Fifths Compromise raises the dilemma of pragmatism versus idealism. Slaves had no vote, of course, and were legally

- How did the Great Compromise uphold the interests of both large and small states?
- How did the Great Compromise and the Three-Fifths Compromise resolve divisions over representation in Congress?
- How did the composition of the membership of the delegates to the Constitutional Convention explain the provisions dealing with slavery in the constitution?
- Why did the delegates not use the term slavery in the Constitution?
- What defects in the Virginia Plan and New Jersey Plan did the Connecticut Compromise resolve?
- In the modern era of “government in the sunshine,” raise the possibility of a group of distinguished Americans secretly rewriting the Constitution today, especially given the intense scrutiny of the modern media.
- What special qualities and experiences did George Washington bring to the Constitutional Convention?

### ➤ **2.7 Identify the core principles of the Constitution**

- In what areas, if any, might our Constitution be considered outdated today? Are there any of the Bill of Rights or Amendments that do not make sense or that need updating in the twenty-first century? Why/Why not?
- What is the most important item in the U.S. Constitution? Why?
- What new amendments to the U. S. Constitution might be appropriate today?
- If the Supreme Court upholds the constitutionality of a federal statute, may the president refuse to enforce it because he believes it to be unconstitutional? May he still refuse to enforce it if the Supreme Court has upheld the constitutionality of the statute? If Congress forbids the president from taking certain action, may he do so on the ground that Congress’ restriction is unconstitutional? Can he still do so after the Supreme Court has upheld its constitutionality?
- Ask your class: “If the Constitution could be changed in any way, what changes would you like to see?” Some possibilities are as follows:
  - Guarantees of new rights (right to a job, right to privacy, right of sexual preference, right to decent housing or medical care).
  - Changes in the structure of the executive branch (a six-year term, more vice presidents to handle ceremonial chores, review of presidential candidates by teams of psychologists, presidents chosen from and responsible to Congress).
  - Changes in the Congress (limit the number of terms, lengthen the term of House members, reform campaign finance, such as publicly funding campaigns, use public referenda to settle major policy disputes).
  - Changes in the federal system (abolition of states, new regional governments with rational borders, clear division of government programs between national and state governments).
- Thomas Jefferson once advocated that a new Constitution be adopted by every generation so that it belonged to the living rather than the dead. So would you approve of an automatic Constitutional Convention every 30 years? Why or why not? If 30-year conventions did become the norm, how would the symbolic value of the Constitution be affected?

- What are the basic principles of government established by the Constitution?
- What are the three main branches of American government?
- Why did the framers believe it was so important to create a “separation of powers”?
- What is meant by the term “checks and balances”?
- What is the process through which formal changes to the Constitution are made?
- Define the term “consent of the governed.” Argue whether or not this concept truly fits the U.S. government system in practice.
- Argue which branch of government should have actual war power. Why? Should this power remain separated? Does separating this power cause any ineffectiveness or danger?
- If the framers wanted to protect the American people from too much government, how well did they do?
- Cite a current example of checks and balances put to use. Did the system work as it was designed to in your example? If so, how? If not, why?
- How can the Constitution be changed? Why did the founders make the process so that it is very difficult to amend the Constitution?
- What types of powers are the national and state governments given in the Constitution? Explain with examples from the Constitution expressed, implied, concurrent, reserved, and police powers.
- Discuss the idea that the Republicans disliked the decision in *Marbury v. Madison*, not because it sustained the power of the Court to determine the validity of Congressional legislation, but because Jefferson disliked the alleged invasion of his executive prerogative.
- Discuss judicial review in other nations, such as Great Britain, where the Magna Carta is roughly described as a constitution but where the acts of Parliament are not reviewable.
- Discuss the merits of the argument raised by noted constitutional scholar Erwin Chemerinsky: that for the Constitution to remain a vital and growing document, the Supreme Court must be able to identify and protect previously unrecognized constitutional rights, and that the procedural doctrines created by the current Supreme Court have limited its ability to recognize new constitutional rights. A further explanation of this argument can be found in *Trial* magazine (November 1990).
- What did Ben Franklin mean when he observed that the writing of the Constitution created “A republic, if you can keep it”?
- If judicial review had not been adopted under Marshall, what other means would exist in the United States to determine questions concerning constitutional interpretation?
- The major thrust of Marshall’s rationale in *Marbury v. Madison* is that judicial review does not mean that there is any special judicial guardianship of constitutional norms, but rather that it is the courts’ duty to decide cases before them in accordance with the relevant law. Marshall’s justification for his assertion for federal judicial power to interpret and apply the Constitution, though generally accepted, is not conclusive. Critics suggest that the premise of a written Constitution would not be disserved, and the legislative power would be enhanced, if Congress itself were free to judge the constitutionality of its own enactments. Under such a system, the argument goes, courts would simply treat the legislative interpretation as definitive, and thus leave to Congress the task of resolving apparent conflicts between its own statutes and the Constitution. Would such a system be workable? Is such a system clearly prohibited by the Constitution?

- In the opinion of the class, is the “original intent” or “contemporary ratification” philosophy toward the U.S. Constitution more valid? Which of these two theories is more likely to play itself out in today’s political culture? Which justices are most likely to favor original intent? Contemporary ratification? Do presidential Supreme Court nominations play a role in this? If so, which party is more likely to appoint a justice favoring original intent? Contemporary ratification? Is it likely this debate will continue on for the foreseeable future? If so, how will the debate itself change the way the Constitution is interpreted in the future?
- To those who argued that federal judges, appointed for life, would not be bound by the Constitution, Alexander Hamilton wrote in *The Federalist No. 78* that the judiciary would “be bound down by strict rules and precedents.” Has this proven to be a valid observation?
- For an alternative discussion, ask students why minority rights are important. What type of minorities was Madison concerned about? Are minority rights still important in U.S. politics? Ask students to provide specific historical and contemporary examples of “minorities” seeking to protect their rights. How is the political system structured to “balance” minority and majority rights? What values are served by this balance: efficiency, equality, representation?
- What is the nature and importance of “judicial review”?
- Why does the meaning of the Constitution evolve over time?
- Theoretically, what’s the best size for a district if the representative is to truly know and represent his or her constituents?
- How much of a role should the average citizen play? Is it enough to vote and then rely on your representative to use his or her own judgment?
- How have the constitutional “rules of the game” changed in the past 200 years? What structural factors have been significant in leading to changes in constitutional rules? Have these changes contributed to a more democratic form of government, or have they increased the dangers of majority tyranny?
- What methods are in place to protect the transfer of power in the U.S. government? What steps help to prevent violent coups?
- How can judicial interpretation be used to change the meaning of the Constitution?

### ➤ **2.8 Analyze how the ratification debate structured the nature of our democracy**

- What were the most important arguments for and against the ratification of the Constitution?
- Why didn’t the founders require unanimous agreement from the states for the Constitution to go into effect as the law of the land?
- What were the Anti-Federalists’ main objections to ratifying the Constitution? How did the Federalists overcome these objections?
- What did John Adams mean when he wrote in 1818 that the “radical change in the principles, opinions, sentiments, and affections of the people was the real American Revolution”?
- How did the authors of the Federalist Papers address the concerns raised by the Anti-Federalists?
- According to *The Federalist No. 10*, What is a faction, and how are factions important and possibly detrimental in a democracy?
  - According to *The Federalist No. 51*, why is a system of checks and balances necessary in a government?

- What is meant by the phrase “ambition to counteract ambition” in *The Federalist No. 51*?

[↑ Return to Chapter 2: Table of Contents](#)



## B. Class Activities

### ➤ 2.2 Differentiate between different types of governments

- Name that term:
  - First Constitution of the United States: \_\_\_\_\_
  - This was a series of armed attacks in 1787 to protest farm foreclosures:  
\_\_\_\_\_
  - This is a system of government based on the consent of the governed on which representatives of the public exercise power: \_\_\_\_\_
  - These people opposed ratification of the Constitution: \_\_\_\_\_
  - These are rights that are not granted by the government but are natural:  
\_\_\_\_\_
  - Madison suggested that these would preserve liberty: \_\_\_\_\_
  - This power was assumed by the Supreme Court as a result of the case of Marbury v. Madison: \_\_\_\_\_
- One of the central themes of American history is the gradual democratization of the Constitution. Ask your class to evaluate this statement and to either substantiate or refute it.
- Select an extremely controversial topic—national, state, or local—and outline options for the topic’s resolution. Have the students resolve, through discussion, the problem by compromise. This is a fine means of demonstrating the use of civil discourse to problem resolution.
- Have students debate whether democracy is possible without private ownership of property.
- Ask students to debate whether property ownership should be a prerequisite for voting.
- Create a library exhibit. Have students design and assemble a display case at the local public library or university library, including elements that represent key events from the textbook and any additional primary source documents assigned. After the display has been assembled, students could write a short reflection piece about the challenges associated with representing the underlying concepts and historical events to the general public. What perspectives have been included and what has been left out? How might this affect public consumption?
- Make up a game. Divide students into groups to create board games about the process of designing the American democracy for middle or high school social studies/civics classes. They should also write a short, accompanying instruction manual justifying the educational effectiveness of their game.
- Create an online resource. Have students design and prepare a website about the origins of American government for nonnative English speakers. Prepare them for the task by showing them websites from other countries explaining their government’s historical origins. What underlying assumptions exist? What could these sites do better? Having seen these sites, how might you adjust your intended design?
- Although eighteenth-century republican doctrine allowed the common people a larger role in public life than existed in other political systems of the day, the role of the people was to be far more limited than we expect today. Write a brief essay in which you expand on this theme.

➤ **2.3 Describe how forces in Colonial America helped set the stage for the American Revolution**

- Have students play the roles of royalists and revolutionaries and debate whether to go to war against Great Britain. For information on the royalists (or “loyalists”), see [http://en.wikipedia.org/wiki/Loyalist\\_%28American\\_Revolution%29#Background\\_and\\_motivation\\_of\\_Loyalists](http://en.wikipedia.org/wiki/Loyalist_%28American_Revolution%29#Background_and_motivation_of_Loyalists)

➤ **2.5 Determine the reasons for the failure of the Articles of Confederation**

- Make a list of reasons why the Articles of Confederation failed.
- Delegates to the Philadelphia convention were instructed to propose revisions to the Articles of Confederation, but they wrote an entirely new constitution instead. Ask your students to consider what their reactions would be today if a commission or panel were to take similar action in exceeding their authority. You may want to assign a brief persuasive essay in which students take a position on this question. The goal of the student author is to persuade a mythical reader, John or Jane Q. Public, to accept his or her evaluation of the situation.

[↑ Return to Chapter 2: Table of Contents](#)

### C. Research Assignments

- Divide students into groups and have them participate in the Constitution Treasure Hunt at <http://www.constitutionfacts.com/content/funZone/files/TreasureHunt1.pdf>. The first group to complete the treasure hunt wins the exercise (a small prize of some sort might be provided). Once the treasure hunt is completed, have students test their Constitution IQ at <http://www.constitutionfacts.com/index.cfm>. Have students compare their scores with others in their home state.
- Role-playing can greatly aid in developing students' understanding of people and events. In this instance, seek volunteers (perhaps even with the offer of extra credit) to research the backgrounds and character of some of the Founders. Set up a panel of these individuals, and arrange a "press conference" with the rest of the students asking the "Founders" questions concerning past or present.
- Ask your class to speculate on what might have happened to the American experience if southern delegates to the Constitutional Convention had walked out over the issues of slavery, representation, or commerce.
- Read the article "The Constitution and Slavery" at [http://www.crf-usa.org/lessons/slavery\\_const.htm](http://www.crf-usa.org/lessons/slavery_const.htm) from the Constitutional Rights Foundation, and have students debate the "Points of Inquiry" at the end of the page.
- **CONSTITUTIONAL CONVENTION**
  - Organize the students into delegations to the Constitutional Convention (Virginia, Pennsylvania, New Jersey, South Carolina). For voting purposes the first two can be considered as large states; the latter two as small states. Discuss and vote on the following proposals offered to the Convention:
    - i. All adult males should be permitted to vote.
    - ii. The Convention should restrict its deliberations to revision of the Articles.
    - iii. The Congress shall consist of a single house.
    - iv. All states should have equal representation in the Congress.
    - v. National taxes may be levied on the basis of the total population of a state.
    - vi. The right to import and own slaves shall be preserved forever.
    - vii. Congress shall have unrestricted authority over foreign and interstate trade.
    - viii. Congress shall choose the president.
- **Simulate the Constitutional Convention.** Assign roles based on the discussion in the chapter to capture the spectrum of interests and important individuals involved in the Constitutional Convention. Each student will receive a profile of the role they have been assigned one class in advance. Then in class, play out the simulation over one or two class periods, finishing the simulation by regrouping and comparing outcomes achieved through group interaction with actual outcomes. This simulation could also be held at forums outside of the classroom, such as an after-school program or at a senior citizen center, with a discussion or question-and-answer session to follow.

## ➤ 2.7 Identify the core principles of the Constitution

- Role-play the proposal and adoption of a constitutional amendment. Divide the class into a House of Representatives, Senate, interest groups, a president, and other actors as appropriate.
- Role-play a new constitutional convention. Assign groups of students to play the various parts.
- The Constitution establishes the rules of the political game. These rules decentralize power rather than consolidating power in the hands of the executive or the legislature. Ask your students to debate the following questions: *Would American government be more efficient if power were concentrated within a single branch of government? Would it be more effective?*
- The delegates to the Constitutional Convention constituted an educational and economic elite—they were not the “common man.” Ask your students to consider whether an elite can be representative of people from other strata in society. Expand the question to consider contemporary problems, such as racism and poverty. Ask students to identify which features of the Constitution reflect a distrust of democracy. Who didn’t the framers trust? Do we have similar beliefs today
- As a short essay assignment, have the students discuss how they might change the Constitution. What amendments would they change or take out? Are there any amendments they feel need to be added to the Constitution?
- **THE INFLUENCE OF THE TWELFTH AMENDMENT:** Have all students read Article II, Section I of the Constitution on the Electoral College. Next, have them read the Twelfth Amendment to discover the changes of 1804. In small groups, have the students prepare a report on the differences brought about by the Twelfth Amendment.
- **REFORMS FOR ELECTION**  
In duplicated form, furnish students with three examples of the electoral vote, the total popular vote, and the total electoral vote. For this purpose the results of 1948, 1960, 1968, and 2000 will be particularly pertinent. Next, have students revise the vote of these four presidential years, using alternate formulas described below:
  - **Automatic Plan:** This would eliminate the Electoral College as such but would use the same formula for awarding a state’s vote. While it would prevent “maverick” electors, it would change nothing else.
  - **Run-off Plan:** Retaining the electoral system, it would provide for a run-off election of the top two candidates, if no one gained a majority in the first election.
  - **Proportional Plan:** One version would apportion electoral votes in relation to popular vote. That is, if the Democratic presidential candidate secured 60 percent of a state’s popular vote, that candidate would be given six of the state’s ten electors, rather than all ten as at present.
  - **Congressional District Plan:** Electors would be elected by a majority vote in congressional districts, with statewide elections for two electors. (Students will be unable to figure this exactly but should assume that the vote for electors would have been the same as that for the House.)
  - **Direct Popular Election:** The total national vote would be used to determine the winner, without regard to district or state lines.

- Ask your class to list specific examples of the application of the concepts of separation of powers and checks and balances among the legislative, executive, and judicial branches. Using modern presidencies as a reference, students should evaluate whether the checks and balances designed by the Framers of the Constitution are adequate to prevent the abuse of executive power. Have the students critique both the original Constitution of 1789 and today (with amendments), utilizing the three principles—for example, popular sovereignty (mechanisms for selection of officials, terms of office, etc.); political equality (voting rights, etc.); and political liberty (personal freedoms, especially in Bill of Rights). How well did/does the Constitution promote these values? Then, after demonstrating that even the *revised* document of today falls short of democratic ideals, hold a “Class Constitutional Convention” suggesting reforms that would make it *more democratic*—and have the student-delegates defend their proposed changes on the basis of these principles.
- Provide examples of checks and balances in your college or work environments. Analyze whether or not this principle works to achieve its purpose.
- Have students propose a constitutional amendment and a strategy for getting it adopted. Have students write a constitution for a democratic country. Have them explain their choices about organization and content.
- Compare your state’s constitution to the federal constitution, listing three key differences.
- First have students make a list of pros and cons of fixed terms and lifetime terms for federal judges. Have students discuss their lists with the class. Then ask students what difference, if any, it would make if federal judges were to serve fixed terms rather than have lifetime tenure.

### ➤ **2.8 Analyze how the ratification debate structured the nature of our democracy**

- Reach a consensus in class on which of the Founders contributed “the most” to the early government’s founding and stabilization.
- Assign students to be representatives to the Constitutional Convention from different states. Debate the plans for determining representation in Congress, and for including slaves as part of the population.
- Have the class read together *The Federalist No. 51*. Discuss how Madison assumes that human nature is self-interested and uses that to determine the best structure for government: “Ambition must be made to counteract ambition.” Is Madison’s assumption correct?
- Assign students to be Federalists and Anti-Federalists and debate the need for a Bill of Rights.
- For an alternative essay assignment, have the students defend the importance of the Bill of Rights. In particular, they should explain why, if the Bill of Rights was so important, it was not contained in the original Constitution. Finally, ask them if the Bill of Rights would have been more or less powerful had it been included in the original document.
- The struggle to ratify the Constitution was intense. The eventual ratification of the Constitution may be partly attributed to the case made by the Federalists. You might divide the students in to groups and have them analyze the purpose and importance of the *Federalist Papers* located in the appendices of Greenberg and Page.
- **DEBATING THE BILL OF RIGHTS**
  - Organize the students into two groups. Ask them to pretend they are Constitutional Convention delegates and have them debate the following issue: “Resolved: That the

- Divide students into two groups. One group will provide a supporting argument and the other group will provide a dissenting argument to the following question: Does contemporary communication technology negate James Madison's assumption that a majority faction would be difficult to organize? Have students debate this question in class.

[↑ Return to Chapter 2: Table of Contents](#)

## C. Research Assignments

### ➤ **2.2 Differentiate between different types of governments**

- Compare countries with different economic systems on various measures of economic development and social equality. Look at sites that display measures such as infant mortality rates, and health and education expenditures, such as [http://www.unfpa.org/swp/2006/english/notes/indicators/e\\_indicator2.pdf](http://www.unfpa.org/swp/2006/english/notes/indicators/e_indicator2.pdf).
- There are several philosophies around the world about the nature of a constitution. Some countries view constitutions as goals to which we should aspire, others consider them to be a “snapshot” of how a system looked at a given time, and others use a constitution primarily as a propaganda instrument. Where does the U.S. Constitution fit in, and what implications does that have for the nature of our political system?

### ➤ **2.3 Describe how forces in Colonial America helped set the stage for the American Revolution**

- Assign students to read John Locke’s *The Second Treatise on Government* and to write a report on its influence on the Constitution.

### ➤ **2.5 Determine the reasons for the failure of the Articles of Confederation**

- Have students write a paper about the Articles of Confederation. The classic assignment is to write about the deficiencies of the Articles, however, it could be more challenging to ask them to discuss its positive attributes!
- Assign students to write a brief summary of the Articles of Confederation.
- Compare the United States under the Articles of Confederation with the former Soviet states under the new Commonwealth of Independent States.

### ➤ **2.6 Assess how compromises at the Constitutional Convention shaped our political system**

- Political scientist Larry Sabato has proposed a new constitutional convention (<http://amoreperfectconstitution.com/>). Select any one of his proposed ideas and write a short list of pros and cons for this idea.

### ➤ **2.7 Identify the core principles of the Constitution**

- Have students write a paper explaining the organization of the Constitution. Among the topics they should cover are: What is the purpose of the Preamble? Why are the articles in their specific order (i.e., Article I comes first . . . )? Why are the branches of government dealt with in separate articles? And so on . . .
- **STUDYING THE CONSTITUTIONAL AMENDMENTS:** Have the students, individually or in groups, prepare reports on some of the constitutional amendments which will not be discussed at length elsewhere in this course, such as the Nineteenth Amendment, the Twenty-Second Amendment, the Twenty-Fourth Amendment, and the Twenty-Fifth Amendment.
- Have students watch the classic School House Rock videos on Colonialism, the Revolution,

and the Preamble of the Constitution at the URLs provided below. Once they have watched these videos, have them create a short presentation (video, PowerPoint, etc.) that explores some important aspect of the Constitution that they would like to teach the class about. Have students present their work to the entire class.

- As a library research project, assign each student (or a group of students, if your classes are large) to review a specific provision of the Constitution. Students should be prepared to report in class on how the document has changed and evolved, through both formal and informal means. Give each group some hints or suggestions of ideas to examine; for example, you may want to ask one group to determine to what extent certain constitutional changes deviate from what the Framers intended as republicanism.
- Have your students use the Internet to find the Constitutions of at least two other democracies and one alternative form of government. Have them compare and contrast these documents and explain either orally or in writing why they are similar or different.
- Find the written constitution of your state and compare and contrast it to the American Constitution. Take note of the governmental institutions it creates, the functions they perform, and whether or not something comparable to the Bill of Rights is included.
- Have students consider one proposed constitutional amendment and then have them write a position paper either for or against that proposed amendment.
- Research the new Iraqi constitution. What similarities and differences can you identify between it and the U.S. Constitution?
- Assign students to do a report on various Constitutional Convention proposals that did not make their way into the final Constitution, including why they were defeated.
- Assign students the task of finding contemporary constitutional amendment proposals and ascertaining their political likelihood of being passed by Congress and ratified by the states.
- Many states have already formally asked for a new Constitutional Convention for a variety of reasons, including issues such as a balanced budget, abortion, and declining morals. If only three or four more make the request, we could have a new convention. Have students research calls for a new convention. Why have certain states requested a convention? Why have others not? They should then discuss who would be chosen as delegates, how they would be chosen, and what the results would be. Remind them to consider the vastly different role of the media in today's society, as well as the size and demographic changes in the country. You can also use this opportunity to help them understand how to evaluate the biases of various websites—many of the sites surrounding the need for a new Constitutional Convention have quite obvious biases
- Every year, a number of constitutional amendments are proposed by members of Congress. Have students use the Internet to research a number of proposed constitutional amendments and discuss why they have been proposed, what process they need to go through, and what their chances of passage are.

## ➤ **2.8 Analyze how the ratification debate structured the nature of our democracy**

- Have students read about Charles Beard's analysis that claims the personal economic interests of the founders led them to establish a government that would serve those interests, along with criticisms of his analysis. Try this site to start: <http://www.common-place.org/vol-02/no-04/reviews/holton.shtml>.
- Look at several popular political blogs. You might try these:



- <http://www.talkingpointsmemo.com/>
- <http://www.wonkette.com/>
- <http://www.dailykos.com/>
- <http://alittlemoretotheright.com/blog/>
- Do you think a set of essays like *The Federalist Papers* could be spread by blogs today to start a major political debate?
- Have students compare the views of the Federalists and Anti-Federalists in some detail. Have them read several papers written by each (all are available for free on the Web).
- Have students summarize *The Federalist No. 51*.
- Have your students find copies of three Anti-Federalist papers on the Web. Ask them to write a short paper or prepare oral presentations about what this country would have looked like had the Anti-Federalists “won” their points in the ratification debate and the writing of the Constitution.
- Assign students to read and report on a biography of James Madison.

[↑ Return to Chapter 2: Table of Contents](#)

## **V. Quantitative Assessment**

Administer Chapter Exam (see Test Bank, Chapter 2)

[↑ Return to Chapter 2: Table of Contents](#)

## **VI. Resources for Further Study**

### **A. Books**

1. Ackerman, B. A. (1991). *We the People*. Cambridge: Harvard University Press.
2. Alinsky, S. (1972). *Rules for Radicals: A practical primer for realistic radicals*. New York: Random House.
3. Amar, A. R. (2000). *The bill of rights: Creation and reconstruction*. New Haven: Yale University Press.
4. Amar, A. R. (2006). *America's Constitution: A biography*. New York: Random House Trade Paperbacks.
5. Bailyn, B. (Ed.). (1993). *The debate on the constitution Pt. 1: September 1787–February 1788*. New York: Library of America.
6. Barnett, R. E. (2004). *Restoring the lost constitution: The presumption of liberty*. Princeton: Princeton University Press.
7. Beard, C. A. (1913). *An economic interpretation of the constitution of the United States*. New York: Macmillan.
8. Becker, C. L. (1942). *The declaration of independence: A study in the history of political ideas*. New York: Vintage.
9. Bennis, W., & Biederman, P. W. (1997). *Organizing genius: The secrets of creative collaboration*. Reading: Addison Wesley.
10. Berkin, C. (2003). *A brilliant solution: Inventing the American constitution*. Orlando: Harcourt.
11. Bok, D. (2001). *The trouble with government*. Cambridge: Harvard University Press.
12. Bowler, S., & Donovan, T. (2001). *Demanding choices: Opinion, voting, and direct democracy*. Ann Arbor: University of Michigan Press.
13. Breyer, S. (2006). *Active liberty: Interpreting our democratic constitution*. New York: Knopf.
14. Burns, J. M. (1982). *The vineyard of liberty*. New York: Knopf.
15. Burns, J. M., & Burns, S. (1991). *A people's charter: The pursuit of rights in America*. New York: Knopf.

16. Caplan, R. L. (1988). *Constitutional brinksmanship: Amending the constitution by national convention*. New York: Oxford University Press.
17. Coles, R. (2000). *Lives of moral leadership: Men and women who have made a difference*. New York: Random House.
18. Dahl, R. A. (1989). *Democracy and its critics*. New Haven: Yale University Press.
19. Dahl, R. A. (2002). *How democratic is the American constitution?* New Haven: Yale University Press.
20. de Tocqueville, A., & Phillips B. (Eds.) (1951). *Democracy in America*. New York: Knopf.
21. Draper, T. (1996). *A struggle for power: The American revolution*. New York: Times Books.
22. Edling, M. M. (2008). *A revolution in favor of government: Origins of the U.S. Constitution and the making of the American state*. Oxford: Oxford University Press.
23. Ellis, J. J. (2000). *Founding brothers: The revolutionary generation*. New York: Knopf.
24. Epstein, D. F. (1984). *The political theory of the federalist*. Chicago: University of Chicago Press.
25. Farrand, M. (Ed.). (1966). *The records of the federal convention of 1787*, 4 vols (rev. ed.). New Haven: Yale University Press.
26. Guinier, L. (1994). *The tyranny of the majority: Fundamental fairness in representative democracy*. New York: Free Press.
27. Gutzman, K. (2007). *The politically incorrect guide(tm) to the constitution*. Washington, DC: Regnery Publishing, Inc.
28. Hamilton, A., Jay, J., & Madison, J. (1901). *Federalist: A commentary on the constitution of the United States, being a collection of essays*. New York: Global Affairs Publishing Company.
29. Hamilton, A., Madison, J., & Jay, J. (1961). *The federalist papers*. In R. Clinton (Ed.). New York: New American Library.
30. Holton, W. (2007). *Unruly Americans and the origins of the constitution*. New York: Hill and Wang.
31. Jillson, C. C. (1988). *Constitution making: Conflict and consensus in the Federal Convention of 1787*. New York: Agathon.

32. Kammen, M. (1987). *The machine that would go by itself: The constitution in American culture*. New York: Knopf.
33. Kernell, S. (2003). *James Madison: The theory and practice of republican government*. Stanford: Stanford University Press.
34. Ketcham, R. (Ed.). (1986). *The anti-federalist papers and the constitutional convention debates*. New York: New American Library.
35. Kyvig, D. E. (1998). *Explicit and authentic acts: Amending the U.S. Constitution, 1776–1995*. Lawrence: University Press of Kansas.
36. Levin, D. L. (1999). *Representing popular sovereignty: The constitution in American political culture*. Albany: State University of New York Press.
37. Levinson, S. (2006). *Our undemocratic constitution: Where the constitution goes wrong (and how we the people can correct it)*. Oxford: Oxford University Press.
38. Levy, L. W. (2001). *Origins of the bill of rights*. New Haven: Yale University Press.
39. Lipset, S. M. (1963). *The first new nation*. New York: Basic Books.
40. Maddex, R. L. (2002). *The U.S. Constitution A to Z*. Washington, DC: Congressional Quarterly Press.
41. Manley, J. F., & Dolbeare K. M. (Eds.). (1987). *The case against the constitution*. Armonk: M.E. Sharpe.
42. McCullough, D. (2002). *John Adams*. New York: Simon & Schuster.
43. McDonald, F. (1986). *Novus ordo seclurum: The intellectual origins of the constitution*. Lawrence: University Press of Kansas.
44. McGuire, R. A. (2003). *To form a more perfect union: A new economic interpretation of the United States Constitution*. Oxford: Oxford University Press.
45. McLaughlin, A. (2003). *The foundations of American constitutionalism*. Union: Lawbrook Exchange.
46. Meese, E. (2005). *The heritage guide to the constitution*. Washington, DC: Regnery Publishing, Inc.
47. Monk, L. (2003). *The words we live by: Your annotated guide to the constitution*. New York: Hyperion.

48. Morgan, E. S. (1992). *The birth of the republic: 1763–89*. Chicago: University of Chicago Press.
49. Morris, R. B. (1985). *Witnesses at the creation: Hamilton, Madison, Jay and the constitution*. New York: Holt, Rinehart, and Winston.
50. Paine, T. (1995). *Paine, collected writings: Common sense; the crisis; rights of man; the age of reason; pamphlets, articles and letters*. In E. Foner (Ed.). New York: Library of America.
51. Peltason, J. W., & Davis, S. (2000). *Understanding the constitution* (15th ed.). Belmont: Wadsworth.
52. Peters, W. (1987). *A more perfect union: The making of the U.S. Constitution*. New York: Crown.
53. Powell, J. (2002). *A community built on words: The constitution in history and politics*. Chicago: University of Chicago Press.
54. Rakove, J. N. (1997). *Original meanings: Politics and ideas in the making of the constitution*. New York: Vintage.
55. Riker, W. (1996). *The strategy of rhetoric*. New Haven: Yale University Press.
56. Rossiter, C. (1966). *1787: The grand convention*. New York: Macmillan.
57. Simmons, A. J. (1994). *The Lockean theory of rights*. Princeton: Princeton University Press.
58. Simon, J. (2002). *What kind of nation? Thomas Jefferson, John Marshall, and the epic struggle to create the United States*. New York: Simon & Schuster.
59. Stewart, D. O. (2007). *The summer of 1787: The men who invented the constitution*. New York: Simon & Schuster.
60. Sundquist, J. L. (1986). *Constitutional reform and effective government*. Washington, DC: Brookings Institution Press.
61. Sunstein, C. R. (2001). *Designing democracy: What constitutions do*. New York: Oxford University Press.
62. Vile, J. R. (1991). *Rewriting the United States Constitution: An examination of proposals from reconstruction to the present*. New York: Praeger.
63. Whittington, K. (1981). *Constitutional construction: Divided powers and constitutional meaning*. Cambridge: Harvard University Press.
64. Wills, G. (1981). *Explaining America: The federalist*. Garden City: Doubleday.

65. Wood, G. (1969). *The creation of the American republic, 1776–1787*. Chapel Hill: University of North Carolina Press.
66. Wood, G. S. (2007). *Revolutionary characters: What made the founders different*. New York: Penguin.

[↑ Return to Chapter 2: Table of Contents](#)

## **B. Articles**

1. Appleby, J. (1987, December). The American heritage: The heirs and the disinherited. *Journal of American History*, 74(3), 798–813.
2. Burns, J. M. (1977, March). Wellsprings of political leadership. *American Political Science Review*, 71(1), 266–275..
3. Butterfield, K. (2000, July 4). What you should know about the declaration of Independence. *St. Louis Post Dispatch*.
4. Chemerinsky, E. (1990, November). Stunting the constitution’s growth. *Trial* .
5. Corwin, E. S. (1936, December). The constitution as instrument and as symbol.” *American Political Science Review*, 70(6), 1071–1085.
6. Cronin, T. E. (1984, Winter). Thinking and learning about leadership. *Presidential Studies Quarterly*, 14(1), 22–34.
7. Dahl, R. A. (1977, Spring). On removing certain impediments to democracy in the United States. *Political Science Quarterly*, 92(1), 1–20.
8. Diamond, A. S. (1981, Summer). A convention for proposing amendments: The constitution’s other method. *Publius: The Journal of Federalism*, 11(3–4), 113–146.
9. Diamond, M. (1975, Fall). The declaration and the constitution: Liberty, democracy, and the founders. *The Public Interest*.
10. Edel, W. (1982). Amending the constitution by convention: Myths and realities. *State Government*, 55.
11. Fisher, L. (2006). *The “Unitary Executive”: Ideology Versus the constitution*. Conference Paper presented at the Annual Meeting of the American Political Science Association. 1–17 (AN 26944467).
12. Fishman, N. (1989, October–December). Extending the scope of representative democracy. *Political Quarterly* .

13. Hirst, P. (1988, April–June). Representative democracy and its limits. *Political Quarterly*, 59(2), 190–205.
14. Jillson, C., & Eubanks, C. L. The political structure of constitution-making: The federal convention of 1789. *American Journal of Political Science*, 28(3).
15. Liapakis, P. (1995, November). Our oath: Defending the constitution. *Trial*.
16. Mansfield, H. (1987, Winter). Constitutional government: The soul of modern democracy. *The Public Interest*, 86, 53–64.
17. Manzer, R. (1996, September). Humes’s constitutionalism and the identity of constitutional democracy. *American Political Science Review*, 90(3).
18. Olson, K. (2007, April). Paradoxes of constitutional democracy. *American Journal of Political Science*, 51(2), 330–343.
19. Roche, J. P. (1961, December). The founding fathers: A reform caucus in action. *American Political Science Review*, 55(4), 799–816.
20. Rossum, R. A. (1999, Summer). The irony of constitutional democracy: Federalism, the Supreme Court, and the Seventeenth Amendment. Preview. *San Diego Law Review*, 36(3).
21. Sullivan, K. (1995, Fall). Constitutional amendmentitis. *American Prospect*.
22. Wilson, J. Q. (1979, February). American politics, then and now. *Commentary*, 66, 39–46.

[↑ Return to Chapter 2: Table of Contents](#)

## C. Media

1. *1776*. (1972)
2. *The Bill of Rights: A Living Document*. (1997). Cambridge Educational Production. This film explores the complexity of individual rights versus the common good. It is available from Films Media Group.
3. *The Constitution: That Delicate Balance*. (1984). Columbia University Seminars on Media and Society. A thirteen-part series by Films Incorporated where panelists examine a variety of issues and constitutional interpretations.
4. *The Constitution of the United States*. (1982). Encyclopedia Britannica Educational Corporation. Film examining the various elements of the Constitution and the fight for ratification.



5. *Founding Fathers*. The History Channel. Good segments on the Declaration of Independence and the Constitutional Convention.
6. *John Adams*. (2008). HBO Films. An award-nominated HBO miniseries on the life of John Adams and the first fifty years of the United States.
7. *John Locke*. (2004). Films for the Humanities and Sciences. This film provides a recreation of John Locke's conversations for an in-depth view of his principles.
8. *The Living Constitution*. (2002). Insight Media. Examines how changes are made in the Constitution to adapt to changes in technology and the population.
9. *The Magna Carta*. Films for the Humanities and Sciences. This film examines the origins of the Magna Carta and its contributions to the development of American democracy.
10. *Marbury v. Madison*. (1977). National Audio Visual Center. Part of an Equal Justice Under Law Series presentation by National Audio Visual Center depicting a dramatic reenactment of this historic case. Available at <http://www.archive.org/>.
11. *The Patriot*. (2000)
12. *School House Rock*. (1973). No More Kings.  
<http://www.youtube.com/watch?v=ofYmhlclqr4&feature=related>
13. *School House Rock*. (1973). Shot heard around the world.  
<http://www.youtube.com/watch?v=7VQA5NDNkUM&feature=related>
14. *School House Rock*. (1973). The Preamble.  
[http://www.youtube.com/watch?v=Q\\_TXJRZ4CFc&feature=related](http://www.youtube.com/watch?v=Q_TXJRZ4CFc&feature=related)
15. *Thomas Jefferson: The Pursuit of Liberty*. Films for the Humanities and Sciences. An award-winning examination of the philosophy and life of Thomas Jefferson.

[↑ Return to Chapter 2: Table of Contents](#)

#### D. Web Resources

1. **Annotated Constitution**—An annotation of the Constitution in which each clause is tied to Supreme Court decisions concerning its meaning; done by the Library of Congress.  
<http://www.gpoaccess.gov/constitution/index.html>
2. **Avalon Project**: *Notes on the Debates at the Federal Convention*. Yale University.  
<http://avalon.law.yale.edu/>
3. **Constitution Finder**. University of Richmond. <http://confinder.richmond.edu/>

4. **Cornell University** site offers the complete text of the Constitution. Must be downloaded.  
<http://www.law.cornell.edu/constitution/constitution.overview.html>
5. The text of the **Federalist Papers**. <http://www.law.ou.edu/hist/federalist/>
6. **Flag Burning Issue**. Web site has information about the constitutional amendment to prohibit flag burning. It's biased but informative about campaigns to amend the Constitution.  
<http://www.usflag.org/amendment.html>
7. The **History Net** offers a wide range of information about American history.  
<http://www.historynet.com/ah/>
8. **Library of Congress**. *Primary Documents in American History: United States Constitution*.  
<http://www.loc.gov/rr/program/bib/ourdocs/Constitution.html>
9. **Library of Congress**. "Web Guides" <http://www.loc.gov/rr/program/bib/bibguide.html>
10. The **Manuscript Division of the Library of Congress** offers a wide variety of documents from the fifteenth to twentieth centuries on American history.  
<http://lcweb2.loc.gov/ammem/mchtml/corhome.html>
11. **National Archives and Records Administration**. *Constitution of the United States*.  
<http://www.archives.gov/exhibits/charters/constitution.html>
12. **National Museum of American History** offers timelines, virtual exhibits, music, and other information from American history. <http://www.americanhistory.si.edu/>
13. **Official government site** with full text of Constitution early Constitutional documents, the Federalist Papers, amendments proposed but not ratified and more.  
<http://www.house.gov/house/Educate.shtml>
14. **PBS.org** has lots of information about all of American history, including articles on the Founding Fathers, the early national period, the Constitution, etc.  
[http://www.pbs.org/history/history\\_united.html](http://www.pbs.org/history/history_united.html)
15. **Thisnation.com**. <http://www.thisnation.com/>
16. **Thomas Jefferson Digital Archive**. University of Virginia.  
<http://etext.virginia.edu/jefferson/>
17. **University of Louisville** site that offers many links on or about the U.S. Constitution, including amendments not ratified and links to constitutions more generally.  
<http://library.louisville.edu/government/goodsources/history/constitution/usconstitution.html>

**18.** The **U.S. Constitution Online** offers many documents including the Articles of Confederation, Declaration of Independence, and the Constitution and many other links.  
<http://www.usconstitution.net>

[↑ Return to Chapter 2: Table of Contents](#)