

2

The Constitution

DETAINEES, CHECKED AND BALANCED



Senator John McCain (R–AZ)—who had spent five years as a prisoner of war in Vietnam—offered an amendment to the 2005 Defense Department Authorization bill banning cruel, inhuman, and degrading treatment of detainees. President Bush threatened to veto the bill if it contained the McCain “anti-torture” amendment, but the Senate and House voted overwhelmingly for it. In supporting the amendment, senators and representatives from both parties cited their concerns about prevailing policies, noting the free-fall in America’s international reputation after revelations about harsh treatment of detainees at U.S. prisons at Guantanamo Bay (Cuba) and Abu Ghraib (Iraq) and their sense that many of our detainee policies were at odds with basic American values. Seeing the handwriting on the wall, the president signed the bill with the anti-torture amendment.¹

End of the matter? According to most textbook expositions, a bill becomes law once it is passed by both houses of Congress and signed by the president.² All citizens and government officials are then obligated to abide by the law. Of course, in real life, the president and executive branch officials sometimes carry out the provisions of a law with less enthusiasm than Congress might like. In this case, President George W. Bush went much further, essentially nullifying his bill-signing by issuing a signing statement stating that “the executive branch shall construe [the law] in a manner consistent with the constitutional authority of the President . . . as Commander-in-Chief . . . [this] will assist in achieving the shared objective of the Congress and the President . . . of protecting the American people from further terrorist attacks.”³ The president was announcing that he would not feel obliged to follow the provisions of the new law when he and he alone, acting in his constitutional capacity as commander in chief, deemed it necessary for the protection of the American people.⁴

2.1

Assess the enduring legacies of the American Revolution and the Declaration of Independence, p. 28

2.2

Describe the governmental system established by our first constitution, p. 31

2.3

Analyze the developments that led to the Constitutional Convention, p. 32

2.4

Evaluate the framework for government that emerged from the Constitutional Convention, p. 36

2.5

Explain the difficulties of ratifying the Constitution, p. 49

2.6

Identify three processes by which the Constitution changes, p. 51



HARSH CONFINEMENT President George W. Bush was heavily criticized about the use of harsh interrogation techniques at Guantanamo Bay and other prison facilities housing terrorism suspects. While he signed a bill from Congress banning such techniques, he also issued a signing statement saying he would ignore the new law when it endangered national security. Here heavily guarded prisoners are escorted to their cells.

 **Watch** on MyPoliSciLab



The Big Picture Learn why rules in the NBA are similar to the rules in American politics. Author Edward S. Greenberg discusses how the Constitution was shaped by the biases of the people who wrote it, and he explains why changing its laws result in a changed nation.



The Basics Since the Bill of Rights, the Constitution has only been amended 17 times. Learn about the Constitution's original purpose and what circumstances will be required if ever it should be amended for an 18th time.



In Context Who were the founding fathers? What challenges did they face when ratifying the Constitution? By getting inside the founders' heads, Costas Panagopoulos explains how we can continue to keep the spirit of the Constitution alive today.



Think Like a Political Scientist Understand how the Constitution affects the behavior of the institutions of government—including the president. Costas Panagopoulos lays out what topics fascinate constitutional scholars the most today and demonstrates why the Constitution encourages the different branches to act strategically.



In the Real World How well does the system of checks-and-balances really work? Decide whether each branch effectively checks the others—particularly, whether Congress should have the power to oversee the bureaucracy—by examining the failed “Fast and Furious” case and how it was resolved.



So What? How hard is it to change the Constitution? While some features of the modern political process—such as political parties and lobbyists—developed without being mentioned in the Constitution, author Edward S. Greenberg explains how the constitution is structured to favor the status quo.



President George W. Bush was not the first president to issue signing statements setting out his thinking on the meaning of new statutes. But most presidents before him, starting with James Monroe, used the device sparingly and rarely used it to contravene the intent of Congress. President Bush, on the other hand, issued more than 1,200 of them during his eight years in office—far more than all presidents had issued collectively during the entire course of American history. A fair proportion of them fell into the category of “will not” or “cannot” carry out the law because of intrusions on the president’s constitutional prerogatives and powers as commander in chief or as head of the executive branch.

During the 2008 election campaign, Barack Obama promised to end this practice if elected. On March 9, 2009, he issued an executive order that all executive branch officials must consult with the attorney general before following any of the signing statements issued by President Bush, suggesting that most of them would no longer be operative. Interestingly, however, President Obama also said that signing statements were legitimate if used properly and that he reserved the right to issue them when he deemed it to be appropriate, though he promised he would act with “caution and restraint.”⁵ He mostly was true to his word, issuing only 18 through the end of 2011, and only a few said or implied that he “would not” or “could not” carry out the law as Congress intended. One of these, in which he rejected a proviso in a statute limiting the president’s ability to hire advisors, he deemed contrary to his constitutional powers, brought abundant criticism, but he was undeterred.⁶ Apparently, President Obama was unwilling to reject entirely an important tool of presidential power that had evolved over the years.

In the Constitution, the framers designed a framework for a government of separated powers and checks and balances. By that we mean that the framers divided executive, legislative, and judicial powers and placed them into separate branches of the national government. While the framers situated a set of unique powers within each, they also gave each branch an important role in the affairs of the other branches in a bid at preventing any one of them from becoming too powerful. Giving legislative power to Congress but giving the president a central role in the legislative process, including the president’s role in signing bills into law and having the ability to veto congressional enactments, is an example of this constitutional design. As you might suspect, a system of separation of powers and checks and balances is rife with potential conflict between the branches. It has been so since the beginning of the Republic. It is exactly the sort of thing the framers had in mind. This chapter is about the constitutional design of the American government, why the framers fashioned the sort of constitution they did, how the Constitution shapes political life and government actions in the United States, and how the meaning of the Constitution has changed over the years.

Thinking Critically About This Chapter

This chapter is about the founding of the United States (see Figure 2.1) and the formulation of the constitutional rules that structure American politics to this day.

Using the **Framework**

You will see in this chapter how structural factors such as the American political culture, economic developments, and the composition of the Constitutional Convention shaped the substance of our Constitution. You will also see how the Constitution itself is an important structural factor that helps us understand how American government and politics work today.

Using the **Democracy Standard**

Using the conception of democracy you learned about in Chapter 1, you will be able to see how and why the framers were uneasy about democracy and created a republican form of government that, although based on popular consent, placed a number of roadblocks in the path of popular rule.

The American Revolution and the Declaration of Independence

2.1 Assess the enduring legacies of the American Revolution and the Declaration of Independence

Initially, the American Revolution (1775–1783) was waged more to preserve an existing way of life than to create something new. By and large, American colonists in the 1760s and 1770s were proud to be affiliated with Great Britain and satisfied with the general prosperity that came with participation in the British commercial empire.⁷ When the revolution broke out, the colonists at first wanted only to preserve their traditional rights as British subjects. These traditional rights of life, liberty, and property seemed to be threatened by British policies on trade and taxation. Rather than allowing the American colonists to trade freely with whomever they pleased and to produce whatever goods they wanted, for instance, England was restricting the colonists' freedom to do either in order to protect its own manufacturers. To pay for the military protection of the colonies against raids by Native Americans and their French allies, England imposed taxes on a number of items, including sugar, tea, and stamps (required for legal documents, pamphlets, and newspapers). The imposition of these taxes without the consent of the colonists seemed an act of tyranny to many English subjects in America.

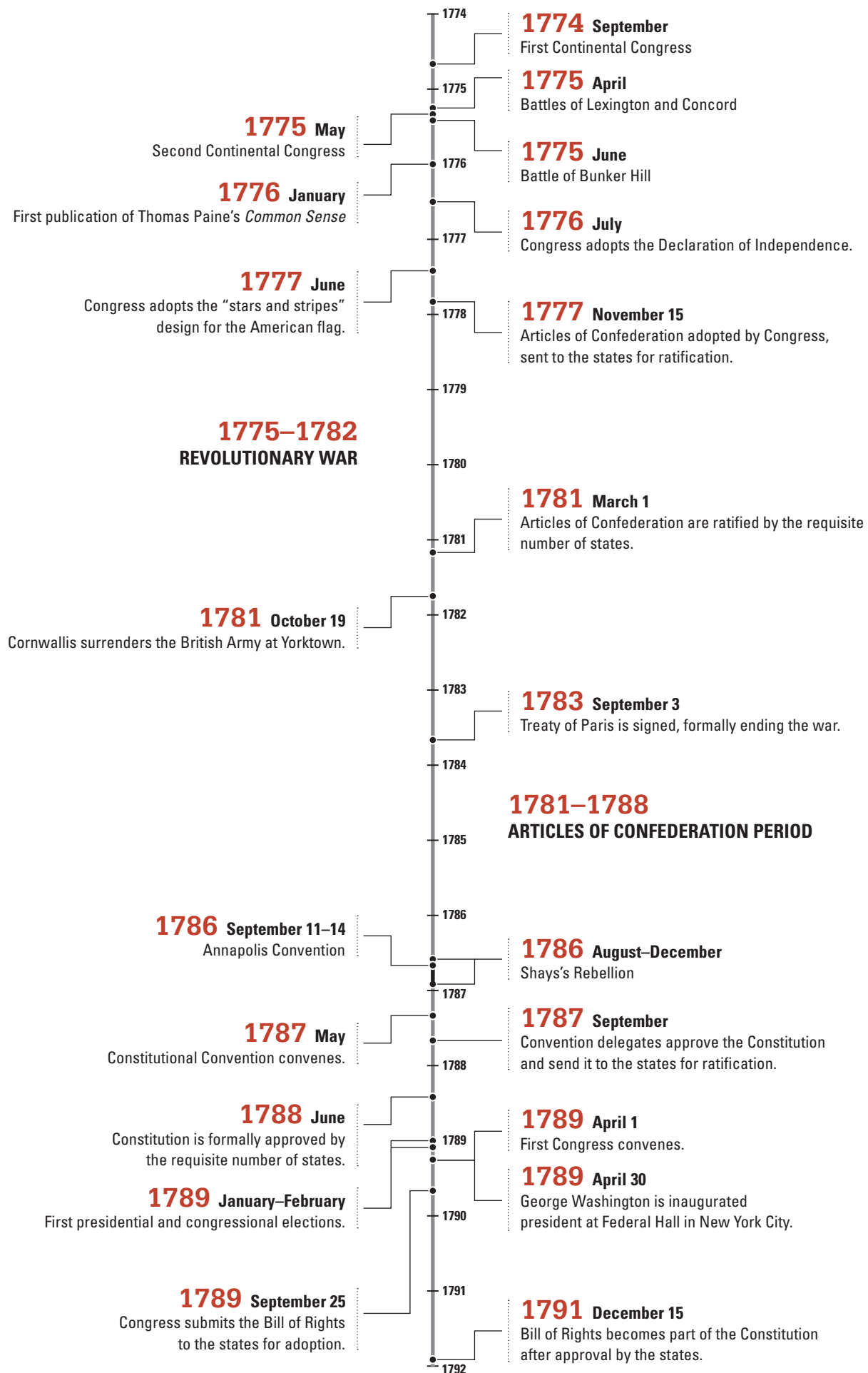
Although the initial aims of the Revolution were quite modest, the American Revolution, like most revolutions, did not stay on the track planned by its leaders. Although it was sparked by a concern for liberty—understood as the preservation of traditional rights against the intrusions of a distant government—it also stimulated the development of sentiments for popular sovereignty and political equality. As these sentiments grew, so did the likelihood that the American colonies would split from their British parent and form a system of government more to the liking of the colonists.

When the Second Continental Congress began its session on May 10, 1775—the First had met only briefly in 1774 to formulate a list of grievances to submit to the British Parliament—the delegates did not have independence in mind, even though armed conflict with Britain had already begun with the battles of Lexington and Concord. Pushed by the logic of armed conflict, an unyielding British government, and Thomas Paine's incendiary call for American independence in his wildly popular pamphlet *Common Sense*, however, the delegates concluded by the spring of 1776 that separation and independence were inescapable.⁸ In early June, the Continental Congress appointed a special committee, composed of Thomas Jefferson, John Adams, and Benjamin Franklin, to draft a declaration of independence. The document, mostly Jefferson's handiwork, was adopted unanimously by the Second Continental Congress on July 4, 1776.

□ Key Ideas in the Declaration of Independence

The ideas in the Declaration of Independence are so familiar that we may easily miss their revolutionary importance. In the late eighteenth century, most societies in the world were ruled by kings with authority purportedly derived from God, subject to little or no control by their subjects. Closely following John Locke's ideas in *The Second Treatise on Government*, Jefferson's argument that legitimate government can be established only by the people, is created to protect inalienable rights, and can govern only with their consent, seemed outrageous at the time. However, these ideas sparked a responsive chord in people everywhere when they were first presented, and they remain extremely popular all over the world today. The argument as presented in the Declaration of Independence goes as follows:

- Human beings possess rights that cannot be legitimately given away or taken from them. “We hold these truths to be self-evident, that all men are created equal, that



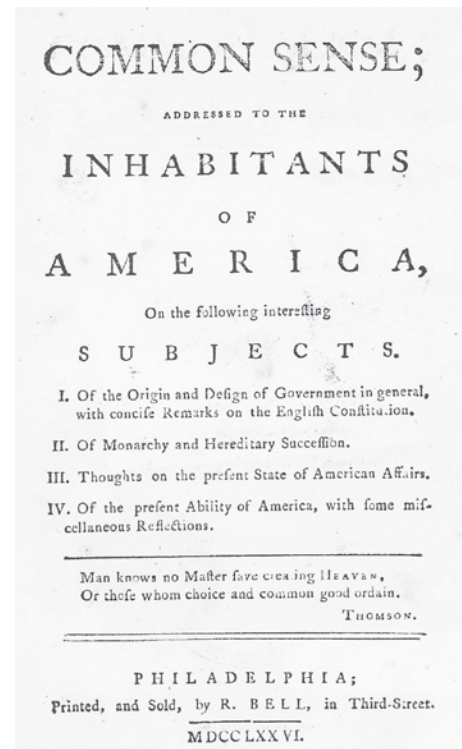
2.1
2.2
2.3
2.4
2.5
2.6

FIGURE 2.1 TIMELINE OF THE FOUNDING OF THE UNITED STATES, 1774-1791

2.1
2.2
2.3
2.4
2.5
2.6

social contract

A philosophical device, used by Enlightenment thinkers such as Locke, Rousseau, and Harrington, to suggest that governments are only legitimate if they are created by a voluntary compact among the people.



CLARION CALL FOR INDEPENDENCE

American leaders were reluctant at first to declare independence from Great Britain. One of the things that helped change their minds was Thomas Paine’s wildly popular—and incendiary pamphlet *Common Sense*, which mercilessly mocked the institution of monarchy and helped undermine the legitimacy of British rule. What are some modern-day examples of Paine’s pamphlet? Are influential bloggers or tweeters good examples?

they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness.”

- People create government to protect these rights. *“That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.”*
- If government fails to protect people’s rights or itself becomes a threat to them, people can withdraw their consent from that government and form a new one, that is, void the existing **social contract** and agree to a new one. *“That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.”*

□ Important Omissions in the Declaration

The Declaration of Independence carefully avoided several controversial subjects, including what to do about slavery. Jefferson’s initial draft denounced the Crown for violating human rights by “captivating and carrying Africans into slavery,” but this was considered too controversial and was dropped from subsequent versions. The contradiction between the institution of slavery and the Declaration’s sweeping claims for self-government, “unalienable” individual rights, and equality (“all men are created equal”) was obvious to many observers at the time and is glaringly apparent to us today. The Declaration was also silent about the political status of women and the inalienable rights of Native Americans (referred to in the Declaration as “merciless Indian savages”) and African Americans, even those who were not slaves. Indeed, it

is safe to assume that neither Jefferson, the main author of the Declaration, nor the other signers of the document had women, Native Americans, free blacks, or slaves in mind when they were fomenting revolution and calling for a different kind of political society. Interestingly, free blacks and women would go on to play important roles in waging the Revolutionary War against Britain.⁹

The Articles of Confederation: The First Constitution

2.2 Describe the governmental system established by our first constitution

The leaders of the American Revolution almost certainly did not envision the creation of a single, unified nation. At most, they had in mind a loose **confederation** among the states. This should not be surprising. Most Americans in the late eighteenth century believed that a government based on popular consent and committed to the protection of individual rights was possible only in small, homogeneous republics, where government was close to the people and where fundamental conflicts of interest among the people did not exist. Given the great geographic expanse of the colonies, as well as their varied ways of life and economic interests, the formation of a single unified republic seemed unworkable.

▣ Provisions of the Articles

Our first written **constitution**—a document specifying the basic organization, powers, and limits of government—passed by the Second Continental Congress in the midst of the Revolutionary War in 1777 (although it was not ratified by the requisite number of states until 1781), created a nation that was hardly a nation at all. The **Articles of Confederation** created in law what had existed in practice from the time of the Declaration of Independence: a loose confederation of independent states with little power in the central government, much like the United Nations today. Under the Articles, most important decisions were made in state legislatures.

The Articles provided for a central government of sorts, but it had few responsibilities and virtually no power. It could make war or peace, but it had no power to levy taxes (even customs duties) to pursue either goal. It could not regulate commerce among the states, nor could it deny the states the right to collect customs duties. It had no independent chief executive to ensure that the laws passed by Congress would be enforced, nor had it a national court system to settle disputes between the states. There were no means to provide a sound national money system. The rule requiring that all national laws be approved by 9 of the 13 states, with each state having one vote in Congress, made lawmaking almost impossible. And, defects in the new constitution were difficult to remedy because amending the Articles required the unanimous approval of the states.

▣ Shortcomings of the Articles

The Articles of Confederation did what most of its authors intended: to preserve the power, independence, and sovereignty of the states and ensure that the central government would not encroach on the liberty of the people. Unfortunately, there were also many problems that the confederation was ill-equipped to handle.

Most important, the new central government could not finance its activities. The government was forced to rely on each state's willingness to pay its annual tax assessment. Few states were eager to cooperate. As a result, the bonds and notes of the confederate government became almost worthless, dramatically undermining the creditworthiness of the new country.

confederation

A loose association of states or territorial units without any or much power in a central authority.

constitution

The basic framework of law for a nation that prescribes how government is to be organized, how decisions are to be made, and what powers and responsibilities government shall have.

Articles of Confederation

The first constitution of the United States, adopted during the last stages of the Revolutionary War, created a system of government with most power lodged in the states and little in the central government.

2.1

2.2

2.3

2.4

2.5

2.6



CLASHES ON THE FRONTIER

As settlers moved west, they inevitably came into conflict with Native Americans already living there. Many of the settlers were angry and distressed when the national government under the Articles of Confederation proved unable to protect them against the people being displaced. This painting shows a battle waged between settlers and Native Americans on the Kentucky frontier in 1785. What weakness of the Articles led to such problems?

The central government was also unable to defend American interests in foreign affairs. Without a chief executive or a standing army, and with the states holding a veto power over actions of the central government, the confederation lacked the capacity to reach binding agreements with other nations or to deal with a wide range of foreign policy problems. These included the continuing presence of British troops in western lands ceded to the new nation by Britain at the end of the Revolutionary War, violent clashes with Native Americans on the western frontier, and piracy on the high seas.

The government was also unable to prevent the outbreak of commercial warfare between the states. As virtually independent nations with the power to levy customs duties, many states became intense commercial rivals of their neighbors and sought to gain every possible advantage against the products of other states. New York and New Jersey, for instance, imposed high tariffs on goods that crossed their borders from other states. This situation was an obstacle to the expansion of commercial activities and economic growth.

Factors Leading to the Constitutional Convention

2.3 Analyze the developments that led to the Constitutional Convention

Historians now generally agree that the failings of the Articles of Confederation led most of the leading citizens of the confederation to believe that a new constitution was desperately needed for the fledgling nation. What is left out of many accounts of the convening of the Constitutional Convention in Philadelphia, however, is the story of the growing concern among many of the most influential men in the confederation that the passions for democracy and equality among the common people set loose by the American Revolution were getting out of hand. During the American Revolution, appeals to the people for the defense of freedom and for the spread of the blessings of liberty were often translated by the people to mean their right to better access to the means of government and to the means of livelihood.¹⁰ The common people were convinced that success would bring substantial improvements in their lives.¹¹

□ The Eighteenth-Century Republican Beliefs of the Founders

This fever for popular participation and greater equality is not what most of the leaders of the American Revolution had in mind.¹² The Founders were believers in a theory of government known as **republicanism** (please note that we are not referring here to the Republican Party or its members and supporters).¹³ Like all republicans of the eighteenth century, the framers were seeking a form of government that would not only be based on the consent of the governed but would prevent **tyranny**, whether tyranny came from the misrule of a single person (a king or military dictator, let us say), a small group of elites (an aristocracy, a clerical theocracy, or moneyed merchant class), or even the majority of the population. The solution to the problem of tyranny for eighteenth-century republican thinkers was threefold: to elect government leaders, limit the power of government, and place roadblocks in the path of the majority. The election of representatives to lead the government, in their view, would keep potentially tyrannical kings and aristocratic factions from power while ensuring popular consent. Limiting the power of government, both by stating what government could and could not do in a written constitution and by fragmenting governmental power, would prevent tyranny no matter who eventually won control, including the majority of the people. The influence of the majority could be limited by making only a portion of government subject to election by the people.

Although eighteenth-century republicans believed in representative government—a government whose political leaders are elected by the people—they were not sympathetic to what we might today call popular democracy. For the most part, they thought that public affairs ought to be left to men from the “better” parts of society. The conduct of the public business was, in their view, the province of individuals with wisdom and experience, capacities associated mainly with people of social standing, substantial financial resources, and high levels of education. They expected that voters would be interested in having such people in office and would cast their ballots consistent with this view. Eighteenth-century republicans believed that once in office, elected representatives should not be overly responsive to public opinion; representatives were to exercise independent judgment about how best to serve the public interest, taking into account the needs and interests of society rather than the moods and opinions of the people. They believed that such a deliberative approach would not only protect liberty but result in better government decisions and policies.¹⁴

□ Why the Founders Were Worried

Eighteenth-century republicans, then, did not believe that the people could or should rule directly. While they favored a system that allowed the common people to play a larger role in public life than existed in other political systems of the day, the role of the people was to be a far more limited one than we find acceptable today. They worried that too much participation by the people could only have a bad outcome. As James Madison put it in *The Federalist Papers*, “[Democracies] have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths.”¹⁵ (See Table 2.1 on the differences between democracy and eighteenth-century republicanism.)

AN EXCESS OF DEMOCRACY IN THE STATES Worries that untamed democracy was on the rise were not unfounded.¹⁶ In the mid-1780s, popular assemblies (called conventions) were created in several states to keep tabs on state legislatures and to issue instructions to legislatures concerning what bills to pass. Both conventions and instructions struck directly at the heart of the republican conception of the legislature as a deliberative body made up of representatives shielded from popular opinion.¹⁷

republicanism

A political doctrine advocating limited government based on popular consent, protected against majority tyranny.

tyranny

The abuse of the inalienable rights of citizens by government.

2.1

2.2

2.3

2.4

2.5

2.6

2.1
2.2
2.3
2.4
2.5
2.6

unicameral

A legislative body with a single chamber.

stay acts

Laws forbidding farm foreclosures for nonpayment of debts.

TABLE 2.1 COMPARING EIGHTEENTH-CENTURY REPUBLICANISM AND THE DEMOCRATIC IDEAL

18th-Century Republicanism	The Democratic Ideal
Government is based on popular consent.	Government is based on popular consent.
Rule by the people is indirect, through multiple layers of representatives.	Rule by the people may be direct or indirect through representatives.
The term <i>people</i> is narrowly defined (by education, property holding, and social standing).	The term <i>people</i> is broadly defined.
Office holding is confined to a narrow and privileged stratum of the population.	Broad eligibility for office holding.
Elected representatives act as “trustees” (act on their own to discover the public good).	Elected representatives act as “delegates” (act as instructed by the people; accurately reflect their wishes).
Barriers to majority rule exist.	Majority rule prevails.
Government is strictly limited in what it can do.	Government does what a majority of the people want it to do.
Government safeguards rights and liberties, with a special emphasis on property rights.	Government safeguards rights and liberties, with no special emphasis on property rights.

The constitution of the state of Pennsylvania was also an affront to republican principles. Benjamin Rush, a signatory to the Declaration of Independence, described it as “too much upon the democratic order.”¹⁸ This constitution replaced the property qualification to vote with a very small tax (thus allowing many more people to vote), created a **unicameral** (single-house) legislative body whose members were to be elected in annual elections, mandated that legislative deliberations be open to the public, and required that proposed legislation be widely publicized and voted on only after a general election had been held (making the canvassing of public opinion easier).

To many advocates of popular democracy, including Tom Paine, the Pennsylvania constitution was the most perfect instrument of popular sovereignty. To others, like James Madison, the Pennsylvania case was a perfect example of popular tyranny exercised through the legislative branch of government.¹⁹

THE THREAT TO PROPERTY RIGHTS IN THE STATES One of the freedoms that eighteenth-century republicans wanted to protect against the intrusions of a tyrannical government was the right of the people to acquire and enjoy private property. Developments toward the end of the 1770s and the beginning of the 1780s seemed to put this freedom in jeopardy. For one thing, the popular culture was growing increasingly hostile to privilege of any kind, whether of social standing, education, or wealth. Writers derided aristocratic airs; expressed their preference for unlettered, plain-speaking leaders; and pointed out how wealth undermined equal rights.²⁰ Legislatures were increasingly inclined, moreover, to pass laws protecting debtors. For example, Rhode Island and North Carolina issued cheap paper money, which note holders were forced to accept in payment of debts. Other states passed **stay acts**, which forbade farm foreclosures for nonpayment of debts. Popular opinion, while strongly in favor of property rights (after all, most of the debtors in question were owners of small farms), also sympathized with farmers, who were hard-pressed to pay their debts with increasingly tight money, and believed—with some reason—that many creditors had accumulated notes speculatively or unfairly and were not entitled to full repayment.

What pushed American notables over the edge was the threat of insurrection represented by what came to be called Shays’s Rebellion. Named after its leader Daniel Shays, the rebellion occurred in western Massachusetts in 1786 when armed men took over court houses in order to prevent judges from ordering the seizure of farms for nonpayment of state taxes and the incarceration of their owners in debtors prison. The crisis in western Massachusetts was the result of a near “perfect storm” of developments: plummeting prices for crops, a dramatic increase in state taxes to pay off



SHAYS'S REBELLION

Shays's Rebellion aimed at easing financial pressures on debt-ridden small farmers by closing state courts to prevent foreclosure hearings from taking place. Here, Daniel Shays encourages his fellow citizens to close the courts. Why did the rebellion push American leaders to propose a constitutional convention? Are big changes in forms of government always triggered by some form of social protest?

Revolutionary War debts, and Governor James Bowdoin's insistence that note-holders be paid in full by the state (mostly financial speculators who had bought up the state debt for pennies on the dollar). Unlike most other states in similar circumstances, Massachusetts did not take action to help its debt-ridden farmers. While other states, for example, passed legislation postponing tax and mortgage payments, it instead raised taxes and insisted upon full and timely payment with forfeiture of farms and jail the penalties for noncompliance. Although the state succeeded in putting down the rebellion and reopening the courts, it required the dispatch of the state militia, two pitched battles, and arrests of most of the leaders of the insurrection.

Most of the new nation's leading citizens were alarmed by the apparent inability of state governments to maintain public order under the Articles of Confederation.²¹ Shays's Rebellion realized the worst fears of national leaders about the dangers of ineffective state governments and popular democracy spinning out of control, unchecked by a strong national government. As George Washington said, "If government cannot check these disorders, what security has a man?"²² It was in this climate of crisis in 1786 that 12 delegates from five states meeting in Annapolis issued a call to the other states and Congress to convene a constitutional convention of all the states to correct the flaws in our first constitution. Rather than amend the Articles of Confederation, however, the delegates who gathered at the subsequent convention in Philadelphia in the summer of 1787 did a very surprising thing; they wrote an entirely new constitution.



The Constitutional Convention

2.4 Evaluate the framework for government that emerged from the Constitutional Convention

Most of America's economic, social, and political leaders were convinced by 1787 that the new nation and the experiment in self-government were in great peril. These concerns helped convince leaders in the states to select 73 delegates to attend the Constitutional Convention in Philadelphia (only 55 actually showed up for its deliberations). The goal was to create a new government capable of providing both energy and stability.

The convention officially convened in Philadelphia on May 25, 1787, with George Washington presiding. It met in secret for a period of almost four months. By the end of their deliberations, the delegates had hammered out a constitutional framework that has served as one of the structural foundations of American government and politics to the present day.

Who Were the Framers?

The delegates were not common folk. There were no common laborers, skilled craftspeople, small farmers, women, or racial minorities in attendance. Most delegates were wealthy men: holders of government bonds, real estate investors, successful merchants, bankers, lawyers, and owners of large plantations worked by slaves. They were, for the most part, far better educated than the average American and solidly steeped in the classics. The journal of the convention debates kept by James Madison of Virginia shows that the delegates were conversant with the great works of Western philosophy and political science; with great facility and frequency, they quoted Aristotle, Plato, Locke, Montesquieu, and scores of other thinkers. Finally, they were a group with broad experience in American politics—most had served in their state legislatures—and many were veterans of the Revolutionary War.²³

Judgments about the framers, their intentions, and what they produced vary widely. Historian Melvin Urofsky wrote that “few gatherings in the history of this or any other country could boast such a concentration of talent.”²⁴ Supreme Court Justice Thurgood Marshall, the first African American member of the Court, on the other hand, once claimed that the Constitution was “defective from the start” because the convention at which it was written did not include women or blacks.²⁵

The most influential criticism of the framers and what they created was mounted in 1913 by the Progressive historian Charles Beard in his book *An Economic Interpretation of the Constitution*.²⁶ Beard boldly claimed that the framers were engaged in a conspiracy to protect their immediate and personal economic interests. Those who controlled the convention and the ratification process after the convention, he suggested, were owners of government bonds and notes who were interested in a government that could pay its debts, merchants interested in protections of commerce, and land speculators interested in the protection of property rights.

Beard has had legions of defenders and detractors.²⁷ Historians today generally agree that Beard overemphasized the degree to which the framers were driven by the immediate need to “line their own pockets,” failed to give credit to their more noble motivations, and even got many of his facts wrong. So a simple self-interest analysis is not supportable. But Beard was probably on the mark when he suggested that broad economic and social-class motives were at work in shaping the actions of the framers. This is not to suggest that they were not concerned about the national interest, economic stability, or the preservation of liberty. It does suggest, however, that the ways in which they understood these concepts were fully compatible with their own positions of economic and social eminence. It is fair to say that the Constitutional Convention was the work of American notables who were authentically worried about the instability and economic chaos of the confederation as well as the rise of a democratic and equalitarian culture among the common people.²⁸

That being said, we must also acknowledge that the framers were launched on a novel and exciting adventure, trying to create a form of government that existed nowhere else during the late eighteenth century. The success of their efforts was not

2.1

2.2

2.3

2.4

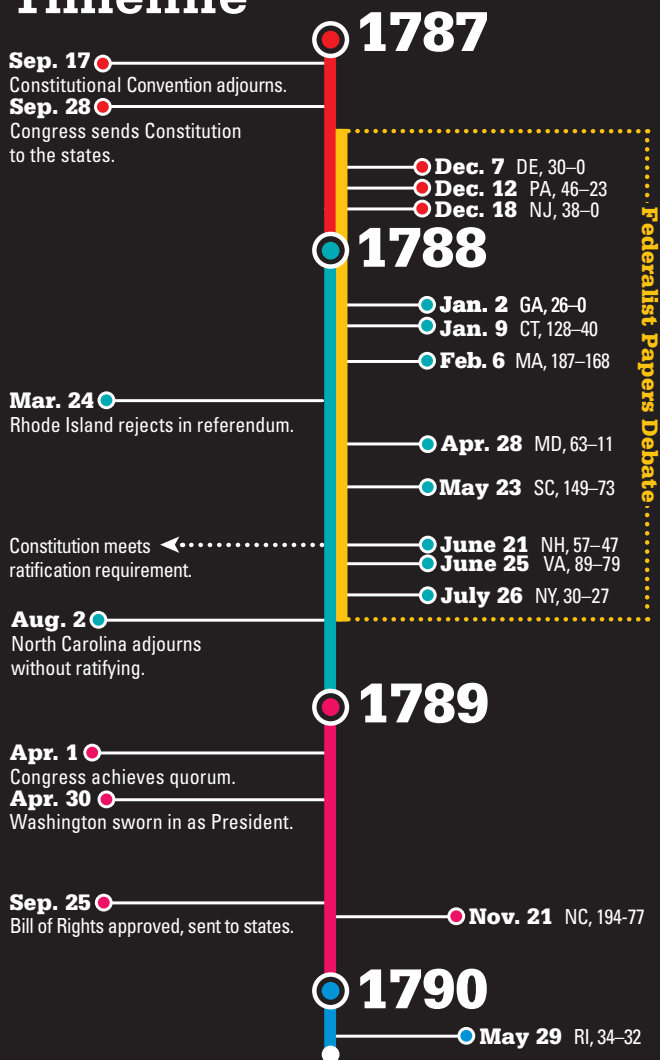
2.5

2.6

How Long Did It Take to Ratify the Constitution?

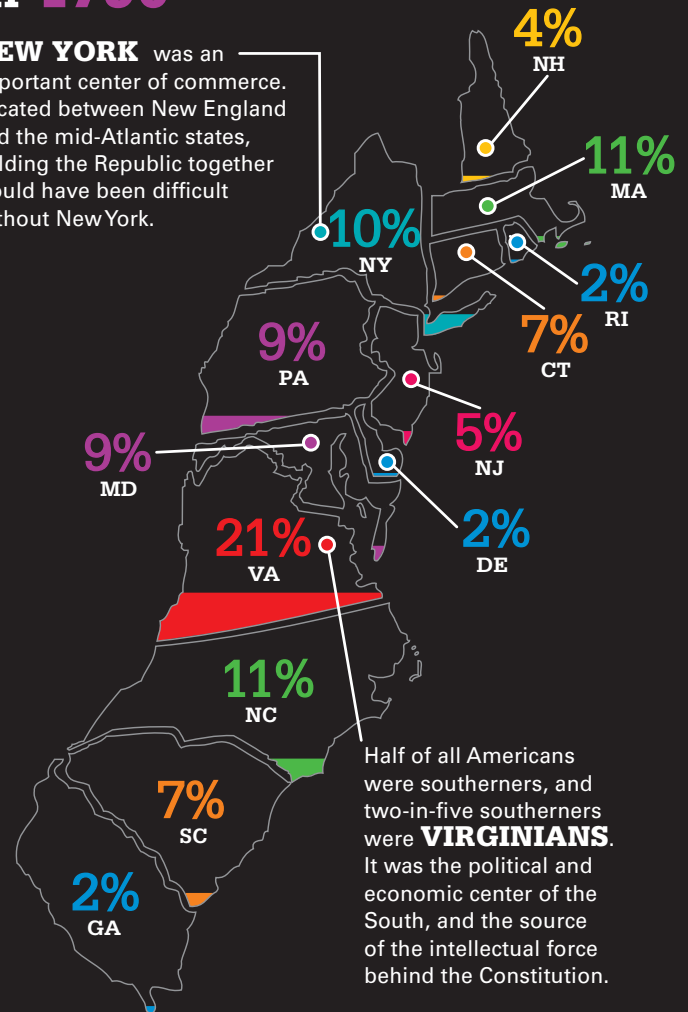
Americans today overwhelmingly support the principles of the Constitution, but after the Framers adjourned on September 17, 1787, three years passed before all thirteen states approved the document. The ensuing ratification debate was an inherently political game of multiple moves, in which the Constitution was kept alive by relatively narrow majorities, particularly in two strategically located states.

Ratification Timeline



The United States in 1790

NEW YORK was an important center of commerce. Located between New England and the mid-Atlantic states, holding the Republic together would have been difficult without New York.



* Percents indicate population of state.

Investigate Further

Concept Why did it take three years to ratify the Constitution? The first states to ratify the Constitution did so with a strong majority of support for the document. But as those states signed on, opposition in remaining states grew, and the ratification debate intensified.

Connection Which states were most closely divided on ratification? The debate intensified in two strategic states: New York and Virginia. Ratification in those two holdout states was necessary in order to lend legitimacy to the new government.

Cause What were the issues of the debate? Written in support of the new government, *The Federalist Papers* addressed New Yorkers' concerns about federal power. For Virginians, the sticking point was a Bill of Rights, which James Madison promised to introduce in the new Congress.

2.1

Virginia Plan

Proposal by the large states at the Constitutional Convention to create a strong central government with power in the government apportioned to the states on the basis of population.

2.2

2.3

New Jersey Plan

Proposal of the smaller states at the Constitutional Convention to create a government with slightly more power in a central government than under the Articles, with the states equally represented in a unicameral national legislature.

2.4

2.5

Connecticut Compromise

Also called the *Great Compromise*; the compromise between the New Jersey and Virginia plans formulated by the Connecticut delegates at the Constitutional Convention; called for a lower legislative house based on population size and an upper house based on equal representation of the states.

2.6

guaranteed. They were, in effect, sailing in uncharted waters, guided by their reading of history and of the republican philosophers, their understanding of the nature of the unwritten English constitution, and their experience with colonial governments before the Revolution and state governments after the Revolution.

□ Consensus and Conflict at the Convention

The delegates to the convention were of one mind on many fundamental points. Most importantly, they agreed that the Articles of Confederation had to be scrapped and replaced with a new constitution.

Most of the delegates also agreed about the need for a substantially strengthened national government to protect American interests in the world, provide for social order, and regulate interstate commerce. Such a government would diminish the power and sovereignty of the states. Supporters of the idea of a strong, centralized national government, such as Alexander Hamilton, had long argued this position. By the time of the convention, even such traditional opponents of centralized governmental power as James Madison had changed their minds. As Madison put it, some way must be found “which will at once support a due supremacy of the national authority, and leave in force the local authorities so far as they can be subordinately useful.”²⁹

But the delegates also believed that a strong national government was potentially tyrannical and should not be allowed to fall into the hands of any particular interest or set of interests, particularly the majority of the people, referred to by Madison as the “majority faction.” The delegates’ most important task became that of finding a formula for creating a republican government based on popular consent but a government not unduly swayed by public opinion and popular democracy. As Benjamin Franklin put it, “We have been guarding against an evil that old states are most liable to, excess of power in the rulers, but our present danger seems to be a defect of obedience in the subjects.”³⁰

THE GREAT COMPROMISE By far the most intense disagreements at the convention concerned the issue of representation in Congress, especially whether large or small states would wield the most power in the legislative branch. The **Virginia Plan**, drafted by James Madison, proposed the creation of a strong central government dominated by a powerful bicameral Congress controlled by the most populous states: Virginia, Massachusetts, and Pennsylvania. The Virginians proposed that seats in the national legislature be apportioned to the states on the basis of population size and that the legislature be vested with the power to appoint executive and judiciary branches and to veto state laws. The smaller states countered with a set of proposals drafted by William Paterson of New Jersey (thereafter known as the **New Jersey Plan**), whose central feature was a unicameral national legislature whose seats were apportioned equally among the states with representatives selected by state legislatures. The New Jersey Plan envisioned a slightly more powerful national government than the one that existed under the Articles of Confederation, but one that was to be organized on representational lines not unlike those in the Articles, in which each of the states remained sovereign and equal. The Virginia Plan, by contrast, with its strong national government run by a popularly elected legislature, represented a fundamentally different kind of national union, one in which national sovereignty was superior to state sovereignty.³¹

Debate over this issue was so intense that no decision could be reached on the floor of the convention. As a way out of this impasse, the convention appointed a committee to hammer out a compromise. The so-called Committee of Eleven met over the Fourth of July holiday while the convention was adjourned. It presented its report, sometimes called the Great Compromise and sometimes the **Connecticut Compromise** (because it was drafted by Roger Sherman of that state), on July 5, 1787. Its key feature was a bicameral (two-house) national legislature in which each state’s representation in the House of Representatives was to be based on population (thus favoring the large states), while representation in the Senate was to be equal for each of the states (thus favoring the small states). The compromise, adopted on July 16, broke the deadlock at the convention and allowed the delegates to turn their attention to other matters.³² (See the “Mapping American Politics” feature for more on the enduring effects of the compromise.)

Mapping American Politics

2.1

Equal and Unequal Representation in the House and Senate

Introduction

One of the fundamental decisions made by the framers at the Constitutional Convention in Philadelphia in 1787 was to create a two-chamber legislative branch with each branch based on a different principle of representation. Each state's representation in the House of Representatives is based on its relative population size, with the proviso that no state shall have fewer than one representative. Representation in the House, because it very nearly mirrors the distribution of the American population among the states, then, can fairly be called democratic, based on the principle of one person, one vote. The Senate, on the other hand, is based on equal representation of the states—each state has two senators regardless of its population size—giving disproportionate political power to low-population states. We can see this by comparing the two cartograms.

in the Senate, combined with vast population differences among the states, however, leads to serious representational distortions from a democratic theory point of view. In 2010, for example, over 37 million people lived in California while about 560,000 people lived in Wyoming—yet each state had two senators. Thus, each California senator represented over 18.5 million people, while each Wyoming senator represented about 280,000. In terms of representation, each person in Wyoming, then, had 66 times the power in the Senate in 2010 as each person in California. The cartogram on the right reflects the representational power of the people in each state in the Senate, measured as the number of senators—always two—divided by state population size. The most populous states, such as California, New York, Texas, and Florida, almost disappear, while less populous states, such as Wyoming, Montana, Delaware, and the two Dakotas, loom large.

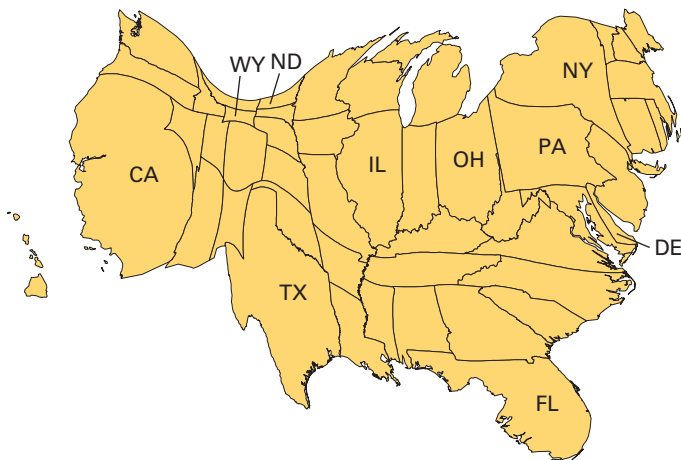
2.2

2.3

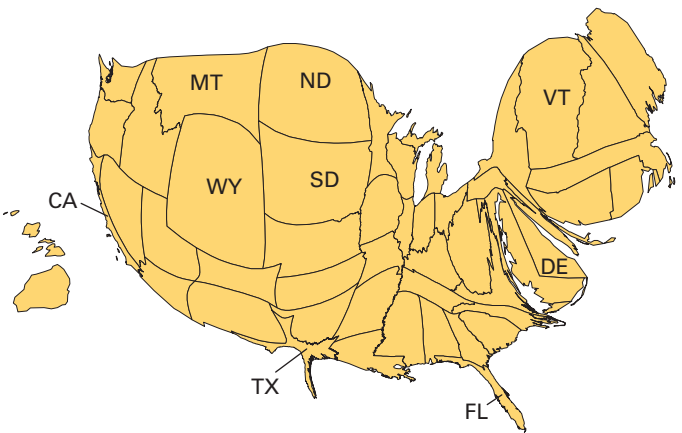
2.4

2.5

2.6



States in Proportion to Number of U.S. Representatives



States in Proportion to Number of Residents per Senator

Different Maps; Different Stories

The cartogram on the left shows states drawn in proportion to the number of representatives each has in the House of Representatives. Because representation in the House is based roughly on population size, the largest numbers of representatives come from more populous states, such as California, Texas, Florida, Ohio, Illinois, New York, and Pennsylvania, as one would expect in a democratic system. Equal representation of each state



Standard US Map

What Do You Think?

- For the most part, the framers of the Constitution were eighteenth-century republicans, distrustful of popular democracy. They created the Senate not only as a tactical maneuver to gain ratification of the Constitution by nine states, but to make the legislative branch more deliberative and less prone to follow the ebbs and flows of public opinion. Was it a wise decision by the framers to give equal representation to the states in the Senate? How might Congress make different kinds of policies if the Senate were organized to more closely reflect the size of state populations?

SOURCES: www.house.gov; www.census.gov/population/www/censusdata/apportionment.html; and www.senate.gov.

SLAVERY Despite great distaste for the institution of slavery among many delegates—it is said that Benjamin Franklin wanted to insert a provision in the Constitution condemning slavery and the slave trade but was talked out of it for fear of splintering the convention³³—slavery was ultimately condoned in the Constitution, although only indirectly; the word *slavery*, in fact, does not appear in the Constitution at all. But even without using the term, the legal standing of slaves is affirmed in three places. First, the delegates agreed, after much heated debate, to count three-fifths of a state’s slave population (referred to as “three-fifths of all other Persons”) in the calculation of how many representatives a state was entitled to in the House

2.1

2.2

2.3

2.4

2.5

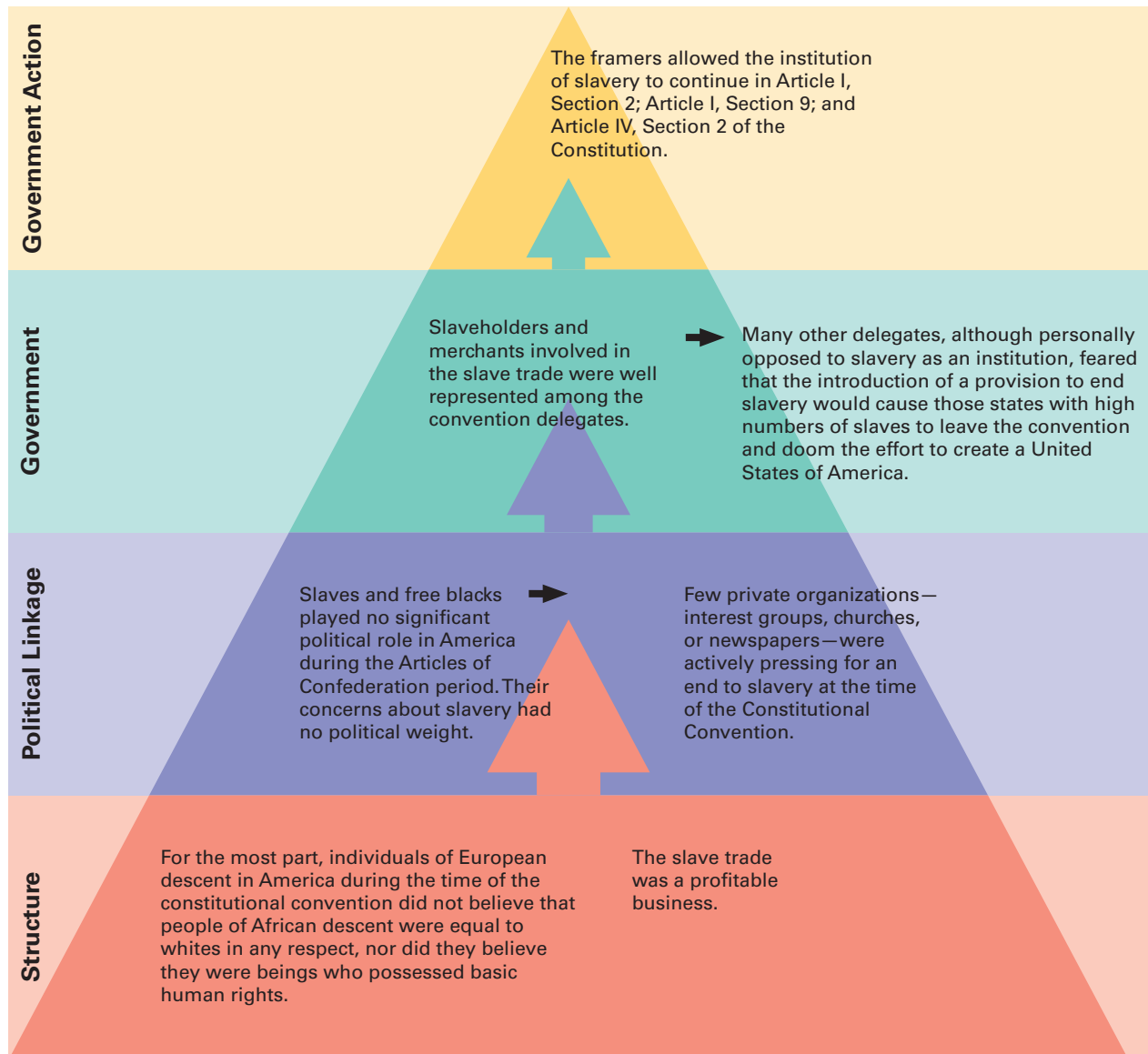
2.6

Using the **FRAMEWORK**

Why was slavery allowed in the Constitution of 1787?

Background: Slavery was allowed in the Constitution until passage, after the Civil War, of the Thirteenth Amendment, which ended involuntary servitude in the United States. Although the words “slave” or “involuntary servitude” never appear in the document, slavery is given constitutional standing in the original document

in Article I, Section 2, paragraph 3; Article I, Section 9; and Article IV, Section 2, paragraph 3. For Americans today, it seems almost inconceivable that such a thing could have happened. Taking a broader and more historical view makes the story clearer, though hardly more acceptable.



of Representatives (Article I, Section 2, paragraph 3). Much harm was done by this; counting noncitizen slaves for purposes of representation in the House increased the power of the slave states in Congress as well as the number of their electoral votes in presidential elections. This imbalance would continue until 1865, when the Civil War and the Thirteenth Amendment, ratified after the war, ended slavery in the United States. Second, it forbade enactments against the slave trade until the year 1808 (Article I, Section 9). Third, it required nonslave states to return runaway slaves to their owners in slave states (Article IV, Section 2, paragraph 3).

Many Americans today are bothered by the fact that a significant number of the delegates to a convention whose goal was to build a nontyrannical republic were themselves slaveholders (although a few, including George Washington, had provisions in their wills freeing their slaves upon their death). To understand more fully why the delegates did not abolish slavery, see the “Using the Framework” feature.

It would take a terrible civil war to abolish slavery in the United States. At the convention, Virginia delegate George Mason had a foreboding of such an outcome when he observed about slavery that “providence punishes national sins by national calamities.”³⁴

THE PRESIDENCY The Virginia Plan called for a single executive, while the New Jersey Plan called for a multiperson executive. In the spirit of cooperation that pervaded the convention after the Great Compromise, the delegates quickly settled on the idea of a single executive. They could not agree, however, on how this executive should be selected. Both sides rejected direct election of the chief executive by the people, of course, because this would be “too much upon the democratic order,” but they locked horns over the Virginia Plan’s method of selection: by the vote of state legislatures. The compromise that was eventually struck involved a provision for an **Electoral College** that would select the president. In the Electoral College, each state would have a total of votes equal to its total number of representatives and senators in

Electoral College

Elected representatives of the states chosen during the November presidential election, a majority of whose votes cast at a later date formally elect the president of the United States. The number of electors in each state is equal to the total number of its senators and representatives. In all but two states, the candidate who wins a plurality of the popular vote wins all of a state’s electoral votes.

2.1

2.2

2.3

2.4

2.5

2.6



THE FRAMERS RETAIN SLAVERY

One of the great shortcomings of the framers was their inability or unwillingness to abolish slavery in the Constitution. Here, slaves pick cotton under the watchful eye of an overseer. What were some of the consequences for the nation of the framers allowing slavery in our new nation?

Congress. Selection of electors was left to state legislatures. (Electoral College votes are determined today by popular vote in each state.) Elected members of the Electoral College would then cast their votes for president. Should the Electoral College fail to give a majority to any person, which most framers assumed would usually happen, the House of Representatives would choose the president, with each state having one vote (Article II, Section 1, paragraphs 2 and 3). See the “By the Numbers” feature below in this chapter to better understand how the Electoral College and majoritarian democracy are sometimes at odds.

2.1

2.2

2.3

2.4

By the Numbers

Did George W. Bush really win the 2000 presidential vote in Florida?

2.5

George W. Bush was officially certified the winner of the presidential contest in Florida on December 12, 2000—35 days after the November election—thereby winning all of Florida’s 25 electoral votes. This pushed Bush’s national electoral vote total to 271, a bare majority but enough to win the White House.

Interestingly, however, a comprehensive review of Florida ballots has come up with several other possible outcomes to the Florida popular vote, depending on different ways the ballots might have been counted. In one of these scenarios, Gore would have won the Florida popular vote, added its electoral votes to his total in the nation, and been declared the winner of the presidential election.

2.6

Why It Matters

Elections must be fair if they are to play the role assigned to them in democratic theory. Part of a fair election is an accurate count of votes cast. Without an accurate count, voter wishes will not be conveyed to public officials, and the legitimacy of elected officials is at risk, making governance more difficult.

Behind the Vote Count Numbers

A consortium of eight leading news organizations—including *The Wall Street Journal*, *The New York Times*, *The Washington Post*, the Associated Press, and CNN—sponsored a 10-month study by the widely respected National Opinion Research Center at the University of Chicago. Center researchers examined every uncounted “under-vote” ballot (where no vote for president was recorded by the voting machine), with an eye toward determining each voter’s intent. Only ballots that showed evidence of clear voter intention were included in the consortium’s recount. These included punch card ballots with “hanging” and “pregnant” chads which the machines failed to record and optical scan ballots where voters indicated their vote with a check mark or an “X” rather than filling in the bubble as instructed.

Calculating the Winner’s Margin of Victory

The official tally concluded that Bush won by 537 votes. However, Center investigators found that different counting methods would have yielded the results shown on page 43. There are some incredible ironies in these numbers.

- **Scenario 1** Had the Gore team gotten everything it asked for from election officials and the courts, Al Gore still would have lost to George W. Bush.
- **Scenario 2** The U.S. Supreme Court did not steal the election, as many Gore supporters claimed, for had it allowed the Florida Supreme Court’s solution to stand, Bush would have won anyway.
- **Scenario 3** A majority of Florida voters went to the polls on November 8 to cast a vote for Al Gore for president. The method proposed by the U.S. Supreme Court shows this; recounting all “under-count” disputed ballots on a statewide basis using consistent standards yields a Gore victory. The upshot: Gore was badly advised by his team of lawyers, who insisted on recounts in only certain counties that were deemed favorable to him.

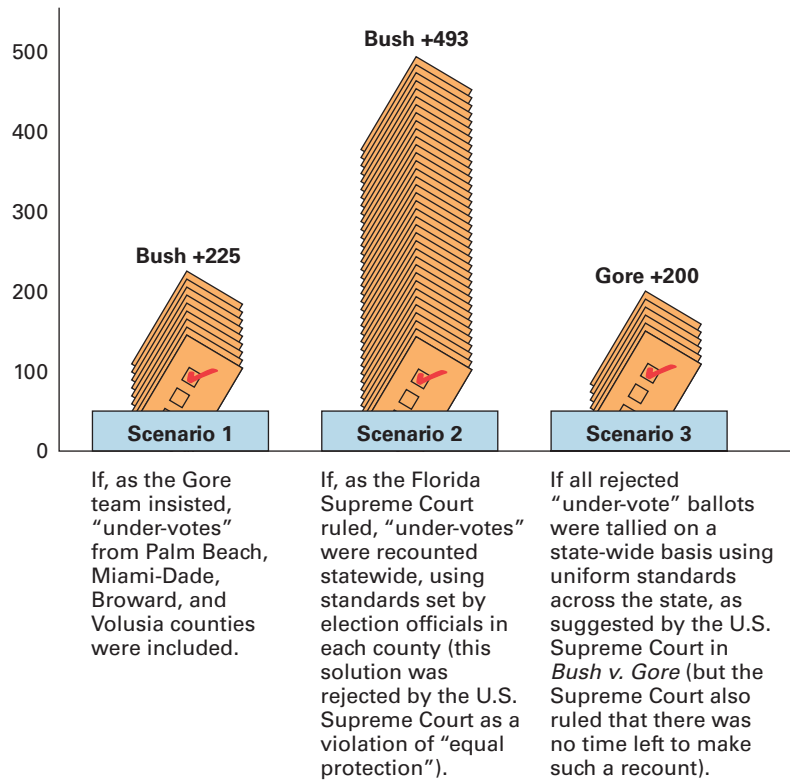
Because of the enormous boost in George W. Bush’s popularity following the terrorist attack on the United States and the widely supported attack on the Taliban regime in Afghanistan that followed, most Americans ignored the consortium’s findings when they were published after 9/11. Most seemed perfectly content to have Bush as president, no matter what had happened in Florida.

Criticisms of the Florida “Recount”

Some have argued that the consortium’s recount was flawed in two major ways:

- First, it did not include “over-votes” in its estimates—those ballots where the same name was entered more than once—which were also ruled invalid by election officials in Florida. For the most part, these involved ballots where voters wrote in the same name as the candidate they had punched or marked, presumably to make clear to election officials who they had voted for. A substantial majority of over-vote ballots had selected Gore.
- Second, there is the issue of absentee ballots from overseas armed forces personnel. Had they been counted in the same way other ballots were counted—that is, not counting ballots kicked out because of “under-vote” or “over-vote”

(Continued)



problems—Bush would have lost hundreds of votes to Gore and probably lost Florida and the White House.

What to Watch For

When counting votes, as in all other counts, the rules matter. This is why the lawyers from the Gore and Bush teams fought so ferociously following the Florida election about how to do the recount. Whenever you run across a statistic that involves counting, in one form or another, you might want to look further into what counting rules were used.

What Do You Think?

Can you think of any other way to decide the winner of an election when the race ends up in a dead heat? Some countries use a "runoff" system in which the two top people run against each other to determine who has won a majority of popular votes before a winner is declared. In the 2000 presidential elections, this would have meant a runoff election between Gore and Bush, without Ralph Nader on the ballot, most of whose votes would probably have gone to Gore in the second round. How might a runoff have changed the face of the election?

What the Framers Created

The Constitution of the United States (which is reprinted in its entirety in the Appendix) deserves a careful reading. Each word or phrase tells something important about how American government works. If you keep in mind how the document is organized, it will help you understand the structure of the Constitution, locate specific provisions, and understand what kind of government the framers created. (A brief outline of provisions is provided in Table 2.2.) Let us examine the fundamental design for government laid out in the Constitution.

A REPUBLICAN FORM OF GOVERNMENT Recall that eighteenth-century republican doctrine advocated a form of government that, while based on popular consent and some popular participation, places obstacles in the path of majoritarian democracy and limits the purposes and powers of the government in order to prevent tyranny.

Elections and Representation Republican government is based on the principle of representation, meaning that public policies are made not by the people directly but by the people's elected representatives acting in their stead. Under the rules created by

2.1

2.2

2.3

2.4

2.5

2.6

TABLE 2.2 READING THE CONSTITUTION

Article	What It's About	What It Does
Preamble	States the purpose of the Constitution	Declares that “we the people” (not just the separate states) establish the Constitution.
2.2 Article I	The Legislative Branch	Provides for a House of Representatives, elected by the people and apportioned according to population. Provides for a Senate, with equal representation for each state. Discusses various rules and procedures, including the presidential veto. Enumerates specific powers of the Congress, concluding with the necessary and proper clause. Limits Congress's powers. Limits the powers of the states.
2.3 Article II	The Executive Branch	Vests executive power in a single president of the United States. Describes the Electoral College scheme for electing presidents indirectly (changed, in effect, by the development of a party system). Describes the qualification, removal, compensation, and oath of office for the presidency. Describes presidential powers and duties. Provides for impeachment.
2.4 Article III	The Judicial Branch	Vests judicial power in a Supreme Court, letting Congress establish other courts if desired. Provides for a limited original jurisdiction and (subject to congressional regulation) for broader appellate jurisdiction (i.e., jurisdiction to review lower court decisions). Specifies a right to jury trials. Defines treason, ruling out certain punishments for it.
2.5 Article IV	Interstate and Federal Relations	Requires that full faith and credit be given other states. Requires that fugitives (slaves) be delivered up to the authorities. Provides for the admission of new states and the regulation of new territories. Guarantees a republican form of government to the states.
2.6 Article V	Amending the Constitution	Provides two ways of proposing amendments to the Constitution and two ways of ratifying them. Forbids amendments changing equal state suffrage in the Senate or (before 1808) prohibiting the slave trade or changing the apportionment of taxes.
Article VI	Miscellaneous	Assumes the debts of the Confederation. Makes the Constitution, laws, and treaties of the United States the supreme law of the land. Requires an oath by U.S. and state officials.
Article VII	Ratification of the Constitution	Provides that the Constitution will be established when ratified by nine state conventions.

federal

Describing a system in which significant governmental powers are divided between a central government and smaller territorial units, such as states.

supremacy clause

The provision in Article VI of the Constitution which states that the Constitution and the laws and treaties of the United States are the supreme law of the land, taking precedence over state laws and constitutions.

the Constitution, the president and members of Congress are elected by the people, although in the case of the presidency and the Senate, to be sure, they are elected only indirectly (through the Electoral College and the state legislatures, respectively). The upshot, then, is that government policies at the national level are mostly made by either directly or indirectly elected officials. (The Seventeenth Amendment, ratified in 1913, transferred election of senators from legislatures to the people.) This filters the voices of the people by encouraging the election to office of those “whose enlightened views and virtuous sentiments render them superior to local prejudices and to schemes of injustice.”³⁵ This guarantees a degree of popular consent and some protection against the possibilities of tyrannical government arising from misrule by the *one* or by the *few*, given the electoral power of the *many*, but the many are still several steps removed from direct influence over officials.

Federalism The Articles of Confederation envisioned a nation structured as a loose union of politically independent states with little power in the hands of the central government. The Constitution fashioned a **federal** system in which some powers are left to the states, some powers are shared by the states and the central government, and some powers are granted to the central government alone.

The powers in the Constitution tilt toward the center, however.³⁶ This recasting of the union from a loose confederation to a more centralized federal system is boldly stated in Article VI, Section 2, commonly called the **supremacy clause**:

This Constitution and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The tilt toward national power is also enhanced by assigning important powers and responsibilities to the national government: to regulate commerce, to provide a uniform currency, to provide uniform laws on bankruptcy, to raise and support an army and a navy, to declare war, to collect taxes and customs duties, to provide for the common defense of the United States, and more. (See Article I, Section 8.) Especially important for later constitutional history is the last of the clauses in Section 8, which states that Congress has the power to “make all laws which shall be necessary and proper” to carry out its specific powers and responsibilities. We shall see later how this **elastic clause** became one of the foundations for the growth of the federal government in the twentieth century.

The Constitution left it up to each of the states, however, to determine qualifications for voting within their borders. This left rules in place in all the states that denied the right to vote to women, slaves, and Native Americans; it left rules untouched in many states that denied the vote to free blacks and to white males without property. Most states removed property qualifications by the 1830s, establishing universal white male suffrage in the United States. It would take many years and constitutional amendments to remove state restrictions on the voting rights of women and racial minorities, however.

Limited Government The basic purpose of the U.S. Constitution, like any written constitution, is to define the purposes and powers of the government. Such a definition of purposes and powers automatically places a boundary between what is permissible and what is impermissible. By listing the specific powers (as in Article I, Section 8) of the national government and specifically denying others to the national government (as in Article I, Section 9, and in the first 10 amendments to the Constitution, known as the **Bill of Rights**), the Constitution limited what government may legitimately do.

Checks on Majority Rule Afraid of unbridled democracy, the framers created a constitution by which the people rule only indirectly, barriers are placed in the path of majorities, and deliberation is prized over conformity to majority opinion. As political philosopher Robert Dahl puts it, “To achieve their goal of preserving a set of inalienable rights superior to the majority principle . . . the framers deliberately created a framework of government that was carefully designed to impede and even prevent the operation of majority rule.”³⁷ Let us see what the framers did to try to dilute the power of the majority in the national government.

Of the three branches of government, they made only a part of one of them subject to election by the direct vote of the people: the House of Representatives (Article I, Section 2, paragraph 1). They left the election of the president to an electoral college whose members were selected by state legislatures and not by the direct vote of the people. They gave the responsibility of electing senators to state legislatures (since changed by the Seventeenth Amendment). They placed selection of federal judges in the hands of the president and the Senate. They arranged, as well, that representatives, senators, and presidents would serve for different terms (two years for representatives, four years for presidents, and six years for senators), and be beholden to different constituencies. These non-congruencies in terms of office, constituencies, and methods for selecting members of each of the branches were intended to ensure that popular majorities, at least in the short run, would be unlikely to overwhelm those who govern. Finally, the framers rejected the advice of radical democrats, such as Thomas Paine, Samuel Adams, and Thomas Jefferson, to allow the Constitution to be easily amended. Instead, they created an amending process that is exceedingly cumbersome and difficult (see Figure 2.2).

Thus, the framers designed a system in which majority opinion, although given some play (more than anywhere in the world at the time),³⁸ was largely deflected and slowed, allowing somewhat insulated political leaders to deliberate at their pleasure.

elastic clause

Article I, Section 8 of the Constitution, also called the *necessary and proper clause*, gives Congress the authority to make whatever laws are necessary and proper to carry out its enumerated responsibilities.

Bill of Rights

The first 10 amendments to the U.S. Constitution, concerned with the protection of basic liberties.

2.1

2.2

2.3

2.4

2.5

2.6



VENERATING THE CONSTITUTION

Americans generally believe that the Constitution fashioned by the framers in Philadelphia in 1788 is one of the main reasons the American system of government has proved to be so enduring. Here, young people look at the original document at the National Archives. What reasons might there be for our system enduring, other than the Constitution?

2.1
2.2
2.3
2.4
2.5
2.6

separation of powers

The distribution of government legislative, executive, and judicial powers to separate branches of government.

checks and balances

The constitutional principle that each of the separate branches of government has the power to hinder the unilateral actions of the other branches as a way to restrain an overreaching government and prevent tyranny.

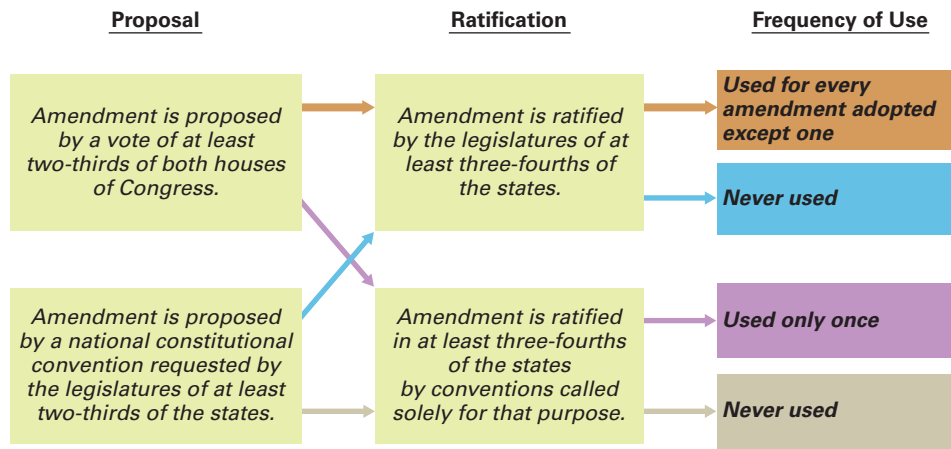


FIGURE 2.2 AMENDING THE CONSTITUTION

With two ways of proposing a constitutional amendment and two ways of ratifying one, there are four routes to changing the Constitution. In all but one case (the Twenty-First Amendment, which repealed Prohibition), constitutional amendments have been proposed by Congress and then ratified by the state legislatures.

Separation of Powers; Checks and Balances During the American Revolution, American leaders worried mainly about the misrule of executives (kings and governors) and judges. As an antidote, they substituted legislative supremacy in state constitutions and in the Articles of Confederation, thinking that placing power in an elected representative body would make government effective and nontyrannical. The men who drafted the Constitution, however, though still leery of executive and judicial power, were more concerned by 1787 about the danger of legislative tyranny. To deal with this problem, the framers turned to the ancient notion of balanced government, popularized by the French philosopher Montesquieu. The central idea of balanced government is that concentrated power of any kind is dangerous and that the way to prevent tyranny is first to fragment governmental power into its constituent parts—executive, legislative, and judicial—then place each into a separate and independent branch. In the U.S. Constitution, Article I (on the legislative power), Article II (on the executive power), and Article III (on the judicial power) designate separate spheres of responsibility and enumerate specific powers for each branch. We call this the **separation of powers**.

To further ensure that power would not be exercised tyrannically, the framers arranged for the legislative, executive, and judicial powers to check one another in such a way that “ambition . . . be made to counteract ambition.”³⁹ They did this by ensuring that no branch of the national government would be able to act entirely on its own without the cooperation of the others. To put it another way, each branch has ways of blocking the actions of the others. For example, Congress is given the chief lawmaking power under the Constitution, but a bill cannot become law if a president exercises his veto, unless Congress manages to override it with a two-thirds majority in both the House and Senate. The Supreme Court, moreover, has the power (although it is not specifically mentioned) to reject a law formulated by Congress and signed by the president if it is contrary to the Constitution. What is at work here was described nicely by Thomas Jefferson: “The powers of government should be so divided and balanced among several bodies of magistracy, as that no one could transcend their legal limits, without being effectually checked and constrained by the others.”⁴⁰ We call the provisions that accomplish this objective **checks and balances**. Figure 2.3 shows in detail how each separate branch of the federal government can be checked by the other two. In this constitutional scheme, each branch has power, but none is able to exercise all of its powers on its own, without some concurrence and cooperation from the other branches.

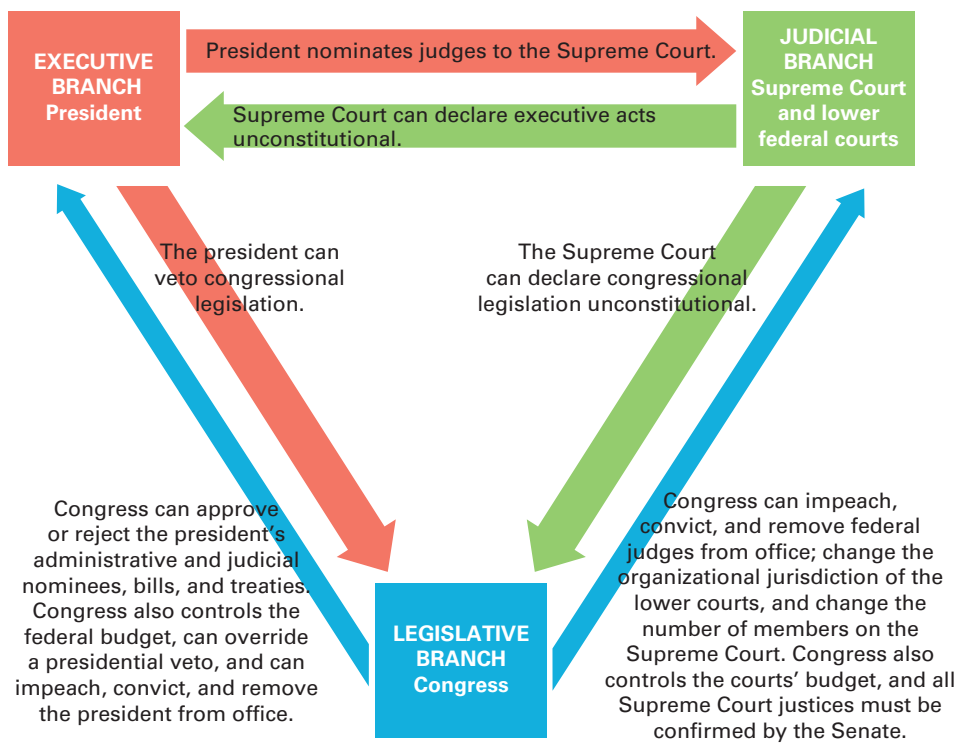


FIGURE 2.3 SEPARATION OF POWERS AND CHECKS AND BALANCES

The framers of the Constitution believed that tyranny might be avoided if the powers of government were fragmented into its executive, legislative, and judicial components and if each component were made the responsibility of a separate branch of government. To further protect against tyranny, they created mechanisms by which the actions of any single branch could be blocked by either or both of the other branches.

THE FOUNDATIONS FOR A NATIONAL FREE ENTERPRISE ECONOMY The framers believed that the right to accumulate, use, and transfer private property was one of the fundamental and inalienable rights that governments were instituted to defend, so they looked for ways to protect it. They also believed that the obstacles to trade allowed under the Articles of Confederation were threatening to block the emergence of a vibrant national economy in which most of them were involved.

Property rights are protected in several places in the Constitution. Article I, Section 10, forbids the states to impair the obligation of contracts, to coin money, or to make anything but gold and silver coin a tender in payment of debts. In other words, the states could no longer help debtors by printing inflated money, forgiving debts, or otherwise infringing on the property of creditors, as had happened in such places as Rhode Island and North Carolina under the Articles of Confederation. Article IV, Section 1, further guarantees contracts by establishing that the states must give “full faith and credit” to the public acts, records, and judicial proceedings of every other state, which means that one could no longer escape legal and financial obligations in one state by moving to another. In addition, the Constitution guaranteed that the U.S. government would pay all debts contracted under the Articles of Confederation (Article VI, Section 1). Article IV, Section 2, paragraph 3, even protected private property in slaves by requiring states to deliver escaped slaves back to their owners.

Besides protecting private property, the framers took additional steps to encourage the emergence of a national **free enterprise** economy. Article I, Section 8, grants Congress the power to regulate interstate commerce (thus ending the chaos of individual states’ regulations), to coin money and regulate its value (thus establishing a uniform national currency), to establish uniform laws of bankruptcy, and to protect the financial fruits of invention by establishing patent and copyright

free enterprise

An economic system characterized by competitive markets and private ownership of a society’s productive assets; a form of capitalism.

2.1

2.2

2.3

2.4

2.5

2.6

Can Government Do Anything Well?

Encouraging American Economic Development

The American economy, measured by GDP, is the largest in the world in total size and among the largest in terms of GDP per person. This remains the case even after the financial collapse of 2008 and the deep recession associated with it (the worst since the Great Depression in the 1930s). Over the long haul, and despite many recessions and a few depressions along the way, the American economy has grown at a consistently steady pace over the course of its history. For example, economic historians reckon that between 1820 and 1952, the average American grew eight times richer. Between 1945 and 2007, during the post–World War II boom, the average American became three times richer. Is this story of historic economic growth one that can be explained entirely by the efforts of private individuals—investors, entrepreneurs, and consumers—and private business firms seeking profits in a free market? Or, did government play a significant role as well?

Support for the claim that government has been a key player in the story of American economic growth:

Providing the foundations of a market economy:

- Anarchy is not conducive to a thriving, growing economy over the long run. Government provides “law and order,” protecting property against both local thieves and foreign invaders.
- Government provides legal and statutory protections and helpful tools that allow business to operate in a safe and reasonably predictable environment. Contracts are enforced in courts, for example, and invention and innovation are encouraged by a system of copyright and patent law.
- The federal government also has been and remains responsible for providing a common currency for the nation, easing market transactions for consumers, investors, and firms.

Instituting policies to stimulate growth:

- High tariff barriers in the nineteenth century protected infant American industries from foreign competition.
- The federal government helped open the West to development when it passed the Homestead Act granting tracts of public land to those who would farm them.
- The government stimulated the growth of railroads by giving vast tracts of land to railroad companies for rights-of-way and town sites along railroad lines.
- Major procurements of goods and weaponry during our several wars poured substantial monies into private firms, fueling their expansion and encouraging technological innovation.
- In the post–World War II period, the federal government invested heavily in higher education and basic scientific research. This better-educated workforce and an array of new technologies flowing from publicly funded research and development, according to most economists, helped fuel the great economic boom of the second half of the twentieth century.

Rejection of the claim that government has been a key player in the story of American economic growth:

A too active government hurts the economy, invites tyranny, and has unintended consequences (the view from the Right):

- Beyond providing law and order, a rule-of-law regime, a common currency, and protection against invasion, government action can only interfere in the processes by which the free market makes society richer and intrude upon the freedoms of the people.
- Heavy taxes to support an active government take away the hard-earned gains of the most successful members of society, taking their private property, as it were, and discouraging others who might create and grow businesses.
- Real economic growth comes not from distant lawmakers and bureaucrats in Washington but from the private sector, where innovation and investment happen.
- When government tries to help, it often makes things worse. Lawmakers' and regulators' interest in getting disadvantaged people into their own homes, it has been argued, forced lenders to give loans to people who couldn't afford them.

Government policies to enhance economic growth have usually served the interests of the wealthy and large business firms (the view from the Left):

- Tax breaks, subsidies, and loan guarantees have increased income and wealth inequality in the United States.
- The deregulation of the financial industry since the 1980s favored large investment banks and hedge funds to the disadvantage of middle class Americans.

(Continued)

WHAT DO YOU THINK?

What do you think about the past, present, and future role of government in encouraging U.S. economic growth?

- On balance, the federal government has played an important and largely positive role in enhancing American economic growth and should continue to do so in the future.
- The government's record in encouraging economic growth is fairly successful, but it needs to pay more attention in the future to making sure that the benefits of growth are more fairly distributed.
- The government has a legitimate role to play in encouraging economic growth, but it should limit its role as much as possible and defer to the private sector, which is the main engine of economic advancement.
- While government policies can sometimes help economic growth, mostly they are ineffective, inefficient, and wasteful.
- Government's only role should be to protect property rights, enforce contracts, provide law and order, and defend the nation against external attacks. Anything beyond that violates our freedoms.

How would you defend your position to a fellow student? What would be your main line of argument? What evidence do you believe best supports your position? For help in developing your argument, please refer to the source list below.

For sources for this box and for all remaining boxes on the role of government and markets, see: the American Enterprise Institute (www.aei.org); Douglas J. Amy's "Government is Good" website (governmentisgood.com); Brookings (www.brookings.edu); the Cato Institute (www.cato.org); Milton Friedman, *Capitalism and Freedom* (Chicago: University of Chicago Press, 1962); Greg Ip, *The Little Book of Economics: How the Economy Works in the Real World* (New York: John Wiley and Sons, 2010); the Pew Research Center (www.people-press.org); the Heritage Foundation (www.heritage.org); and the Progressive Policy Institute (www.progressivepolicy.org).

laws. At the same time, Article I, Sections 9 and 10, broke down barriers to trade by forbidding the states from imposing taxes or duties on other states' exports, entering into foreign treaties, coining money, or laying any imposts or duties on imports or exports.

It took a little while for a national free enterprise system to emerge and flower in the United States because of the existence of an entirely different sort of economy in the slave South. Although free enterprise was thriving in the northern and western states by the 1820s, it took the destruction of slavery during and after the Civil War to create a free enterprise economy for the country as a whole. (See "Can Government Do Anything Well?" for a discussion of government's role in economic growth and development.)

The Struggle to Ratify the Constitution

2.5 Explain the difficulties of ratifying the Constitution

Congress had instructed the delegates to the convention to propose changes to the Articles of Confederation. Under the provisions of the Articles of Confederation, such alterations would have required the unanimous consent of the 13 states. To follow such a course would have meant instant rejection of the new constitution, because Rhode Island, never friendly to the deliberations in Philadelphia, surely would have voted against it, and one or two additional states may well have joined Rhode Island. Acting boldly, the framers decided that ratification would be based on guidelines specified in Article VII of the unratified

2.1

2.2

2.3

2.4

2.5

2.6

2.1
2.2
2.3
2.4
2.5
2.6

Federalists

Proponents of the Constitution during the ratification fight; also the political party of Hamilton, Washington, and Adams.

Anti-Federalists

Opponents of the Constitution during the fight over ratification.

document they had just written, namely, approval by nine states meeting in special constitutional conventions. Congress agreed to this procedure, voting on September 28, 1787, to transmit the Constitution to the states for their consideration.

The battle over ratification was heated, and the outcome was far from certain. That the Constitution eventually carried the day may be partly attributed to the fact that the **Federalists** (those who supported the Constitution) did a better job of making their case than the **Anti-Federalists** (those who opposed the Constitution). Their intellectual advantages were nowhere more obvious than in the 85 articles written in defense of the Constitution for New York newspapers, under the name “Publius,” by Alexander Hamilton (who wrote the most), James Madison, and John Jay (who wrote only three). Collected later and published as *The Federalist Papers* (which Thomas Jefferson judged to be “the best commentary on the principles of government which ever was written”⁴¹), these articles strongly influenced the debate over ratification and remain the most impressive commentaries ever written about the U.S. Constitution.

Anti-Federalist opposition to the Constitution was based on fear of centralized power and concern about the absence of a bill of rights.⁴² Although the Federalists firmly believed that a bill of rights was unnecessary because of the protection of rights in the state constitutions and the many safeguards against tyranny in the federal Constitution, they promised to add one during the first session of Congress. Without this promise, ratification would probably not have happened. The Federalists kept their word. The 1st Congress passed a bill of rights in the form of 10 amendments to the Constitution (see Table 2.3), and the amendments were eventually ratified by the required number of states by 1791.

Ratification of the Constitution was a close call. Most of the small states quickly approved, attracted by the formula of equal representation in the Senate. Federalists organized a victory in Pennsylvania before the Anti-Federalists realized what had happened. After that, ratification became a struggle. Rhode Island voted no. North Carolina abstained because of the absence of a bill of rights and did not vote its approval until 1790. In the largest and most important states, the vote was exceedingly close. Massachusetts approved by a vote of 187–168; Virginia, by 89–79; and New York, by 30–27. The struggle was especially intense in Virginia, where prominent, articulate, and influential men were involved on both sides. The Federalists could call on George Washington, James Madison, John Marshall, and Edmund Randolph. The Anti-Federalists countered with George Mason, Richard Henry Lee, and Patrick Henry. Patrick Henry was particularly passionate, saying that the Constitution “squints towards monarchy.” Although New Hampshire technically put the Constitution over the top, being the ninth state to vote approval, the proponents did not rest easily until Virginia and New York approved it.

TABLE 2.3 THE BILL OF RIGHTS

Amendment I	Freedom of religion, speech, press, and assembly
Amendment II	The right to bear arms
Amendment III	Prohibition against quartering of troops in private homes
Amendment IV	Prohibition against unreasonable searches and seizures
Amendment V	Rights guaranteed to the accused: requirement for grand jury indictment; protections against double jeopardy and self-incrimination; guarantee of due process
Amendment VI	Right to a speedy and public trial before an impartial jury, to cross-examine witnesses, and to have counsel
Amendment VII	Right to a trial by jury in civil suits
Amendment VIII	Prohibition against excessive bail and fines and against cruel and unusual punishment
Amendment IX	Traditional rights not listed in the Constitution are retained by the people
Amendment X	Powers not denied to them by the Constitution or given solely to the national government are retained by the states or the people

Note: See the Appendix for the full text.

The Changing Constitution, Democracy, and American Politics

2.6 Identify three processes by which the Constitution changes

The Constitution is the basic rule book for the game of American politics. Constitutional rules apportion power and responsibility among governmental branches, define the fundamental nature of the relationships among governmental institutions, specify how individuals are to be selected for office, and tell how the rules themselves may be changed. Every aspiring politician who wants to attain office, every citizen who wants to influence what government does, and every group that wants to advance its interests in the political arena must know the rules and how to use them to their best advantage. Because the Constitution has this character, we understand it to be a fundamental *structural* factor influencing all of American political life.

Like all rules, however, constitutional rules can and do change over time, which is why we sometimes speak of the “living Constitution.” Constitutional changes come about in three specific ways: formal amendment, judicial interpretation, and political practices.

The Constitution may be formally amended by use of the procedures outlined in Article V of the Constitution (again, refer to Figure 2.2). This method has resulted in the addition of 27 amendments since the founding, the first 10 of which (the Bill of Rights) were added within three years of ratification. That only 17 have been added in the roughly 220 years since suggests that this method of changing the Constitution is extremely difficult. Over the years, proponents of constitutional amendments that would guarantee equal rights for women, ban same-sex marriages, and ban the burning of the American flag have learned how difficult it is to formally amend the Constitution; none of these amendments were added, despite public opinion polls reporting majorities in favor of them. Nevertheless, several formal amendments have played an important role in expanding democracy in the United States by ending slavery; extending voting rights to African Americans, women, and young people ages 18–20; and making the selection of senators the business of voters, not state legislatures.

The Constitution is also changed by decisions and interpretations of the U.S. Supreme Court found in the written opinions of the justices. In *Marbury v. Madison* (1803), the Court claimed the power of **judicial review**—the right to declare the actions of the other branches of government null and void if they are contrary to the Constitution—even though such a power is not specifically mentioned in the Constitution (see Chapter 14 for a full discussion of judicial review). In *Griswold v. Connecticut* (1965), and later in *Roe v. Wade* (1973), actually, to take two more examples, the Court supported a claim for the existence of a fundamental right to privacy even though such a right is not explicitly mentioned in the Constitution. Many conservatives believe that such actions by the Supreme Court are illegitimate because they go beyond the original intentions of the framers, or cannot be justified in the written provisions of the Constitution. Many others disagree, believing that the Court has and must interpret the Constitution in light of changing circumstances that the framers could not have envisioned.

The meaning of the Constitution also changes through changing political practices, which end up serving as precedents for political actors. Political parties, party primaries, and presidential nominating conventions are not mentioned in the Constitution, for example, but it would be hard to think about American politics today without them. It is also fair to say that the framers would not recognize the modern presidency, which is now a far more important office than they envisioned, a change that has been brought about largely by the political and military involvement of the United States in world affairs, tied to vigorous assertion of the office’s diplomatic and

judicial review

The power of the Supreme Court to declare actions of the other branches and levels of government unconstitutional.

2.1

2.2

2.3

2.4

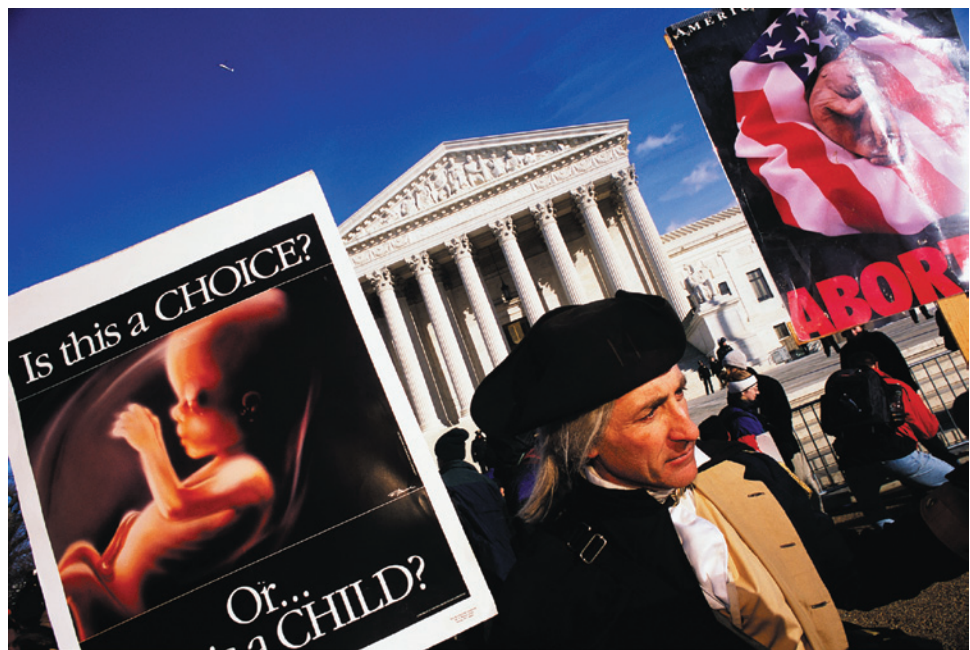
2.5

2.6

- 2.1
- 2.2
- 2.3
- 2.4
- 2.5
- 2.6

signing statement

A document sometimes issued by the president in connection with the signing of a bill from Congress that sets out the president’s understanding of the new law and how executive branch officials should carry it out.



VOICING CONCERNS AT THE COURT

The Constitution has evolved over the years in three ways: through the amendment process, through evolving political practices, and through the Supreme Court’s changing interpretation of the Constitution’s meaning. Here antiabortion protesters demonstrate in front of the Supreme Court building on the anniversary of the Court’s *Roe v. Wade* decision to demand a reversal of that landmark decision. How does the Constitution protect both the Supreme Court’s decision and these people’s public protest of it? How likely is it that the present Supreme Court will listen to these and other voices and overturn *Roe*?

commander-in-chief powers by many presidents, and the widespread demand that the president do something during economic crises. The Constitution does not specify, for example, that the Treasury secretary, acting for the president, can force the merger of failing financial firms as was done in the last months of the George W. Bush presidency in the depths of the recession. Nor would they have predicted the increasing use of **signing statements** (see the chapter-opening story) by which a president can alter the meaning of a bill even while signing it into law.

Throughout this book you will see many examples of these three forms of constitutional change that have shaped our current understanding of the meaning of the Constitution and its many provisions. You also will learn that the third factor, changing political practices—itsself a product of social and cultural change and pressure from the American people—is at least as important as amendments and judicial rulings in adjusting the Constitution to its times.⁴³

Using the DEMOCRACY STANDARD

How democratic is the Constitution?

Scarred by the failings of the Articles of Confederation, the framers endeavored to create a republic that would offer representative democracy without the threat of majority tyranny. Consequently, they wrote a number of provisions into the Constitution to control the purported excesses of democracy. These include the separation of powers into executive, legislative, and judicial branches; checks and balances to prevent any of the branches from governing on its own; federalism to fragment government powers between a national government and the states; an appointed federal judiciary with life tenure charged with, among other things, protecting private property; selection of the president by the Electoral College; election of members of the Senate by state

legislatures; and a process for changing the Constitution that makes it exceedingly easy for small numbers of people in Congress and a very few states to block amendments favored by a majority of Americans.

Although the framers had every intention of creating a republic and holding democracy in check, the tide of democracy has gradually transformed the original constitutional design. For example, the Seventeenth Amendment created a Senate whose members are directly elected by the people. The Supreme Court, moreover, has extended civil rights protections to racial and ethnic minorities. And, the presidency has become both more powerful and more attentive to majority opinion. By formal amendment, through judicial interpretations, and through changing political practices, government has been fashioned into a more responsive set of institutions that, eventually, must heed the voice of the people.

Yet it can be argued that, despite these changes, the American system of government remains essentially “republican” in nature, with the majority finding it very difficult to prevail. Provisions of the Constitution, designed to keep the majority in check, effectively provide minorities with disproportionate power in government. For example, four times in our history, presidents have taken office after an election without having won a majority of the popular vote (John Quincy Adams, 1825; Rutherford B. Hayes, 1877; Benjamin Harrison, 1889; George W. Bush, 2001). And while the Seventeenth Amendment did make the election of senators more democratic, the Senate itself—which provides equal representation to all states regardless of population—remains skewed toward smaller states, thus serving as a major barrier in the translation of what the American people want into what government does.⁴⁴ Moreover, as we will see in later chapters, the ability of private and privileged groups to use the many blocking points provided by the Constitution has grown, often frustrating majority interests and demands.

2.1

2.2

2.3


2.4

2.5

2.6

On MyPoliSciLab

Review the Chapter

 Listen to Chapter 2 on MyPoliSciLab

The American Revolution and the Declaration of Independence

2.1 Assess the enduring legacies of the American Revolution and the Declaration of Independence, p. 28

The Revolutionary War and the Declaration of Independence helped establish the ideas of self-government and inalienable individual rights as the core of the American political ideology.

The Articles of Confederation: The First Constitution

2.2 Describe the governmental system established by our first constitution, p. 31

The first constitution joining the American states was the Articles of Confederation. Under its terms, the states were organized into a loose confederation in which the states retained full sovereignty and the central government had little power.

Factors Leading to the Constitutional Convention

2.3 Analyze the developments that led to the Constitutional Convention, p. 32

Defects in the Articles of Confederation, along with fears that democratic and egalitarian tendencies were beginning to spin out of control, prompted American leaders to gather in Philadelphia to amend the Articles. The delegates chose instead to formulate an entirely new constitution.

The Constitutional Convention

2.4 Evaluate the framework for government that emerged from the Constitutional Convention, p. 36

The framers created a constitutional framework for republican government including representative elections, separation of powers, checks and balances, and federalism.

The Connecticut Compromise settled the tensions between large and small states by giving states equal representation in the Senate and representation based on population in the House of Representatives.

The framers legitimated slavery.

The framers created the legal foundations for a thriving commercial republic.

The Struggle to Ratify the Constitution

2.5

Explain the difficulties of ratifying the Constitution, p. 49

The Constitution was ratified in an extremely close vote of the states after a hard-fought struggle between the Federalists, who wanted a more centralized republicanism, and the Anti-Federalists, who wanted small-scale republicanism.

The promise by the Federalists to introduce amendments specifying the rights of Americans in the 1st Congress helped swing the vote in favor of ratification in a number of key states.

Despite its “close shave,” the Constitution became very popular among the American people within only a few years of the ratification fight.

The Changing Constitution, Democracy, and American Politics

2.6

Identify three processes by which the Constitution changes, p. 51

The Constitution changes by three processes: amendments to the document, judicial interpretations of the meaning of constitutional provisions, and the everyday political practices of Americans and their elected leaders.

Because the American people continue to struggle for democracy, the Constitution has become far more democratic over the years than was originally intended by the framers.

Learn the Terms



Study and **Review** the Flashcards

social contract, p. 30
confederation, p. 31
constitution, p. 31
Articles of Confederation, p. 31
republicanism, p. 33
tyranny, p. 33
unicameral, p. 34
stay acts, p. 34

Virginia Plan, p. 38
New Jersey Plan, p. 38
Connecticut Compromise, p. 38
Electoral College, p. 41
federal, p. 44
supremacy clause, p. 44
elastic clause, p. 45
Bill of Rights, p. 45

separation of powers, p. 46
checks and balances, p. 46
free enterprise, p. 47
Federalists, p. 50
Anti-Federalists, p. 50
judicial review, p. 51
signing statement, p. 52

Test Yourself



Study and **Review** the Practice Test

Answer key begins on page T-1.

2.1 Assess the enduring legacies of the American Revolution and the Declaration of Independence

1. At the time of the American Revolution, this concept was understood as the preservation of traditional rights against the intrusion of a distant government.

- a. Democracy
- b. Popular sovereignty
- c. Political equality
- d. Liberty
- e. Justice

2.2 Describe the governmental system established by our first constitution

2. According to the Articles of Confederation, all national laws had to be approved by:

- a. 6 of the 13 states
- b. 7 of the 13 states
- c. 8 of the 13 states
- d. 9 of the 13 states
- e. 10 of the 13 states

2.3 Analyze the developments that led to the Constitutional Convention

3. Some states passed these types of acts, which forbade farm foreclosures for nonpayment of debts.

- a. Farm acts
- b. Agriculture acts
- c. Revolutionary acts
- d. Stay acts
- e. Debt acts

4. Shays's Rebellion took place in reaction to:

- a. Increased taxes to pay off war debts
- b. Increased taxes and the imprisonment of debtors
- c. Dropping prices for crops, increase in taxes, and an insistence that note holders be paid in full by the state
- d. An increase in taxes, and an insistence that note holders be paid in full by the state
- e. Dropping prices for crops and increased taxes

2.4 Evaluate the framework for government that emerged from the Constitutional Convention

5. This plan proposed the creation of a strong central government dominated by a powerful bicameral congress that would be controlled by the most populous states.

- a. New Jersey Plan
- b. Massachusetts Plan
- c. Virginia Plan
- d. Pennsylvania Plan
- e. Maryland Plan

2.5 Explain the difficulties of ratifying the Constitution

6. Those who supported the Constitution were known as:

- a. Federalists
- b. Anti-Federalists
- c. Supremacists
- d. Compromisers
- e. Revolutionists

2.6 Identify three processes by which the Constitution changes

7. How many amendments are in the Bill of Rights?

- a. 5
- b. 10
- c. 12
- d. 15
- e. 20

Explore Further

INTERNET SOURCES

The Library of Congress and The Articles of Confederation www.loc.gov/rr/program/bib/ourdocs/articles.html. An overview of the Articles of Confederation with numerous links to other sources involving the writing and development of the articles.

The Avalon Project: Notes on the Debates at the Federal Convention avalon.law.yale.edu. As complete a compilation as exists on Madison's notes and the less complete but important notes of other participants.

Best of History Websites besthistorysites.net/index.php/american-history/1700/constitution. A comprehensive collection of links to websites about early American history.

Biographical Sketches of the Delegates to the Constitutional Convention www.archives.gov/exhibits/charters/constitution_founding_fathers.html. Profiles of the delegates to the Constitutional Convention.

Political Science Resources: Political Thought www.politicalresources.net. A vast collection of documents on democracy, liberty, and constitutionalism around the world.

SUGGESTIONS FOR FURTHER READING

Ellis, Joseph J. *Founding Brothers: The Revolutionary Generation*. New York: Alfred Knopf, 2001.

An entertaining and accessible look at the intertwined lives of the men who wrote the Declaration of Independence, fought the Revolutionary War, fashioned the Constitution, and launched the new American government.

Levinson, Sanford. *Our Undemocratic Constitution: Where the Constitution Goes Wrong*. New York: Oxford University Press, 2006.

An argument by a leading constitutional scholar that the framers did their job of protecting against majority rule so well that it severely cripples American democracy today.

Rossiter, Clinton, ed. *The Federalist Papers*. New York: New American Library, 1961.

Classic commentaries on the Constitution and its key provisions, written by Alexander Hamilton, John Jay, and James Madison.

Storing, Herbert J. *What the Anti-Federalists Were For*. Chicago: University of Chicago Press, 1981.

The most complete collection available on the published views of the Anti-Federalists. Includes convincing commentary by Storing.

Sunstein, Cass R. *A Constitution of Many Minds: Why the Founding Document Doesn't Mean What It Meant Before*. Princeton, NJ: Princeton University Press, 2009.

An analysis of why the meaning of the Constitution has changed over the course of American history and will do so in the future.

Wood, Gordon S. *The Creation of the American Republic*. New York: W. W. Norton, 1972.

The most exhaustive and respected source on America's changing ideas during the period 1776–1787, or from the start of the American Revolution to the writing of the Constitution.

Wood, Gordon S. *The Radicalism of the American Revolution*. New York: Alfred Knopf, 1992.

Examines and rejects the argument that the American Revolution was merely a political and not a social and economic revolution.