

Constitutional Foundations

IN THIS CHAPTER

Summary: Government is the institution that creates public policy. The democratic government of the United States traces its roots from the Greco-Roman era to the Enlightenment. The key founding documents of U.S. government, the Declaration of Independence and the Constitution, set forth the principles that define the character of American democracy. The U.S. Constitution is a flexible document that provides for its own changes, or amendments. Among the key principles of U.S. government inherent in the Constitution are federalism, separation of powers, and a system of checks and balances. The power of the Supreme Court broadened with the establishment of judicial review in *Marbury v. Madison* (1803).

Key Terms and Concepts

| | | |
|--------------------------|---------------------------|---------------------------|
| government | limited government | ratification |
| politics | popular sovereignty | Federalists |
| public policy | republicanism | <i>Federalist Papers</i> |
| democracy | Articles of Confederation | Federalist No. 10 |
| direct democracy | Shay's Rebellion | Anti-Federalists |
| representative democracy | federal system | Bill of Rights |
| participatory democracy | Virginia Plan | Brutus No. 1 |
| pluralist theory | New Jersey Plan | constitution |
| elite theory | Grand Committee | separation of powers |
| bureaucratic theory | Great (Connecticut) | checks and balances |
| hyperpluralism | Compromise | federalism |
| social contract | Three-Fifths Compromise | Federalist No. 51 |
| natural rights | Commerce and Slave | amendments |
| Declaration of | Trade Compromise | judicial review |
| Independence | electoral college | <i>Marbury v. Madison</i> |

Principles of Government

What Is Government? What is Politics?

In any nation a **government** is composed of the formal and informal institutions, people, and processes used to create and conduct public policy. Political scientist Harold Laswell defined **politics** as “who gets what, when, and how.” Think of government as the formal rules of a game, and politics as the informal ways in which the game might be played. Government and politics are methods by which a country develops public policy. **Public policy** is the exercise of government power in doing those things necessary to maintain legitimate authority and control over society.

Purposes of Government

Every nation must decide for itself what goals will be translated into public policy and the methods by which those goals will be translated. The Preamble of the United States Constitution addresses the goals of public policy for the United States:

- forming a more perfect union: creation of a strong union of the states, while also maintaining state sovereignty
- establishing justice: reasonable, fair, and impartial law
- insuring domestic tranquility: preservation of public order
- providing for the common defense: protection and maintenance of national defense
- promoting the general welfare: providing public services and economic health of the nation
- securing the blessings of liberty: promoting individual freedoms

Forms of Government

Greek philosopher Aristotle attempted to classify governments based on the number of individuals who participated in making political decisions: rule by one, rule by the few, or rule by the many. His early classification system is still useful in describing governments today:

- *anarchy*—Lack of government.
- *autocracy*—Rule by one.
 - absolute monarchy—Ruler gains power through inheritance; there are no restrictions on the ruler’s power.
 - constitutional monarchy—Ruler gains power through inheritance; formal restrictions limit power, often restricting the monarch to ceremonial status.
 - dictatorship—Ruler seizes power, keeps power by force, and restricts opposition to regime; no restrictions on dictator’s power.
- *oligarchy*—Rule by a few.
 - aristocracy: Rule by the elite, usually determined by social status or wealth.
 - theocracy: Rule by religious leaders.
- *democracy*—Rule by the people.
 - **direct democracy**—Citizens meet and make decisions about public policy issues.
 - **representative democracy**—Citizens choose officials (representatives) who make decisions about public policy. This is the system in place in most “democratic” nations.

Theories of Democratic Government

Theories of democratic government are theories about who has power and influence over public policy and decision making at the local, state, and national levels of government.

- *participatory democratic theory*—Government depends on the consent of the governed, which may be given directly or through representatives often referred to as traditional government because it emphasizes citizen participation.



KEY IDEA

- **pluralist theory**—Interest groups compete in the political arena, with each promoting its policy preferences through organized efforts. Conflict among groups may result, requiring bargaining and compromise (Robert Dahl).
- **elite theory**—A small number of powerful elites (corporate leaders, top military officers, government leaders) form an upper class, which rules in its own self-interest (C. Wright Mills).
- **bureaucratic theory**—The hierarchical structure and standardized procedures of modern governments allow bureaucrats, who carry out the day-to-day workings of government, to hold the real power over public policy (Max Weber).
- **hyperpluralism**—Democracy is a system of many groups having so much strength that government is often “pulled” in numerous directions at the same time, causing gridlock and ineffectiveness.

Origins of American Government

Influences on American Government

In 1607 the British established a permanent colony at Jamestown, Virginia. Early colonists brought ideas and traditions that would form the basis of American government as a part of the British colonial empire, and as an independent United States. Two of the early traditions were limited government and representative government.

During the Enlightenment Era, philosophers such as John Locke supported the concept of a social contract. Locke viewed the **social contract** as a voluntary agreement between the government and the governed. In *Two Treatises on Civil Government* (1689), Locke argued that people are born with **natural rights** to life, liberty, and property (natural law). Locke also believed that governments are created to support those rights, but that if the government fails to do so, the people may choose to change their government. Thomas Jefferson adopted these ideas in the **Declaration of Independence**. Another Enlightenment thinker, Montesquieu, wrote about the need for branches of government.

The United States government today is based on ideas of:

- **limited government**—Government’s power is limited by the rule of law, which includes the Constitution and the laws, which are passed in implementation of that Constitution; this means that government is not all-powerful.
- **natural rights**—Basic rights that are guaranteed to all people and which cannot be denied or restricted by any government or individual.
- **popular sovereignty**—People are the source of all governmental power; ultimate power and final authority rest with “we the people” or all the citizens.
- **republicanism**—A system in which the people give authority to government and exercise their power by delegating it to representatives chosen by them through the election process.
- **social contract**—A voluntary agreement among the members of society and the government which defines and limits the rights and duties between the government and the governed.

Colonial Experiences

From 1607 to 1776, the American colonies were in a continuous state of political self-development. This was due to several factors, such as the long distance from England, indifference of the colonists to the king’s authority, and the disputed political authority in England. As the colonies developed, they made the most of their English heritage but made changes

to create a new and unique style of government. This new government was founded on the principles of equality, liberty, and limited government.

- *Difficulties with Britain*—As the colonies grew, so did problems with Britain. Prior to 1750, the British provided defense and manufactured goods for the colonies. The colonies in return provided raw materials and markets for manufactured goods. Britain allowed the colonies to control their own internal affairs. After the French and Indian War (1756–1763), however, the British government expected the colonies to help pay the cost of the war and pay for their own future defense. The British government began enforcing taxes already levied and passed new taxes to replenish the king’s treasury. These new taxes included the Sugar Act (1764), the Stamp Act (1765), and the Townshend Acts (1767). As the colonists began protesting, violence and conflict began to break out between the colonies and Britain. After the Boston Massacre (1770) and Boston Tea Party (1772), the British government passed a series of punishing acts collectively known as the Coercive or Intolerable Acts. In response the colonies began to unite in an effort to influence the British government and to express dissatisfaction with British policies.
- *Continental Congresses*—The First Continental Congress included delegates from 12 colonies (all except Georgia) who met in Philadelphia in 1774. This Continental Congress resolved to send a Declaration of Rights to the king in protest of Britain’s policies. They also agreed to meet again the following year. The Second Continental Congress began meeting in May 1775, more than one month after the battles of Lexington and Concord. The Second Continental Congress became America’s first national government. Delegates from all 13 colonies were present, among them John Hancock, George Washington, Ben Franklin, Thomas Jefferson, John Adams, and Patrick Henry. The Second Continental Congress created the Continental Army and appointed George Washington as its commander-in-chief, borrowed money from France and the Netherlands, created a monetary system, made treaties with foreign governments, and commissioned the writing of the Declaration of Independence and the **Articles of Confederation**.

Declaration of Independence

The Declaration of Independence is mainly the work of Thomas Jefferson with the help of John Adams and Benjamin Franklin. The principles are largely based on the works of Enlightenment philosopher John Locke.

- “All men are created equal.”
- People are born with inalienable rights given by God, not the king. Among those rights are “life, liberty, and the pursuit of happiness.” This statement by Jefferson is based on John Locke’s “life, liberty and property.”
- Governments are created by men, so Jefferson supported the notion of “consent of the governed.”
- If a government did not act on behalf of the people, the people have not only a right, but a duty, to “alter or abolish” the government.

The Declaration of Independence can be divided into three parts: a theory of government based on social contract and natural rights, a list of grievances against the king and “others” (Parliament), and a statement of colonial unity and separation from Britain based on a resolution proposed by Richard Henry Lee of Virginia that “these United Colonies are, and of right ought to be Free and Independent States.” The Declaration of Independence supports and provides the foundation for popular sovereignty, the idea that the people are the ultimate source of government’s power. The Declaration of Independence was approved by the Second Continental Congress on July 4, 1776, proclaiming the separation of the

thirteen British colonies in North America from the British government, therefore, creating the United States.

The impact of the Declaration of Independence can be seen and felt within the United States and around the world. Several portions of the United States Constitution and its amendments address grievances Jefferson levied against the king.

Articles of Confederation

The Articles of Confederation (1781–1789), written by the Second Continental Congress in November 1777, became the first national constitution for governing the American states. The Articles created a confederation or “league of friendship” among the states. The Confederation would be composed of a relatively weak national government with a unicameral legislature. Writers of the Articles did not want to replicate the strong national government of Great Britain. Congress would have limited powers such as borrowing money, creating a national army and navy, declaring war, creating post offices, and signing treaties with foreign governments. Congress was not given the power to tax, draft soldiers for military service, or regulate commerce. There was no national executive or judicial branch under the Articles of Confederation. Each state was equal, with one vote, regardless of population or size. The votes of 9 of the 13 states were required for legislation to pass the Confederation Congress; amending the Articles of Confederation required a unanimous vote.

The weaknesses evident in the Articles of Confederation allowed the states to focus on their own powers. With no central government to control them, the states taxed each other, printed their own money, made treaties with foreign governments, and often refused to uphold the laws of the Confederation government. The government’s inability to tax, its lack of enforcement powers over the states, and the lack of a centralized military led to economic chaos and violence, resulting in conferences at Mt. Vernon and Annapolis. These meetings proved to be unsuccessful, and eventually a rebellion of farmers in Massachusetts (**Shays’ Rebellion**) led to the calling of a Constitutional Convention.



KEY IDEA

Constitutional Convention

The Constitutional Convention was convened in Philadelphia in May of 1787, for the purpose of revising the Articles of Confederation. (See Figure 6-1.) Delegates representing all the states except Rhode Island attended. While waiting for the delegates to arrive and the convention to officially begin, James Madison sketched out his Virginia Plan, based on the idea of a strong national government. Once the convention began, George Washington was chosen to preside over the convention.

- Very early in the convention, the delegates decided that they would write a new constitution instead of revising the Articles of Confederation.
- The delegates agreed that the new government would be a republic, a **federal system**, and would be composed of three branches (executive, legislative, judicial).
- Several plans, including the **Virginia Plan** and the **New Jersey Plan**, were presented to the delegates. (See Figure 6-2.)

Compromises

- The Constitutional Convention debated for weeks over how representatives to a national legislature should be chosen. The report of the Grand Committee was an effort to find a compromise between the positions of the large and small states. The convention adopted the **Great (Connecticut) Compromise** based on this report. Congress would be a bicameral legislature, with representation in the lower house based on the population of the state and equal representation of the states in the upper house.

Weaknesses of the Articles of Confederation and Constitutional Remedies



“Quiz yourself on the material.”
—JS, AP student

| Weaknesses of the Articles of Confederation | How the Constitution Remedied Weaknesses |
|---|---|
| Articles created a “league of friendship” between the states | The Constitution created a federal system of government between the national and state levels |
| Congress could not tax; it could only request contributions from the states | National government was given the power to tax |
| Congress could not regulate interstate trade or foreign commerce | Congress was given the power to regulate commerce between the states and with foreign nations |
| No separate executive to enforce the acts of Congress | Article II created a separate executive department whose job is to enforce the laws of Congress |
| No national judiciary to handle state disputes | Article III created a national judiciary with a Supreme Court and lower courts as established by Congress |
| States and the national government had the authority to coin money | Only the national government has the authority to coin money |
| Each state had one vote, regardless of size or population | States are represented based on population in the House of Representatives and equality in the Senate |
| Nine of thirteen states required to pass legislation | Bills need a simple majority in both houses of Congress |
| Unanimous consent required to amend the Articles of Confederation | Two-thirds of Congress and three-fourths of the states are necessary to amend the Constitution |

Figure 6-1

Comparison of the Virginia and New Jersey Plans

| Virginia Plan | New Jersey Plan |
|---|--|
| Bicameral legislature —lower house elected by the people —upper house chosen by lower house from nominees submitted by state legislatures | Unicameral legislature —representatives chosen by state legislatures —each state receives one vote |
| Representation in each house based on population and/or monetary contributions to the national government by the state | Representation in House would be equal among the states |
| Single executive chosen by legislative branch, limited to one term only, could veto legislative acts, removed by Congress | Plural executives chosen by legislative branch, no veto powers, removal by the states |
| Judges chosen by legislative branch | Judges appointed for life by the executive |

Figure 6-2

- A second compromise concerned the counting of slaves for the purpose of determining population for representation in Congress and for taxation. Southern states wanted slaves to be counted for representation but not taxation. Northern states wanted slaves counted for taxation but not for representation. The **Three-Fifths Compromise** resolved this issue: Each state would count three-fifths of its slave population for purposes of determining both representation and taxation.
- The **Commerce and Slave Trade Compromise** resolved other differences between southern and northern states. Congress was prohibited from taxing exports from the states and from banning the slave trade for a period of 20 years.
- Numerous other compromises were made at the Constitutional Convention concerning the executive and judicial branches as well as the electoral process for choosing a chief executive. The founding fathers established the concept of the **electoral college** in the Constitution as a compromise between election of the President by a vote in Congress and election of the President by a popular vote of qualified citizens.

Ratification of the Constitution

Although the delegates at the convention signed the Constitution on September 17, 1787, it still had to be ratified by 9 of the 13 states before it could go into effect. In each state, special ratifying conventions would be held over the next two years. Debate over **ratification** divided citizens into Federalist and Anti-Federalist positions (Figure 6-3).

- The **Federalists** stressed the weaknesses of the Articles of Confederation and the government it created. They supported a stronger central government with expanded legislative powers. The Federalist cause was helped by James Madison, Alexander Hamilton, and John Jay in a collection of 85 essays published in the New York newspapers under the name “Publius.” (Hamilton wrote 51, Madison wrote 26, Jay wrote 5, and Hamilton and Madison coauthored 3 of these essays.) These **Federalist Papers** defended the new government created under the Constitution and even today provide insight into the framers’ original intent.

Federalists Versus Anti-Federalists

| Federalists | Anti-Federalists |
|---|--|
| Favored Constitution | Opposed Constitution |
| Led by James Madison, Alexander Hamilton, John Jay | Led by Patrick Henry, Richard Henry Lee, George Mason, Samuel Adams |
| Stressed weaknesses of Articles; strong government needed to protect nation and solve domestic problems | Wanted strong state governments; feared a strong national government |
| Checks and balances would protect against abuses | Created a strong executive similar to monarchy |
| Protection of property rights | Wanted fewer limits on popular participation |
| Constitution is a bill of rights with limitations and reserved powers for the states; state constitutions already had protections in bill of rights | Wanted a bill of rights to protect citizens against government |



Figure 6-3

- **Federalist No. 10**, written by James Madison, argues that the union under the new constitution is a safeguard against domestic faction and insurrection. Madison begins by defining factions as groups of people who gather together to protect and promote their special economic interests and political opinions. He then argues that there are only two ways to deal with factions: either eliminate factions by removing their causes, or limit their impact by controlling their effects. Madison believed that any damage caused by factions could be controlled by the government under the new constitution.
- The **Anti-Federalists** believed that the new Constitution gave too much power to the national government at the expense of the state governments. Another objection was the lack of a **Bill of Rights**, ensuring fundamental liberties.
- **Brutus No. 1** was written by Anti-Federalist Robert Yates of New York in 1787, in an attempt to convince the people of New York to not ratify the Constitution. Like other opponents of the proposed Constitution, Brutus believed that republics had to be small and homogeneous—not large and diverse—in order to be successful. Allowing the government too much power would result in the people losing their liberties. Along with many other Anti-Federalists, Brutus argued that a Bill of Rights was a critical part in the protection of the people's liberties.

The United States Constitution

A **constitution** details the structure of a government. The Constitution of the United States is the oldest national constitution in use today. Although the Constitution is relatively short, it describes the structure and powers of the national government as well as the relationship between the national and state governments.

Basic Principles Within the Constitution

Embodied within the Constitution are the basic principles of:

KEY IDEA

- **limited government**—belief that government is not all-powerful; government has only those powers given to it
- **popular sovereignty**—the people are the source of government's authority
- **separation of powers**—power is separated among three branches of government; each has its own powers and duties and is independent of and equal to the other branches
- **checks and balances**—each branch is subject to restraints by the other two branches (see Figure 6-4)
- **federalism**—a division of governmental powers between the national government and the states

Checks and Balances

The constitutional system of checks and balances prevents one branch of the federal government from becoming more powerful than the other two.

- **Federalist No. 51**, written by James Madison, argues that the government under the new Constitution will not become too powerful because the separation of powers will keep each branch in check.
- Madison claims that the legislative branch in a republic is naturally the most powerful and that the executive is weaker.

- Madison sees it as human nature to increase one's power, therefore there must be safeguards to protect against a person or group from seizing too much power.
- Concentration of power in a single person or group is a threat to the liberty of the people. Madison accepts that men cannot be trusted with unchecked power.

The Constitution may be divided into three major parts: the Preamble, articles, and **amendments**.

Preamble

The opening paragraph of the Constitution is called the Preamble. It lists the six goals for American government and explains why the Constitution was written.

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Articles

The Constitution is divided into seven articles. Each of the articles covers a specific topic. Article I is the longest, devoted to the legislative branch of government.

- Article I—Legislative Branch
- Article II—Executive Branch
- Article III—Judicial Branch
- Article IV—Intergovernmental Relationships
- Article V—Amendment Process
- Article VI—Supremacy of the Constitution
- Article VII—Ratification Process

Formal Amendment Process

One major weakness of the Articles of Confederation was the amendment process, which required unanimous approval for amendments to become effective. The framers of the Constitution anticipated the need to change the Constitution and provided a process to amend the Constitution (Article V) that required both state and national action. Amending the Constitution requires proposal, a national function, and ratification, a state function. Amendments may be proposed in Congress by two methods and ratified by two methods, creating four possible methods for formally amending the Constitution:

- proposed by two-thirds vote of each house of Congress and ratified by three-quarters of the state legislatures (used 26 times)
- proposed by two-thirds vote of each house of Congress and ratified by special conventions in at least three-quarters of the states (used once, to ratify the Twenty-First Amendment)
- proposed by a national convention called by Congress at the request of two-thirds of the state legislatures and ratified by three-quarters of the state legislatures (never used)
- proposed by a national convention called by Congress at the request of two-thirds of the state legislatures and ratified by special conventions in at least three-quarters of the states (never used)



KEY IDEA

Formal Amendments

Formal amendments are written changes to the Constitution. They add to, change the wording of, or delete language from the Constitution. Only 27 formal amendments have been

Separation of Powers and Checks and Balances

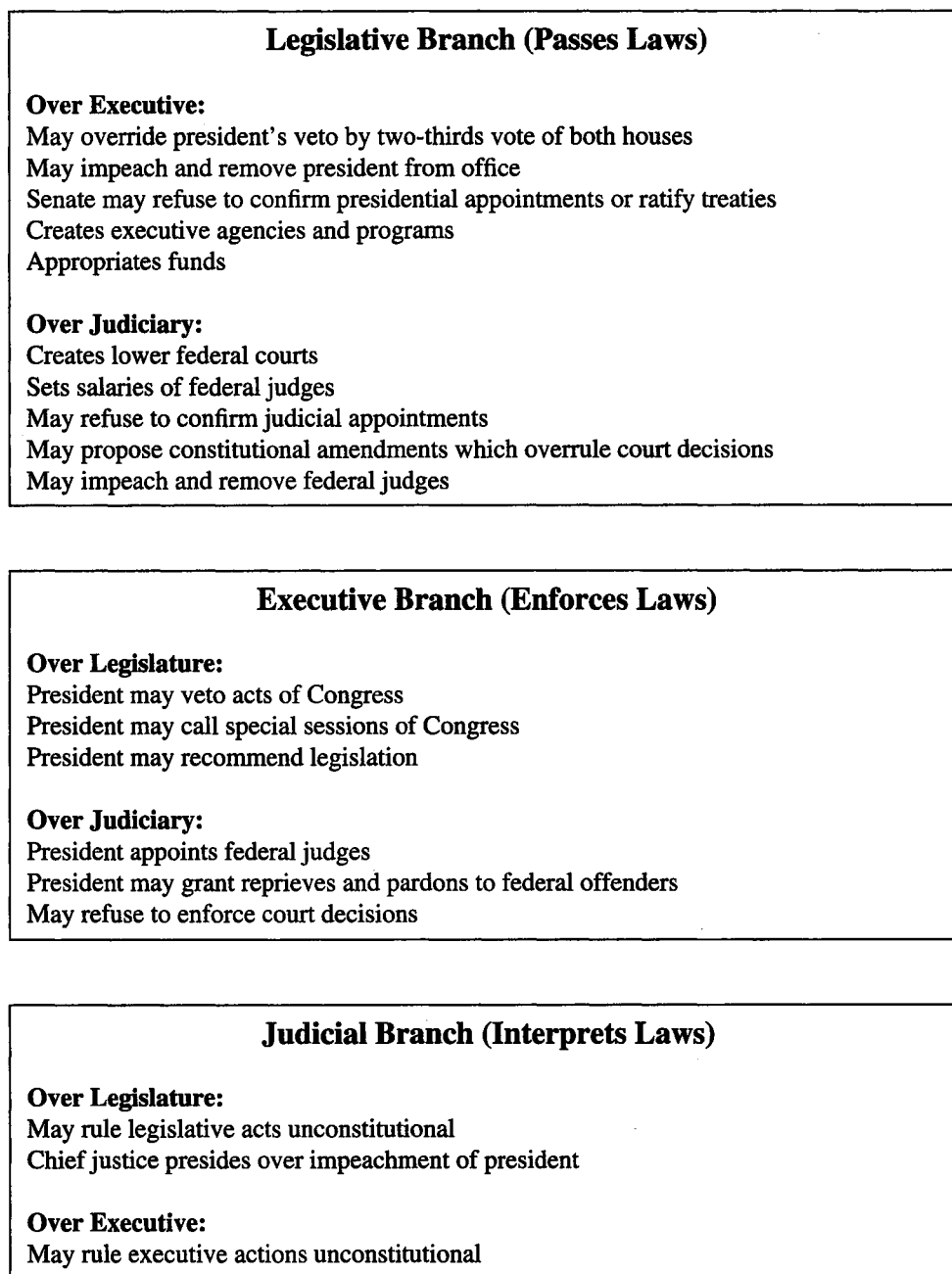


Figure 6-4

added to the Constitution since its adoption. (See Figure 6-5.) The first 10 amendments, the Bill of Rights, were added in 1791.

Informal Amendment Process

Although the United States Constitution has been formally changed only 27 times, there have been many changes in the way in which the American government operates. Most of those changes have come about through the informal amendment process and do not involve

Constitutional Amendments

- Amendment 1—guarantees freedom of religion, speech, press, assembly, and petition
- Amendment 2—ensures the right to keep and bear arms
- Amendment 3—sets conditions for quartering of troops in private homes
- Amendment 4—regulates search, seizure, and warrants
- Amendment 5—addresses protections against self-incrimination, guarantees of due process, eminent domain, and grand jury indictment for capital crimes
- Amendment 6—guarantees rights to a speedy, public trial and an impartial jury; to confront witnesses; and to have an attorney
- Amendment 7—preserves the right to a jury trial in civil cases
- Amendment 8—ensures no excessive bails or fines, nor cruel and unusual punishment
- Amendment 9—cites unenumerated rights of the people
- Amendment 10—reserves powers of the states and the people
- Amendment 11—restricts lawsuits against states
- Amendment 12—provides for election of president and vice-president by separate ballot in electoral college
- Amendment 13—abolishes slavery
- Amendment 14—guarantees rights of citizenship, due process, and equal protection
- Amendment 15—guarantees citizens' right to vote regardless of race, color, or previous condition of servitude
- Amendment 16—authorizes income tax
- Amendment 17—establishes direct election of senators by popular vote
- Amendment 18—prohibits intoxicating liquors
- Amendment 19—establishes women's suffrage
- Amendment 20—sets terms and sessions of executive and legislative branches; "lame duck"
- Amendment 21—repeals prohibition (18th amendment)
- Amendment 22—limits presidential terms of office
- Amendment 23—allows for voting rights in District of Columbia in presidential elections
- Amendment 24—abolishes poll taxes
- Amendment 25—addresses presidential succession, disability, and vice-presidential vacancies
- Amendment 26—gives 18-year-olds the right to vote
- Amendment 27—addresses congressional pay

Figure 6-5

actually changing the wording of the Constitution. Informal changes in the Constitution may occur in the following ways:

- *legislative actions*—Congress has passed various acts that have altered or made clear the meaning of the Constitution. For example, under Article III Congress is given the authority to create lower courts, which they did through the Judiciary Act of 1789.
- *executive actions*—The manner in which presidents use their powers can create informal amendments and expand presidential authority. The use of executive agreements rather than treaties allows the president to bypass the Senate.
- *judicial interpretation/judicial review*—The people who serve as judges and the times in which they serve affect how courts interpret laws. The concept of judicial review resulted from *Marbury v. Madison* (1803); it is not mentioned in the Constitution.
- *custom and usage*—Traditions that have been incorporated into the political system and which have lasted over time have changed the meaning of the Constitution. Senatorial courtesy in the Senate and the "no-third-term" tradition in the presidency (until the Twenty-Second Amendment made it part of the Constitution) are examples.



KEY IDEA

Marbury v. Madison (1803)

In the election of 1800 political parties played an active role. Federalists supported John Adams, and Democratic-Republicans supported Thomas Jefferson. At the conclusion of the election, Adams and the Federalists had lost control of the presidency and Congress. In an effort to retain some control in the government, the “lame duck” Federalist Congress created numerous new judicial positions, which outgoing President Adams attempted to fill. Late into the night prior to Jefferson’s inauguration, Adams was still signing the commissions of the “midnight appointments” which the secretary of state was to deliver. Not all the commissions were delivered, and when Jefferson took office, he ordered the commissions withheld, intending to make his own appointments. William Marbury expected to receive a commission as a justice of the peace for the District of Columbia. He petitioned the Supreme Court to issue a writ of mandamus (allowed under the Judiciary Act of 1791) ordering Secretary of State James Madison to deliver the commission to Marbury and several others. The Supreme Court under Chief Justice John Marshall ruled that although Marbury was entitled to the commission, the Supreme Court would not order Madison to give it to him because the Court did not have authority under the Constitution to decide this type of case, and that the portion of the Judiciary Act of 1791 that allowed the Court to hear these cases was unconstitutional. This case established the principle of **judicial review** and was the first time the Court declared an act of Congress unconstitutional.



KEY IDEA

› Review Questions

Multiple-Choice Questions

1. Which of the following is the best example of checks and balances as it functions today?
 - (A) The congressional veto
 - (B) A declaration of war by Congress
 - (C) The appointment of the Speaker of the House
 - (D) The ratification of treaties by the Senate
2. Which of the following documents best describes a government based on unity, natural rights, and the social contract theory?
 - (A) Articles of Confederation
 - (B) Declaration of Independence
 - (C) Mayflower Compact
 - (D) U.S. Constitution
3. The original purpose of the Constitutional Convention was to
 - (A) write a new constitution
 - (B) review the problems of the state governments
 - (C) revise the Articles of Confederation
 - (D) deal with the issue of slavery
4. Compared to government under the Articles of Confederation, the Constitution
 - (A) is harder to amend
 - (B) created a league of friendship among the states
 - (C) created a unitary system of government
 - (D) called for separation of powers among the three branches of government
5. Which of the following was NOT a weakness of government under the Articles of Confederation?
 - (A) The national judiciary resolved arguments between the states.
 - (B) Congress lacked the power to tax.
 - (C) It lacked a national judiciary.
 - (D) It was unable to control commercial interests.
6. Slavery and the taxation of exports were important topics to the Founding Fathers. Which compromise describes how the Founding Fathers resolved both of these issues?
 - (A) Great Compromise
 - (B) Commerce and Slave Trade Compromise
 - (C) Electoral Compromise
 - (D) Three-Fifths Compromise
7. Those who support the pluralist theory of democracy believe that
 - (A) government depends on the “consent of the governed”
 - (B) interest groups compete to promote their preferences
 - (C) democracy is based on choosing officials to run the government
 - (D) a small number of powerful corporate and military leaders rule in their own self-interest
8. The Supreme Court’s decision in *Marbury v. Madison* (1803)
 - (A) supported the concept of national supremacy
 - (B) established the principle of judicial review
 - (C) allowed Congress to amend the Constitution
 - (D) strengthened the powers of the states
9. The Bill of Rights includes
 - (A) the Preamble
 - (B) the Articles of Confederation
 - (C) the articles of the Constitution
 - (D) the first 10 amendments
10. Amending the Constitution is a multi-step process. Which of the following steps are required to amend the Constitution?
 - (A) proposal at the national level
 - (B) proposal at the state level
 - (C) presidential signature
 - (D) congressional ratification

Use the infographic below to answer the question 11.

| Federalists | Anti-Federalists |
|---|--|
| Favored Constitution | Opposed Constitution |
| Led by James Madison, Alexander Hamilton, John Jay | Led by Patrick Henry, Richard Henry Lee, George Mason, Samuel Adams |
| Stressed weaknesses of Articles; strong government needed to protect nation and solve domestic problems | Wanted strong state governments; feared a strong national government |
| Checks and balances would protect against abuses | Created a strong executive similar to monarchy |
| Protection of property rights | Wanted fewer limits on popular participation |
| Constitution is a bill of rights with limitations and reserved powers for the states; state constitutions already had protections in bill of rights | Wanted a bill of rights to protect citizens against government |

11. Which of the following best describes the positions of the Federalists and Anti-Federalists regarding the powers given to the national government under the proposed U.S. Constitution?
- (A) The Federalists wanted a Bill of Rights to protect the states and the people, while the Anti-Federalists wanted the national government to be stronger than the state governments.
- (B) The Federalists wanted a stronger national government and weaker state governments, while the Anti-Federalists wanted a weaker national government and stronger state governments.
- (C) The Anti-Federalists wanted a stronger national government and weaker state governments, while the Federalists wanted a weaker national government and stronger state governments.
- (D) The Anti-Federalists wanted checks and balances to counter the stronger state governments, while the Federalists wanted the protection of property rights through a Bill of Rights.

Free-Response Question

12. One major weakness of the Articles of Confederation was the amendment process, which required unanimous approval for amendments to become effective. The Founding Fathers anticipated the need to change the Constitution and provided a process to amend the Constitution.
- (A) Identify the two steps involved in the formal amendment process.
- (B) Describe two informal methods that have been used to change the meaning of the Constitution.
- (C) Explain why the informal amendment process has been used more often than the formal amendment process.

» Answers and Explanations

1. **D.** A congressional (legislative) veto (A) is unconstitutional and therefore not a check. The power to declare war (B) is a congressional power under Article I, Section 8. While some may consider the Congress's power to declare war a check on the president, it is no longer considered an effective check on the president's powers since all military engagements since World War II have been conducted without a declaration of war. The Speaker of the House is elected by members of the House (C).
2. **B.** The Declaration of Independence was based on the writings of John Locke and his theory of a social contract between government and the governed. The document unified the colonies to fight for independence by advancing the ideas of natural law, which states that there are certain rights that government cannot take away from the people. The Mayflower Compact (C) was based on the consent of the governed, but it did not enumerate natural rights. The U.S. Constitution (D) reflects the ideals of unity and the consent of the governed, but does not specifically define the concepts of natural rights and the social contract theory as the Declaration does. The Articles of Confederation (A) did not specifically address the concepts of natural rights and the social contract.
3. **C.** Because of the problems among the states under the Articles of Confederation, the Constitutional Convention was convened to revise the Articles and to strengthen the power of the government. This convention dealt with the problems of the national government and not those of the states (B). Neither was the convention called to deal with the slavery issue (D) nor to write an entirely new plan of government (A).
4. **D.** The Constitution created a federal system of government, allowed for an easier amendment process. The Articles created a unitary government (C) and a league of friendship among the states (B).
5. **A.** Under the Articles of Confederation, there was no national judiciary. State courts resolved differences among the states. The remaining answer choices are correct.
6. **B.** Differences between northern and southern interests at the Constitutional Convention led to a compromise concerning the slave trade and the taxation of exports from the states. The Commerce and Slave Trade Compromise prohibited Congress from ending the slave trade for a period of 20 years and prohibited the taxation of exports from the states. The Great (Connecticut) Compromise (A) resolved the question of representation in Congress. The Three-Fifths Compromise (D) counted slaves as three-fifths of a person for purposes of taxation and representation in Congress. Another compromise created the electoral college (C).
7. **B.** Robert Dahl's pluralist theory is based upon the idea of competing interest groups vying for power. Choices (A) and (C) describe traditional democratic theory. Choice (D) represents the elite theory.
8. **B.** *Marbury v. Madison* established the principle of judicial review, allowing the courts to determine the constitutionality of acts of Congress.
9. **D.** The Bill of Rights, adopted in 1791, includes the first 10 amendments to the Constitution. The Preamble sets forth the purposes of the Constitution (A). The articles are the sections of the Constitution (C). The Articles of Confederation (B) predated the Constitution.
10. **A.** Article V of the Constitution outlines the formal amendment process, which includes congressional proposal of amendments at the national level and state ratification of amendments.
11. **B.** The Federalists wanted a stronger national government and weaker state governments, while the Anti-Federalists wanted a weaker national government and stronger state governments. The Anti-Federalists wanted a Bill of Rights (A). Answer C is the opposite of answer A. The Federalists believed that the Constitution itself was a Bill of Rights, and therefore a separate document was not needed (D).

12. **A.** The two steps in the formal amendment process are proposal and ratification. Proposal occurs at the national level, with a proposal by two-thirds of each house of Congress or the calling for a national convention by Congress at the request of two-thirds of the states. Ratification is by three-fourths of the state legislatures or three-fourths of the states in special conventions.

B. Informal methods of amending the Constitution include legislative actions, executive actions, judicial interpretation/review, and custom or usage. Legislative action includes acts passed by Congress. Executive actions are ways in which the president use his powers. Judicial interpretation/review is the way in which the courts interpret the laws and the Constitution. Custom and usage are traditions incorporated into the political system.

C. The informal amendment process has been used more often than the formal amendment process because the supermajorities that are required to propose and ratify an amendment are difficult to obtain. This is demonstrated by the fact that the Constitution has been formally amended only 27 times in more than 200 years. Informal methods such as court decisions and legislation do not require supermajorities and are therefore far easier to accomplish.

» Rapid Review

- Political scientist Harold Laswell defined government as “who gets what, when, and how.”
- Every nation has defined public policy goals. The United States defines its goals in the Preamble of the Constitution.
- Aristotle’s methods of classifying governments can still be used today.
- Modern theories about democratic government include traditional democratic theory, pluralist theory, elitist theory, bureaucratic theory, and hyperpluralism.
- The ancient Greeks and Romans, Enlightenment philosophers such as John Locke, British documents, and colonial experiences influenced the establishment of American government.
- The Declaration of Independence was a statement of colonial unity and a justification for separation from Britain.
- The Articles of Confederation, the first national constitution, created a “league of friendship” among the states. This weak national government failed to solve the postwar problems of the United States, and its weaknesses led to the writing of the U.S. Constitution.
- The Constitutional Convention, called to revise the Articles of Confederation, realized the need to create a new form of government with broader powers. The resulting Constitution created a federal system of three branches of government, with checks and balances.
- Various plans for the new government resulted in a series of compromises, including the Great (Connecticut) Compromise, Three-Fifths Compromise, Commerce and Slave Trade Compromise, and a compromise creating an electoral college to elect the President and Vice President.
- Debates over ratification of the Constitution led to the creation of the Federalists and Anti-Federalists.
- The Constitution is composed of the Preamble, seven articles, and the 27 formal amendments.
- The Constitution is a plan of government based on several basic principles: limited government, popular sovereignty, separation of powers, checks and balances, and federalism.
- Formal amendments are added to the Constitution through the process outlined in Article V. The proposal stage is accomplished at the national level, while ratification takes place within the states.
- The Constitution may be informally amended through legislative actions, executive actions, judicial interpretations, and custom and usage.
- *Marbury v. Madison* established the principle of judicial review.