

## Chapter 2: The Constitution

### Introduction: AP Correlation and Pacing

Chapters 1–3 focus on the first content area of the College Board’s AP United States Government and Politics curriculum outline, I. Constitutional Underpinnings of the United States Government. According to the College Board, between 5 and 15 percent of the AP United States Government and Politics Exam questions address this content area. So, plan the pacing of the course—and this chapter—based on these College Board guidelines. In a semester course (18 weeks), plan on spending about one week on Chapter 2.

Note that the content of chapter 2 specifically addresses the following five AP key topics in the area of Constitutional underpinnings:

- I.A. Considerations that influenced the formulation and adoption of the Constitution
- I.B. Separation of Powers
- I.C. Checks and Balances
- I.D. Federalism
- I.E. Theories of democratic government

The AP course description states that the focus of the AP U.S. government and politics course is the study of modern politics. But be sure to emphasize how the Constitution’s development reflects the times in which it was created, as well as the philosophical foundations on which the document is based, including some examination of the Madisonian model of government with its emphasis on fragmentation.

The Constitution elements of Chapter 2 are some of the most important topics of the textbook, and a considerable portion of class time should be devoted to this chapter. Having your class do a close read of Chapter 2a, *The Constitution of the United States*, at the beginning of the course is well worth the effort since the actual AP exam refers to elements of the document directly. While students do not need to memorize the Articles, they will be better prepared for the AP exam if they have a firm understanding of not only what the Constitution states but also why. The Harrison text also provides “Political Inquiry” questions within the text body along with side notes that help clarify the meaning and simplify the language. If students develop a good foundation of the principles and purpose of the U.S. Constitution, they will be more likely to experience success throughout the course and on the AP exam. Some teachers have found that students who actually read the text of the Constitution *before* the course begins gain a greater comfort level using the language of its text. Additionally, for those classes that gain access, McGraw-Hill’s ONboard program provides an advantage for students entering AP US Government.

Instead of encouraging rote memorization, provide students with thorough coverage of the underlying principles of the Constitution—i.e., limited government, separation of powers, checks and balances, federalism, and judicial review. Make sure students apply these underlying principles to specific Constitutional passages and examples. To better prepare students for the demands of the AP exam, either ask students to go beyond the text to find current examples that demonstrate separation of powers, checks and balances and federalism issues, or if time is an issue, you could provide students with an example of a current situation. Then have students discuss which principle is in play. You could use the Affordable Care Act of 2010 as such an example to examine the principle of federalism since the legislation required states to provide standardized, customer-friendly application process.

The AP exam is also very likely to include several questions about the amendments or Articles that expand or limit government, so be sure to thoroughly examine these sections. Questions on the AP exam may also ask students to apply the constitutional principles to specific historic actions, such as the creation of the IRS. For this example, students should know that under implied powers Congress has both the power to tax under Article I, § 8, and also the power to establish a way to collect that tax as indicated by Article I, § 8, Clause 18. Help students understand the changes to the Constitution that have made it more democratic. This concept is a common theme in AP questions. For example, students should be able to identify how particular amendments have expanded the vote, including not just the Fifteenth, Nineteenth, and Twenty-sixth Amendments but also the Twenty-fourth Amendment which banned poll taxes. If your students do not have sufficient background knowledge to be able to make the pertinent connections, you could provide several specific examples of the extension of democratic practices and application of the constitutional principles to serve as prompts.

Ensure that students gain an understanding of the key constitutional clauses. Questions about these constitutional clauses frequently appear in both the multiple choice and free-response sections of the AP exam. Test students on each of the following clauses individually to assess comprehension:

- Bill of Attainder Clause, Article I, §9, Clause 3
- Commerce Clause, Article I, §8, Clause 3
- Contracts Clause, Article I, §10, Clause 1
- Due Process Clause, Fifth Amendment
- Due Process Clause, Fourteenth Amendment
- Elastic Clause, Article I, §8, Clause 18
- Equal Protection Clause, Fourteenth Amendment
- Establishment Clause, First Amendment
- Ex Post Facto Clause, Article I, §9, Clause 3
- Extradition Clause, Article IV, §2, Clause 2
- Free Exercise Clause, First Amendment
- Full Faith and Credit Clause, Article IV, §1
- Preamble
- Privileges and Immunities Clause, Article IV, §2, Clause 1
- Reserved Power Clause, Tenth Amendment
- Search & Seizure Clause, Fourth Amendment
- Supremacy Clause, Article VI, Clause 2
- Takings Clause, Fifth Amendment

Also plan to incorporate *The Federalist Papers* into coverage of this chapter. Pay particular attention to *Federalist* No. 10 (factions), *Federalist* No. 46 (compares the influence of state and federal governments), *Federalist* No. 47 (distribution of power among the various parts), *Federalist* No. 48 (how the various parts have control over each other), *Federalist* No. 51 (checks and balances), and *Federalist* No. 78 (judicial branch). The addition of these documents provides an opportunity for students to analyze the complexity of the structure and organization of the U.S. government See **Chapter Activities** below for an activity that incorporates these primary sources.

Be sure to stress the historical events and philosophical theories that helped shape the U.S. Constitution. These include the colonists' experiences with self-government, grievances against the king, the Declaration of Independence, Shay's Rebellion, and the weaknesses of the Articles of Confederation. Ask AP students to recognize how the Constitution addressed the problems under the Articles.

While the students should have knowledge of how the colonial governments functioned and the model these governments provided for the Founding Fathers, the AP exam does not require an extensive

investigation. Describe the colonial governments. If time permits, have the students examine Massachusetts' or Virginia's original constitution. *TIP: One semester courses do not frequently have that time but instructors may offer it as an extra credit option.* Ask students to identify differences and similarities between those documents and the U.S. Constitution today. This will help students to see where the framers' opinions of how government should operate originated. Point out the most significant elements of the state constitutions--that they created republican governments composed of three bodies, protected natural rights, promoted popular sovereignty, rested on the principle of consent of the governed, and were all written.

The Declaration of Independence, as a founding document, deserves a specific lesson. This is because any previous student exposure to this document was probably from a historical perspective rather than a political science perspective. For the goals of this course, stress the political science aspects. What are the political implications? Who has the power? How do they keep/lose the power? And finally, what does that mean for us today? Students can form groups and fill out a chart that breaks down the document into its sections: introduction, preamble, indictments against the king, denunciation, and conclusion. While skimming these sections, students should note the meaning and ideas in each section. Have students connect the Introduction to Enlightenment ideas, especially John Locke's writings.

Finally, to examine the Articles of Confederation, go directly to the source! Choose excerpts from the Articles and ask students to identify the apparent weaknesses. You can accomplish this quickly with a jigsaw activity by dividing the excerpt so that groups of three or four may focus on one section in depth but through the sharing with the class, the class gains the sense of the entire document, including its flaws. Whenever it is possible to instruct through active learning rather than lecture, make sure to do so. Students will retain the information longer and it makes the lesson more meaningful.

Finally, as a reminder, teachers must be mindful of the time constraints, especially in a one semester class. Teachers on a 4x4 block are in a particularly limited schedule, so be selective. Several options give the teacher flexibility in approach but no teacher has time for all!

*TIP: Available in Connect with this AP Edition of American Democracy Now is a new resource known as **AP Key Document Analysis**\*. This resource is designed to give students practice in analyzing excerpts from 19 key Supreme Court cases (such as *U.S. v. Lopez*) and 9 key founding documents (such as *Federalist No. 10*). Each **Document Analysis** is aligned to both the AP Key Documents in the Harrison text and the NEW (2018) AP U.S. Government & Politics Curriculum Framework.*

## Chapter Overview

Chapter 2 describes and charts the basic constitutional evolution of the United States, including:

- The core components of the U.S. Constitution
- The political, economic, and social factors leading to the creation of the United States of America
- The compromises, processes and products of the delegates to the constitutional convention
- The Constitution today as an amendable document for change

## Learning Objectives

Having studied this chapter, students should be able to do each of the following:

- Define the term *constitution*; identify its three basic components.
- Identify the purpose of the Constitution.
- Identify concepts found in the Articles of Confederation.
- Recall key events that led to the formation of the U.S. Constitution.
- Identify influences on Thomas Jefferson's understanding of government.
- Compare the U.S. Constitution with state constitutions and the Articles of Confederation.
- List the key issues and compromises reflected in the Constitution.
- Identify passages in the Constitution outlining foundational structures of government.
- Identify the Federalist and the Anti-Federalist positions.
- Demonstrate knowledge of the formal amendment process.
- Explain the difference between formal and informal requirements and processes.

## Key Terms

- Advice and consent, p. 49
- Anti-Federalists, p. 51
- Articles of Confederation, p. 40
- Bicameral legislature, p. 39
- Bill of Rights, p. 53
- Checks and balances, p. 43
- Confederation, p. 40
- Connecticut Compromise (Great Compromise), p.44
- Constitution, p. 33
- Dual sovereignty, p. 42
- Electoral College, p. 45
- *Federalist* No. 10, p. 52
- *Federalist* No. 51, p. 52
- *The Federalist Papers*, p. 52
- Federalists, p. 50
- Judicial review, p. 49
- *Marbury v. Madison*, p. 49
- Natural rights (unalienable rights), p. 38
- New Jersey Plan, p. 43
- Republic, p. 39
- Separation of powers, p. 43
- Supremacy clause, p. 42
- Three-Fifths Compromise, p. 46
- Unicameral legislature, p. 40
- U.S. Constitution, p. 48
- Veto, p. 49
- Virginia Plan, p. 43

In addition to the Key Terms listed above, which are essential to Chapter 2, the following terms also play an important function in any study of the Constitution because they point to crucial principles found in the document:

- Limited government
- Consent of the governed

- Popular sovereignty
- Ex post facto laws

Although students will have been exposed to most of these terms in previous courses and in Chapter 1 of the Harrison text, taking the time to review the terms will better prepare the students for the AP exam. Limited government identifies a major fear of the Founders. James Madison in *Federalist* 48, 1787, wrote “It will not be denied that power is of an encroaching nature and that it ought to be effectually restrained from passing the limits assigned to it.” Connecting the terms to writings of the Founders or Enlightenment philosophers makes the concept more relevant. Rather than providing such quotes yourself, you could assign or even challenge students to find appropriate examples from both early documents and more modern writings.

## Answers to Chapter 2 *Analyze the Sources*

1. Explain how the concepts of supermajorities and federalism play a role in the formal amending of the Constitution.

**Possible Answer:** Supermajorities are needed at the legislative and state level because Founders did not want a tyranny of the majority or minority to have the power to change the Constitution so easily. A three-fourths majority is necessary for the final phase of the ratification process to provide the checks and balances the Founders desired.

2. Based on your answer in (1), explain the motivations behind the Founders’ intent of using federalism and supermajorities to formally change the Constitution.

**Possible Answer:** The founders’ fear of democracy guided their obstacles to quick, constitutional change. Madison in his *Federalist* writings described the protections that come from the layering checks, and that both the states and the central government have to be persuaded that the change is in the best interests of the citizens.

3. Explain why informal changes to the Constitution tend to happen more often than formal changes. Provide one specific example.

**Possible Answer:** Informal changes avoid the supermajority threshold needed by formal change requirements. An example would be an executive order by the President or a Supreme Court ruling. The informal changes permit the Constitution to reflect the changes in society, both in culture and size. The informal changes also have been responsible for the fact that the U.S. Constitution has only had 17 changes since 1790, while other nations younger than the United States have undergone replacement of their whole document.

## Chapter 2 AP Test Practice

Below are the Harrison end-of-chapter AP Test Practice questions along with their answers, feedback, and rubrics.

### Multiple-Choice Questions

1. All the following were problems under the Articles of Confederation EXCEPT

- (A) State governments taxed each other disproportionately.
- (B) There was no national court to settle disputes between states.
- (C) Many states printed their own currency, leading to hyperinflation.
- (D) There was no national executive to send armed forces if needed.
- (E) Each state had its own Bill of Rights to protect citizens from government.

**Answer:** E

**Feedback:** The concept of a Bill of Rights already existed on the state-level and was adapted for the federal constitution in order to protect state citizens from *national* government. It was a major concession insisted upon by Anti-Federalists and helped lead to the ratification of the Constitution.

**Chapter:** 2.The Constitution

**Section:** 2-2

**AP Topic:** I.E. Theories of Democratic Government

2. Shay's Rebellion was significant in that it

- (A) convinced state governments of the need to form compacts with foreign governments.
- (B) mobilized the president to act as commander-in-chief in order to put down the rebellion.
- (C) led to the national judiciary's issuing of warrants for the arrest of Daniel Shay.
- (D) demonstrated the need for a strong central government to respond to national emergencies.
- (E) symbolized the need for a stronger confederal government to address local tensions.

**Answer:** D

**Feedback:** Shay's Rebellion was a strong influence for the calling of the Constitutional Convention of 1787 which in turn led to the scrapping of the Articles of Confederation and the creation of a federal republic.

**Chapter:** 2.The Constitution

**Section:** 2-2

**AP Topic:** I.A. Considerations that influenced the formulation and adoption of the Constitution.

3. Which of the following is NOT an example of a way the Founders employed to limit democracy during the founding period?

- (A) The president was chosen by the Electoral College.
- (B) The Senate was elected by state legislatures.
- (C) Voting rights were denied to women and non-property owners.

- (D) The House of Representatives was chosen by qualifying citizens.
- (E) The Supreme Court was selected by the president and confirmed by the Senate.

**Answer:** D

**Feedback:** Many structures were set in place by the Founder to ensure that the people's passions could be reined in. Direct election of members of the House of Representatives was an exception to that general rule.

**Chapter:** 2.The Constitution

**Section:** 2-2

**AP Topic:** I.E. Theories of Democratic Government

4. Which of the following is NOT an example of checks and balances?

- (A) The president vetoes a bill from Congress.
- (B) The Senate rejects a presidential appointment.
- (C) The Supreme Court rules a congressional law as unconstitutional.
- (D) The Congress refuses to provide funding for a program established by Executive Order.
- (E) The 9th District Court of Appeals rules a lower court decision as procedurally invalid.

**Answer:** B

**Feedback:** A higher court reversing a lower court's decision is not an example of checks and balances but rather a procedural appeal within the same branch of government.

**Chapter:** 2.The Constitution

**Section:** 2-3

**AP Topic:** I.C. Checks and Balances

5. Which of the following best demonstrates the Supremacy Clause?

- (A) California sets up medicinal marijuana clinics in defiance of federal law.
- (B) Nevada permits prostitution in rural counties contrary to national statutes.
- (C) Arizona police "profile" and pull over Hispanic motorists in defiance of the Fourteenth Amendment's equal protection clause.
- (D) Texas sets up voter ID requirements despite their adverse impact on persons of color.
- (E) Maryland is forced to cease taxation on a federal bank after a Supreme Court ruling.

**Answer:** E

**Feedback:** The "Supremacy Clause" prioritizes federal law over state in cases where the two laws conflict.

**Chapter:** 2.The Constitution

**Section:** 2-3

**AP Topic:** I.E. Theories of Democratic Government

6. Which of the following is one of the central outcomes of the U.S. Supreme Court’s decision in *Marbury v. Madison* (1803)?

- (A) The courts now had the authority to determine the constitutionality of actions taken by government.
- (B) The courts ruled that “separate but equal” was the new standard by which to treat African-Americans in the South.
- (C) The courts made the Bill of Rights applicable to the states through the doctrine of incorporation.
- (D) The courts declared a right to privacy in ruling that pharmacists could not bar prescribing birth control based upon their religious convictions.
- (E) The courts determined that every person had the right to an attorney regardless of financial status.

**Answer:** A

**Feedback:** *Marbury v. Madison* was a key ruling which determined that federal courts had the authority to decide on the constitutionality of laws passed by Congress or government.

**Chapter:** 2.The Constitution

**Section:** 2-3

**AP Topic:** I.B. Separation of Powers

7. Which of the following statements best summarizes the Anti-Federalist position on the necessity of adding a Bill of Rights to the Constitution?

- (A) It would protect citizens from federal government infringement of their rights.
- (B) It would grant absolute rights to all people who lived in the United States.
- (C) It would resolve disputes between the small and large states.
- (D) It would establish principles of civil liberties and rights that would lead to the end of slavery.
- (E) It would protect all citizens from discrimination at the hands of state governments.

**Answer:** A

**Feedback:** Anti-Federalists, largely composed of small farmers and merchants from the South, were very concerned about a national government overreaching its authority and ultimately nullifying state sovereignty.

**Chapter:** 2.The Constitution

**Section:** 2-3



**AP Topic:** I.B. Federalism

8. The debates between the Federalists and Anti-Federalists were mainly focused on

- (A) state vs. federal taxation.
- (B) church vs. state authority.
- (C) the executive branch vs. the judicial branch.
- (D) rural vs. agrarian economic priority.
- (E) national vs. state supremacy.

**Answer:** E

**Feedback:** Anti-Federalists were very concerned about ceding their customs and traditions, including slavery, from a distant, national government.

**Chapter:** 2.The Constitution

**Section:** 2-3

**AP Topic:** I.D. Federalism

9. Which of the following explanations best describes why there are only 27 amendments to the United States Constitution?

- (A) Congress and the courts can never agree on an amendment's procedural issues related to making changes to the Constitution.
- (B) The Founders set up the Constitution to last no more than ten years, making modern-day amendments difficult to add.
- (C) The U.S. Supreme Court has repeatedly struck down amendments because many of them have lacked legal standing.
- (D) Throughout much of the nation's 200-plus years, the two-party system has failed to work in a bi-partisan manner.
- (E) It is difficult to get two thirds of Congress to propose and three fourths of state legislatures to ratify a constitutional amendment.

**Answer:** E

**Feedback:** Supermajorities required at both the national and state levels in order to propose and ratify an amendment have proven difficult, which is what the Founders intended.

**Chapter:** 2.The Constitution

**Section:** 2-4

**AP Topic:** I.C. Checks and Balances

10. A Supreme Court justice who determines that an action taken by government violates the Constitution is engaging in

- (A) judicial restraint.
- (B) judicial federalism.
- (C) judicial review.
- (D) judicial independence.
- (E) judicial activism.

**Answer:** C

**Feedback:** *Marbury v. Madison* helped establish the precedent that the federal court’s role is to engage in judicial review by interpreting the constitutionality of laws.

**Chapter:** 2.The Constitution

**Section:** 2-4

**AP Topic:** I.B. Separation of Powers

### **Free Response Questions**

1. In *Federalist* No.51 James Madison wrote: “If men were angels, no government would be necessary.” This view reflected a general cynicism about the nature of human behavior. This skepticism extended to both common citizens and the leadership within the three branches of government.
  - (a) Explain how two of the following demonstrated a general lack of faith in the common citizenry to choose the nation’s leadership.
    - The Electoral College
    - The Election of senators (prior to the 17<sup>th</sup> Amendment)
    - Voting limitations (women and non-property owners)
  - (b) Explain how the 10 amendments that make up the Bill of Rights ratified in 1791 constrain the federal government from infringing upon the rights of state citizens.
  - (c) Choose two of the “checks” below and describe how the Founders intended them specifically to limit another branch of government.
    - Judicial Review (judicial branch)
    - Veto (executive branch)
    - Advice and Consent (legislative branch)

**Scoring Rubric-5 points**

**a) 2 points**

- 1 point for correctly explaining how the Electoral College demonstrated a lack of faith in the common citizenry.
- 1 point for correctly explaining how the election of senators demonstrated a lack of faith in the common citizenry.

**Possible answers may include:**

- The Electoral College can subvert the popular will by selecting a candidate different from a citizen majority.
- The election of senators was to be accomplished through the state legislatures as legislators were seen as more qualified to select a senator than the common citizenry.

**b) 1 point**

- 1 point for correctly explaining how the ten amendments of the Bill of Rights ratified in 1791 constrain federal government infringement on state citizens.

**Possible answers may include:**

- The first eight amendments oblige the federal government to protect specific rights cited in the Declaration of Independence that became known as civil liberties.
- The Ninth Amendment makes clear that the liberties in the first eight amendments are not exhaustive.
- The Tenth Amendment preserves states' rights.

**c) 2 points**

- 1 point for correctly explaining that judicial review allows the courts to limit the power of either the executive or the legislative branches.
- 1 point for correctly explaining that the presidential veto limits legislation of Congress in absence of a veto override.
- 1 point for correctly explaining that the Senate's Advice and Consent function limits the appointment power of the president.

**Possible answers may include:**

- Judicial review allows the courts to limit the power of the executive branch by ruling an action by the president to be unconstitutional.
- A presidential veto may be placed on legislation found to be objectionable by the Chief Executive. Congress can override the veto with a two thirds majority.
- Advice and consent checks the president's authority by limiting presidential appointment choices.

**Question 2**

2. Prior to the ratification of the U.S. Constitution in 1787, the *Federalist Papers* were written partly to debate how strong a new national government should be.

- (a) Explain how each of the following helped support the Federalist argument that a strong national government would have limits.

- separation of powers
- checks and balances

- (b) Explain how the Bill of Rights addresses the Anti-Federalists' concerns about the strength of the national government.
- (c) Identify which kind of government the Founders set up and explain how disputes over national or state government supremacy would be resolved in this type of government.

### Scoring Rubric-5 points

#### (a) 2 points

- 1 point for correctly explaining how separation of power limits the scope of the national government.
- 1 point for correctly explaining how checks and balances further limits the scope of the national government.

#### Possible answers may include:

- The doctrine of Separation of Powers would allow for each branch of the federal government to act independently while exposing it to oversight.
- The doctrine of Checks and Balances would ensure that each branch would oversee the other and prevent overreach.

#### (b) 1 point

- 1 point for correctly explaining how the Bill of Rights addresses Anti-Federalist concerns about the strength of the national government.

#### Possible answers may include:

- The chief concern of the Anti-Federalists, and the reason they opposed the Constitution, was that they feared the Constitution would give the national government too much power.
- The Bill of Rights puts limits on the power of the federal government by listing specific civil liberties that cannot be infringed upon by the federal government, and by preserving states' rights.

#### (c) 2 points

- 1 point for correctly identifying the type of government that the Founders set up.
- 1 point for correctly explaining how disputes over national or state government supremacy would be resolved in this type of government.

#### Possible answers may include:

- The Founders set up a centralized government.
- The Constitution specifies that federal law is supreme to state law whenever they are in conflict.

### Class Discussion Topics

- Using text content as a guide, encourage students to make a case, collectively, for the continuing importance and relevance of the U.S. Constitution. After they have completed this exercise, ask them to identify key strengths and limitations of the Constitution within a twenty-first-century context—for

example, how adequately the Constitution addresses issues such as online privacy. Finally, encourage students to propose amendments, and get them to justify their choices.

- Discuss the question of a second constitutional convention mentioned in the text. Is it needed, and if so, what measures should the delegates consider? How would current emotionally charged issues such as bathroom use affect the discussions?
- Discuss the reasons behind the relatively small number of constitutional amendments passed since the ratification of the Constitution, and ask students to consider and identify what types of contemporary and future issues are likely to prompt amendment proposals in the future. Have students consider if elements of the Constitution as it is are functioning as intended. Stress the intended “messy nature” the Founding Fathers intended for the operation of the national government. Efficiency was not a goal.

## Chapter Activities

**AP Topic Activity:** The principles of checks and balances and separation of powers

**AP Key Topics:** I.B. Separation of Powers; I.C. Checks and Balances

**Time:** 50-60 minutes

**Materials:** Students will need access to the internet via cell phones, laptops or desktops. If class time does not permit, students may complete the research at home.

**Direct Instruction:** Using Figure 2.1 in chapter 2, *Separation of Powers with Checks and Balances*, review the ways each of the three branches is able to place a check on the actions of the other two.

- For homework, tell students that they are going to become investigators. Instruct them to find actual examples of each of the identified checks and separation of powers indicated on the chart. Examples should be from recent history since the AP exam examples usually emphasize the period from the New Deal to the present, largely because the 1930s marked a major change in the size and role of the federal government. Each student only needs one example of each. *TIP: If assigning this in class, pair students so they can accomplish the task in less time.*
- During the next class period, place the students into seven groups. Assign one group the Separation of Powers boxes, while each of the six remaining groups receives one of the arrows. Each group receives either large sheets of paper or 1/4<sup>th</sup> of a poster board. The groups then re-create the boxes or the arrows *along with* specific examples of the appropriate check or power. Inform groups that the segments they create will be placed together to recreate the flow chart with the additional information.
  - *For example: 1) Executive checks on Judiciary--President Obama appointed Sonia Sotomayor May, 2009; 2) Legislative checks on Executive--The Senate confirmed Justice Sotomayor in August, 2019.*
- When students have completed the chart segments, have the class display the segments on a board or wall space with each segment in the correct relative location.
- Encourage artistic students to add visuals to the giant chart.
- Then ask one delegate from each group to explain the way their branch checks the other, paying careful attention to the example.

- Anchor charts can facilitate learning. Therefore, leave the chart posted until the AP exam so that the chart can reinforce the principles and students can refer to the work for the remainder of the course. *TIP: Cover the chart with butcher paper or other covering during tests.*

### **Classroom Activity:** THEN, NOW, NEXT Discussion

Time: 10–15 minutes

Utilize the “Then, Now, Next” questions from the beginning of the chapter as a basis for class discussion.

- **Then**—The Constitution’s framers divided government power between the federal and the state governments, created checks and balances among the three separate branches of the national government to ensure a representative democracy that protected individual liberties.
- **Now**—The courts continue to probe and interpret the Constitution’s meaning, and members of Congress introduce proposed constitutional amendments annually.
- **Next**—
  - *Will Congress heed states’ calls for a constitutional convention?*
  - *Will the Constitution’s third century witness a greater volume of ratified constitutional amendments as the people’s efforts to create “a more perfect union” intensify?*
  - *Will the Supreme Court resolve conflicting interpretations of constitutional amendment processes?*

### **Classroom Activity:** The Rights of Kings

Time: 45–60 minutes

**Class Discussion:** Begin by posing a question to the class: *Why would a nation have a king?*

Record the class’s answers on the board. Responses may include:

- A strong person conquered the country and made himself king
- The law of the country requires a king
- Heredity made a person king
- People believed kings were gods or chosen by gods

**Direct Instruction:** Write down all the class answers and address them in a brief, interactive lecture.

Address the following:

- Kings were established in England initially through conquest.
- Kings were often selected to give stability to a country.
- Kings were believed to be either divinely appointed or having the grace of God on their side.
- Explain that King George III was a product of a conquering family, England’s return to the concept of divine right of rule from a family that had brought prosperity and stability to England, after much division and war in England. King George’s father, George II, had been loved.
- One of the ways in which stability was brought to England was by creating a parliament and giving “rights to Englishmen” to participate in governance. These officials were elected and shared power with King George III. Certain rights were assured to the officials and the English citizenry.

**Small Groups:** Divide the class into teams of three. Separate the groups, give each group a flip chart with post-it style paper, and have each group address the following questions by writing their answers as a team on the flip chart. Give students 10 minutes to create their charts, and take another 10 minutes total to

have a spokesman from each group present their conclusions. Post flip-chart papers from each group with their results on a classroom wall.

- Team One: *What should King George III expect from his citizens?*
- Team Two: *What should King George's citizens expect from him?*
- Team Three: *Though England had a king, it also had a parliament of elected officials who managed the government and advised the king. What rights would you expect parliament to have?*

### **Classroom Activity:** *The Federalist Papers*

Time: 50 minutes

Reading *the Federalist Papers* is difficult for many students. In *Federalist* No. 51, Madison discusses checks and balances and separation of powers. These topics are perfect to include in Chapter 2 since it discusses the Constitution. This particular essay, *Federalist* No. 51, is often referred to on the AP exam. This activity seeks to break down Madison's arguments into its component parts so that students can easily understand the points made. You can repeat this assignment for other *Federalist Papers*. It is a good idea to expose students to No. 51, No. 10, No. 46, No. 47, No. 48, and No. 78. These are the ones most often seen on the AP exam.

**Materials Needed:** An original or plain text version of *Federalist* No. 51. You can find this in the appendix of the Harrison text.

#### **Lesson Plan:**

1. Number the paragraphs in the document. Assign two to three students to read every two to three paragraphs (the last paragraph should be assigned as the only paragraph for a group of students because of length). Direct students to read individually and to annotate the text as they read, identifying not only Madison's key arguments but also any areas they find confusing or about which they have questions. After reading, have each group share their questions. Discuss the questions, clarifying any areas of confusion. Then have the group share their key findings while one student writes each argument and paragraph number on the board. Direct remaining students to take notes. Finally, have students discuss the validity of Madison's arguments as well. This discussion component will aid auditory learners.
2. Tell students that their assignment is to make a "*Federalist No. 51 for Dummies*." Fold four sheets of 8 ½ × 11" paper in half and staple down the fold. Have students make an illustrated cover page with their name and a title. For each paragraph in *Federalist* No. 51, students are to write a simple sentence explaining Madison's argument and draw an illustration representing the concept. This task will aid visual as well as kinesthetic learners.

### **AP Key Figure Classroom Activity:** Table 2.1, *The Eleventh through Twenty-Seventh Amendments to the Federal Constitution*

Time: 35-40 minutes (15-20 min. to create category lists; 20 min. to share)

Materials: 1 sheet of large Post-it or chart paper per group, one or two markers, copies of the Constitution either online or in the textbook

- a. Have students read through Table 2.1 in Harrison, *The Eleventh through Twenty-Seventh Amendments to the Federal Constitution*, before class.
- b. Divide the class into groups of three to four students.
- c. Make certain each group has the chart paper, markers and access to the Constitution.
- d. Direct students to decide within their assigned group which amendments made the country **more democratic** and which made it **more inclusive**. *TIP: These are the topics that have appeared on AP exams in both the multiple choice and FRQ sections.*
- e. Tell students they will not use all 17 amendments listed. The group may be creative in how they show their choices, such as in a geometric figure or illustration and they need to include the labels. *TIP: A group might have the idea of placing the more inclusive amendments on an open gate while the more democratic category is on a crumbling wall.*
- f. Instruct the groups to discuss how and why the amendments they identified help achieve these goals of being either more democratic or more inclusive.
- g. Have each group choose a spokesperson to post work on a wall and then briefly explain the group's ideas (no more than 2 minutes each).

### Video Discussion Classroom Activity

#### Video: *TED Talk: Why is the U.S. Constitution so Hard to Amend (4:17)*

Educator Peter Paccone explains briefly in a TED talk why the U.S. Constitution is so hard to amend. He identifies why the creators made it so difficult and then walks the viewer through the amendment process. Finally, he compares the document to other countries' constitutions and also identifies how the Constitution is informally changed by the Supreme Court. As students watch the clip, have them make notes for the questions below. After watching the clip, have students work with a partner to finish their responses as they discuss the content. NOTE: Search for this TED Talk by its title. *TIP: At the end of the video, the clip has four multiple choice and three short answer questions.*

1. Identify the two ways a constitutional amendment can be proposed and the two ways it can be ratified.

**Answer:** Both houses of Congress may propose an amendment two-thirds by a vote of each chamber; or the amendment may be proposed by two-thirds vote of the state legislatures calling for a national convention. It can be ratified by three fourths of all the states either by a three fourths vote of the state legislatures or through the state-ratifying conventions with delegates elected by voters.

2. Why has ratifying amendments become harder since 1789?

**Answer:** As the United States added states beyond the original 13, the number of states required to vote *yes* has increased, which makes agreement much less likely. The nation is also more diverse which makes consensus more difficult to reach.

3. According to the narrator, how has the Supreme Court been able to make the Constitution more flexible? Why is this ability an informal change?

**Answer:** The Supreme Court has expanded its interpretation of the existing constitutional laws to meet current situations.



4. The narrator claims that the Supreme Court ability to change the Constitution is less democratic. Discuss with you partner why this is a problem.

**Answer:** Student answers will vary; but, they should reflect an understanding that any time a select few, as in the Court, modify how the Constitution is viewed, democracy is limited. The students might recognize that it is impossible to be aware of all the changes that could be necessary in the future, and the Court is an arbiter. The student might recognize that since the justices are appointed they do not always reflect the wishes of the voters.

### **Extension Activity #1: Propose an Amendment**

Article V of the Constitution describes the formal amendment process. In this activity, ask students to carefully examine the Constitution and all 27 amendments. Copies of the Constitution are provided in the text or can be found on the Internet.

After reviewing the document, ask students to propose an amendment to the Constitution. Students should reference the specific numbered amendment or Article and section number they are amending and explain what they are proposing and why it is needed. This could be accomplished using a five-paragraph essay format or short-answer form, depending on how much research you want to require of the students.

The next day, you may want to ask students to present their proposals and have the class vote on the best one.

### **Extension Activity #2: Video--Key Constitutional Concepts**

Additional video that supports chapter concepts is found at the Annenberg Learner.com site. <http://www.annenbergclassroom.org/page/key-constitutional-concepts> (0:00-22:52)

The Annenberg Classroom site has an hour long video that has three 20 minute segments related to the Constitution. The first segment is specifically on the Constitutional Convention. The materials at the site have preview questions and post-viewing questions along with an extension activity. NOTE: Students could access this material at home, an approach that would fit a flipped classroom well. Have students view the segments at home and bring responses to class for an extended discussion. *TIP: The section's titles include "Creating a Constitution", "One Man Changes the Constitution: The Right to Counsel", and "Checks and Balances: Presidential Power." Each segment has a pdf lesson guide teachers may wish to preview.*

### **Extension Activity #3: AP Key Figure 2.1, Separation of Powers with Checks and Balances: Checks and Balances Sort**

Materials: Figure 2.1 in Harrison, *Separation of Powers with Checks and Balances*; 3x5 index cards or card stock sheets

#### **Directions for teacher:**

- On either index cards or card stock sheets that are 3' x 5' in size, write the individual check that each branch has on the other branches--one specific check per card. This creates a set of cards

that indicates how one branch checks and balances the power of another. For instance, on one card write just “Approves of federal judges.” You will use these cards throughout this activity.

- For each student, create a set of four cards that has each of the four bodies of government listed on a separate card—i.e., House of Representatives, Senate, President, and Supreme Court. *TIP: You may wish to have the students create the cards outside of class time so that being prepared is the student’s responsibility.*
- Use this activity for practice or as a check for understanding.
- Either have students open the textbook to Figure 2.1, Separation of Powers with Checks and Balances or require that students be familiar with the elements.
- Make sure each student has the four labeled institutions on their desks face up.
- From the batch of “Checks” cards, randomly pull a check and hold it up to the class. Have students retrieve from their desks the card for the institution *doing the check* in their left hand and the institution *being checked* in their right hand. Quickly indicate correct or not. Allow students to change their card. *TIP: This may be done by students in smaller groups with one student taking the role of facilitator (teacher). This could be a challenge to see which student gets the most right or could accumulate points for an incentive.*

*TIP: This activity can be used multiple times for review.*

#### **Extension Activity #4:** AP Key Figure 2.2, *Amending the Constitution*

Materials: Harrison text, Figure 2.2, *Amending the Constitution*

*TIP: The amendment process has appeared on the AP Exam in both multiple choice questions and FRQs; so understanding both the process and the reasons behind the complexity and difficulty in carrying out a change is essential.*

Ask students these questions:

1. Why would the Founders have required a supermajority to propose amendments to the Constitution?

**Possible Answer:** The Founders sought to have a number that would represent a change backed by an overwhelming number of Americans because they believed that people had to see a real necessity for the change.

2. Why would the Founders have wanted an even larger majority to ratify and change proposed amendments?

**Possible Answer:** While a number larger than a majority is required just to propose an amendment, the Founders deemed it necessary to have significantly greater agreement to actually make the change because they understood that a change was a drastic measure and it therefore needed to have additional support for the proposed change. *TIP: Point out to students that the ERA (Equal Rights Amendment), which was passed by Congress in 1972, came very close to ratification. With 35 states in agreement, it fell short of the requisite 38 states for ratification after Phyllis Schlafly and her supporters led a successful right-wing campaign to stop its passage.*

## Free Response Question (FRQ)

Time: 25 minutes

Give students practice with an AP-style free response question. Use this as a quiz or create a rubric and have students score each other's responses in class after you have instructed students on how to use the rubric. Peer scoring is a great way to teach essay writing skills.

1. James Madison argued in Federalist No. 51 for a government where “ambition must check ambition.”
  - (a) Name three ways the Constitution creates a check of ambition within the branches of government.
  - (b) Identify how the average citizen can ultimately “check” the final selection of the President.
  - (c) Explain two (2) ways in which liberty would be preserved in this system.

### 6 Point Rubric

Possible responses would include:

- (a) By making Congress bicameral, with the two houses having two different means of election, providing the executive with veto power
- (b) By voting in presidential elections
- (c) Response would include two of the following: Having checks and balances within the two houses of the legislature; having a division of powers between the central and state governments; having a plurality of interests or “factions” in society; and having separate branches of government

## Additional Resources

<http://www.annenbergclassroom.org/page/key-constitutional-concepts>

The Leonore Annenberg Institute for Civics sponsors Annenberg Classroom which includes 20 minute documentary discussions on the Constitution and lesson guides (pdf format) from the National Constitution Center and other institutions. The one of checks and balances examines the *Youngstown Sheet and Tube Co v. Sawyer* case from the Korean War era.

[http://www.archives.gov/exhibits/charters/constitution\\_transcript.html](http://www.archives.gov/exhibits/charters/constitution_transcript.html) - At this U.S. government site, “The Charters of Freedom” provides students and instructors with high-resolution copies of major documents from the Revolution through the late 1800s. The location have links to the biographies of the signers of the major documents.

[Constitution Facts \(www.ConstitutionFacts.com\)](http://www.ConstitutionFacts.com) – This website includes information about the U.S. Constitution, as well as the constitutions of states and other nations.

<https://www.congress.gov/resources/display/content/The+Federalist+Papers>

This website is one of many which provide access to all of the Federalist Papers. This one lists number, titles and author for quick access, and is an official government resource site.

[FindLaw \(www.findLaw.com\)](http://www.findLaw.com) – This site offers links to news regarding current cases before the U.S. Supreme Court, as well as access to decisions of all federal and state appellate courts.

[Library of Congress American Memory Project](http://memory.loc.gov/ammem/browse/updatedList.html)

(<https://memory.loc.gov/ammem/browse/updatedList.html>) – The Library of Congress Memory Project includes a wealth of information about the early American republic, including primary documents.

[U.S. Constitution \(www.usconstitution.net\)](http://www.usconstitution.net) – This interesting site helps to place the U.S. Constitution in a contemporary context. Its current events section discusses how the pending issues are affected by constitutional principles.