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Introducing Government in America



POLITICS AND GOVERNMENT MATTER—that is the single most important message of this book. Consider, for example, the following list of ways that government and politics may have already impacted your life:

- Chances are pretty good that you or someone in your family has recently been the recipient of one of the 80 million payments made to individuals by the federal government every month. In 2010, nearly 20 percent of the money that went into Americans' wallets was from government payments like jobless benefits, food stamps, Social Security payments, veterans' benefits, and so on.
- Any public schools you attended were prohibited by the federal government from discriminating against females and minorities and from holding prayer sessions led by school officials. Municipal school boards regulated your education, and the state certified and paid your teachers.
- The ages at which you could get your driver's license, drink alcohol, and vote were all determined by state and federal governments.
- Before you could get a job, the federal government had to issue you a Social Security number, and you have been paying Social Security taxes every month that you have been employed. If you worked at a low-paying job, your starting wages were likely determined by state and federal minimum-wage laws.

1.1

Identify the key functions of government and explain why they matter, p. 9.

1.2

Define politics in the context of democratic government, p. 11.

1.3

Assess how citizens can have an impact on public policy and how policies can impact people, p. 12

1.4

Identify the key principles of democracy and outline theories regarding how it works in practice and the challenges democracy faces today, p. 15.

1.5

Outline the central arguments of the debate in America over the proper scope of government, p. 25.



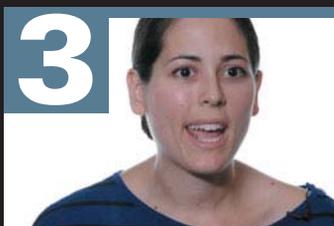
President Obama greets people who attended his 2012 speech at the University of Michigan, where he discussed his proposals for making college more affordable.



1 **The Big Picture** Why should politics matter to you? Author Martin P. Wattenberg explains why having an interest in the political system can help you decide which issues you care about the most, and then evaluate the way that the government is handling and prioritizing those issues.



The Basics What function does government serve? In this video, you will analyze this question and explore the core values that shape our political system and how the growing diversity of our population is changing—and reaffirming—the definition of what it means to be American.



3 **In Context** Discuss the importance of American exceptionalism in American political culture. In this video, University of Oklahoma political scientist Allyson Shortle examines the core values that make up American political culture. She also discusses how these values gave rise to the American dream.



Thinking Like a Political Scientist Find out how and why research on American politics has shifted. Boston University political scientist Neta C. Crawford discusses how scholars who once focused on voters and institutions are now looking at deliberation as the primary indicator of the health of a democratic system.



5 **In the Real World** What is the government's function in everyday life? Real people share their opinions on how involved the federal government should be in education by evaluating the effectiveness of the No Child Left Behind Act, which encourages standardized testing.



So What? What can happen if you don't vote? More than you would think. Author Martin P. Wattenberg argues that by not voting, students and other demographics are sending a message to politicians that their interests are not as important as those of the groups with higher voter turnout.



- As a college student, you may be drawing student loans financed by the government. The government even dictates certain school holidays.
- Even though gasoline prices have risen substantially in recent years, federal policy continues to make it possible for you to drive long distances relatively cheaply compared to citizens in most other countries. In many other advanced industrialized nations, such as England and Japan, gasoline is twice as expensive as in the United States because of the high taxes their governments impose on fuel.
- If you apply to rent an apartment, by federal law landlords cannot discriminate against you because of your race or religion.

This list could, of course, be greatly extended. And it helps explain the importance of politics and government. As Barack Obama said when he first ran for public office in 1993, “Politics does matter. It can make the difference in terms of a benefits check. It can make the difference in terms of school funding. Citizens can’t just remove themselves from that process. They actually have to engage themselves and not just leave it to the professionals.”¹

More than any other recent presidential campaign, Obama’s 2008 run for the White House was widely viewed as having turned many young Americans on to politics. *Time* magazine even labeled 2008 as the “Year of the Youth Vote,” noting that Obama was “tapping into a broad audience of energized young voters hungry for change.”² And young people did more than display enthusiasm at massive rallies for Obama. By supporting Obama by a two-to-one margin, they provided him with a key edge in the election. Many observers proclaimed that the stereotype of politically apathetic American youth should finally be put to rest.

Stereotypes can be outdated or even off the mark; unfortunately, the perception that young Americans are less engaged in politics than older people has been and continues to be supported by solid evidence. In past editions of this book we wrote:

: *Whether because they think they can’t make a difference, the political system is corrupt,*
 : *or they just don’t care, many young Americans are clearly apathetic about public affairs.*
 : *And while political apathy isn’t restricted to young people, a tremendous gap has opened*
 : *up between young adults and the elderly on measures of political interest, knowledge,*
 : *and participation.*

Although there were some positive developments for young people’s political involvement in 2008, it would be premature to declare an end to the era of youth political apathy—the gap between young and older Americans remains. Consider some data from the National Election Study, a nationally representative survey conducted each presidential election year.

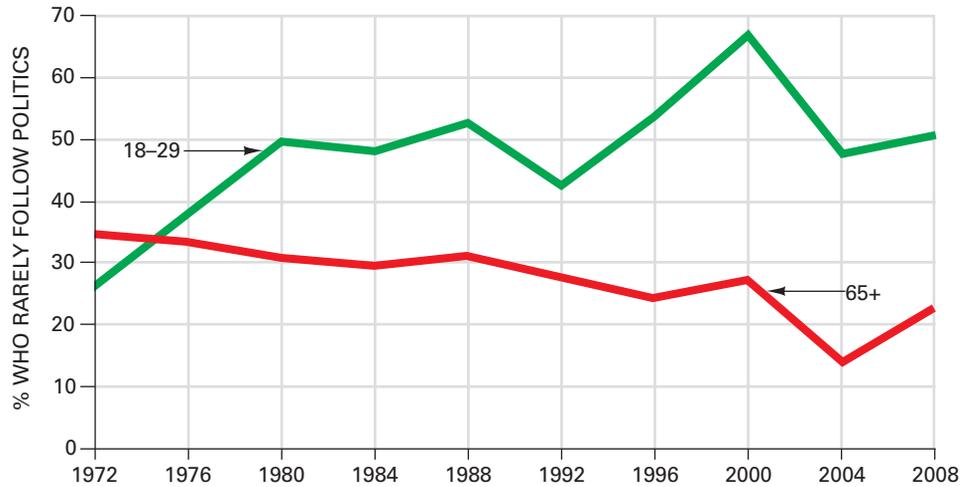
In 2008, when the National Election Study asked a nationwide sample of people about their general level of interest in politics, over half of Americans under the age of 30 said they rarely followed politics, compared to less than a quarter of those over the age of 65. Notice, in Figure 1.1, that in the early 1970s, when 18- to 20-year-olds became eligible to vote, there was no generation gap in political interest. Back then, young people actually reported following politics a bit more regularly than did senior citizens.

Lack of interest often leads to lack of information. The National Election Study always asks a substantial battery of political knowledge questions. As you can see in Figure 1.2, which shows the average percentage of correct answers for various age groups in 1972 and 2008, in 2008 young people were correct only 20 percent of the time, whereas people over 65 were correct more than twice as often.³ Whether the question concerned identifying partisan control of the House and Senate, or accurately estimating the unemployment rate, the result was the same: young people were clearly less knowledgeable than the elderly. This pattern of age differences in political knowledge has been found time and time again in surveys in recent years.⁴ By contrast, in 1972 there was virtually no pattern by age, with those under 30 actually scoring 4 percent higher than those over 65.

Thomas Jefferson once said that there has never been, nor ever will be, a people who are politically ignorant and free. If this is indeed the case, write Stephen Bennett and Eric Rademacher, then “we can legitimately wonder what the future holds” if young people “remain as uninformed as they are about government and public affairs.”⁵ While this may well be an overreaction, there definitely are important consequences when citizens lack political information. In *What Americans Know About Politics and Why It Matters*, Michael

FIGURE 1.1 POLITICAL APATHY AMONG YOUNG AND OLD AMERICANS, 1972–2008

In every presidential election from 1972 to 2008, the American National Election Studies has asked a cross-section of the public the following question: “Some people seem to follow what’s going on in government and public affairs most of the time, whether there’s an election going on or not. Others aren’t that interested. Would you say you follow what’s going on in government and public affairs most of the time, some of the time, only now and then, or hardly at all?” Below we have graphed the percentage who said they only followed politics “only now and then” or “hardly at all.” Lack of political interest among young people hit a record high during the 2000 campaign between Bush and Gore, when over two-thirds said they rarely followed public affairs. Since then, political interest among young people has recovered somewhat; however, compared to senior citizens, they are still twice as likely to report low political interest.

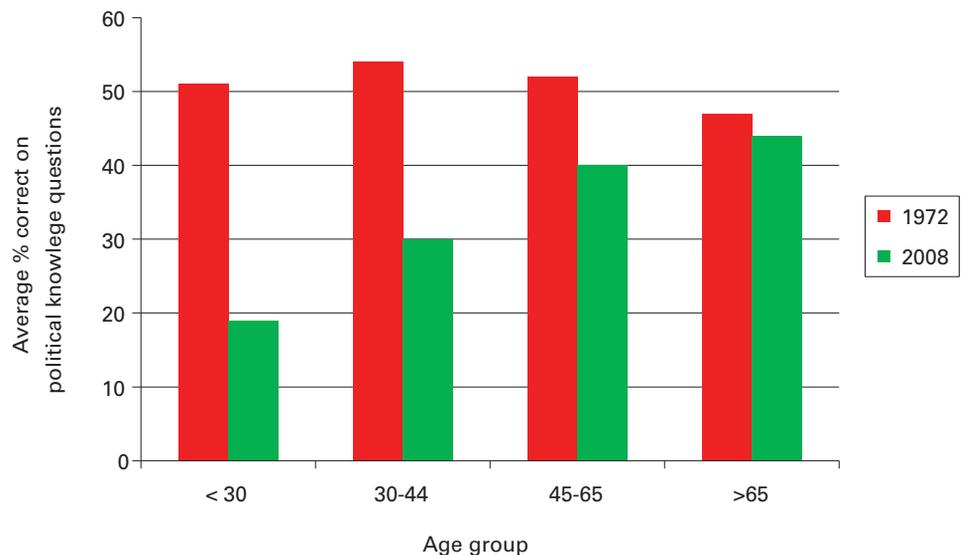


SOURCE: Authors’ analysis of 1972–2008 American National Election Studies data.

Delli Carpini and Scott Keeter make a strong case for the importance of staying informed about public affairs. Political knowledge, they argue, (1) fosters civic virtues, such as political tolerance; (2) helps citizens to identify what policies would truly benefit them and then incorporate this information in their voting behavior; and (3) promotes active participation in politics.⁶ If you’ve been reading about the debate on immigration reform, for example,

FIGURE 1.2 AGE AND POLITICAL KNOWLEDGE, 1972 AND 2008

This figure shows the percentage of correct answers to five questions in 1972 and three questions in 2008 by age group. In 1972, the relationship between age and political knowledge was basically flat: each age group displayed roughly the same level of information about basic political facts, such as which party currently had more seats in the House of Representatives. By 2008, the picture had changed quite dramatically, with young people being substantially less likely to know the answer to such questions than older people.



SOURCE: Authors’ analysis of 1972 and 2008 National Election Studies data.

you'll be able to understand the proposed legislation, and that knowledge will then help you identify and vote for candidates whose views agree with yours.

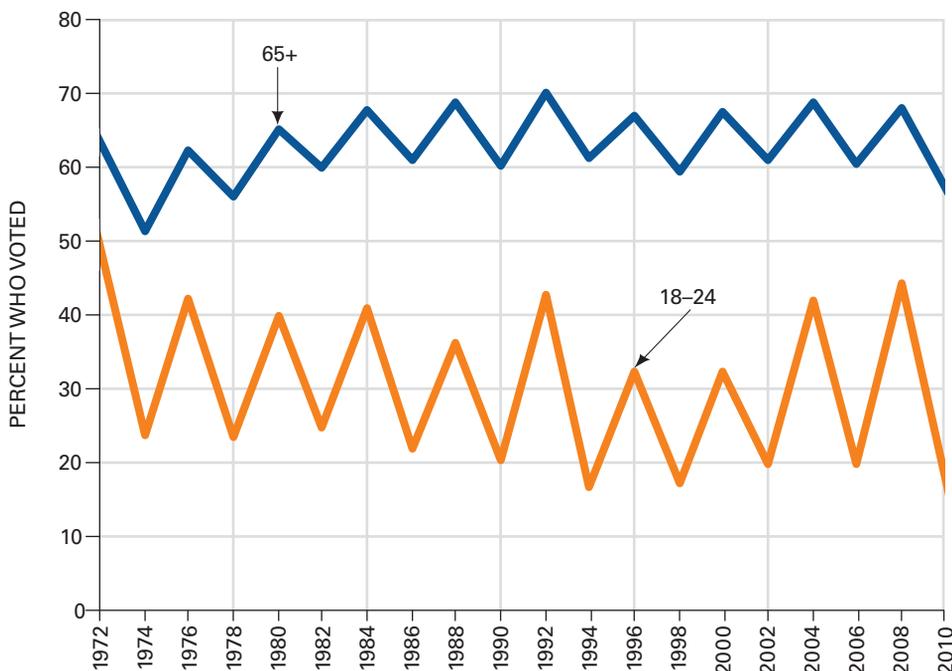
As you will see throughout this book, those who participate in the political process are more likely to benefit from government programs and policies. Young people often complain that the elderly have far more political clout than they do—turnout statistics make clear why this is the case. As shown in Figure 1.3, in recent decades the voter turnout rate for people under 25 has consistently been much lower than that for senior citizens, particularly for midterm elections. Whereas turnout rates for the young have generally been going down, turnout among people over 65 years of age has actually gone up slightly since 1972. Political scientists used to write that the frailties of old age led to a decline in turnout after age 60; now such a decline occurs only after 80 years of age. Greater access to medical care because of the passage of Medicare in 1965 must surely be given some of the credit for this change. Who says politics doesn't make a difference?

More than any other age group, the elderly know that they have much at stake in every election, with much of the federal budget now devoted to programs that help them, such as Medicare and Social Security. In recent decades these programs have consumed more and more of the federal domestic (non-military) budget as the population has aged and the costs of medical care have skyrocketed. Furthermore, they are projected to continue to grow as the baby boom generation retires. In contrast, the share of domestic federal spending that benefits children, though substantial, has generally declined. Julia Isaacs et al. estimate that in 2020 spending on Social Security benefits and health care for the elderly will make up 51 percent of domestic federal spending, as compared to just 11 percent for programs that benefit children.⁷

FIGURE 1.3 ELECTION TURNOUT RATES OF YOUNG AND OLD AMERICANS, 1972–2010

This graph shows the turnout gap between young and old Americans in all presidential and midterm elections from 1972 through 2010. The sawtooth pattern of both lines illustrates how turnout always drops off between a presidential election and a midterm congressional election (e.g., from 2008 to 2010). The ups and downs in the graph are much more evident among young people because they are less interested in politics and hence less likely to be regular voters.

In 2008, turnout among young people rose to the highest level since 1972, spurred by a surge of participation by minority youth. Record rates of turnout were set by young African Americans, who for the first time had a higher turnout rate than young whites, and by young Hispanics and Asian Americans. The 2010 election, however, saw a sharp dropoff in youth turnout. If you are reading this in the spring of 2013 or later, then you can go to the Census Web page on voting (<http://www.census.gov/hhes/www/socdemo/voting/index.html>) to see what percentage of young Americans voted in 2012.



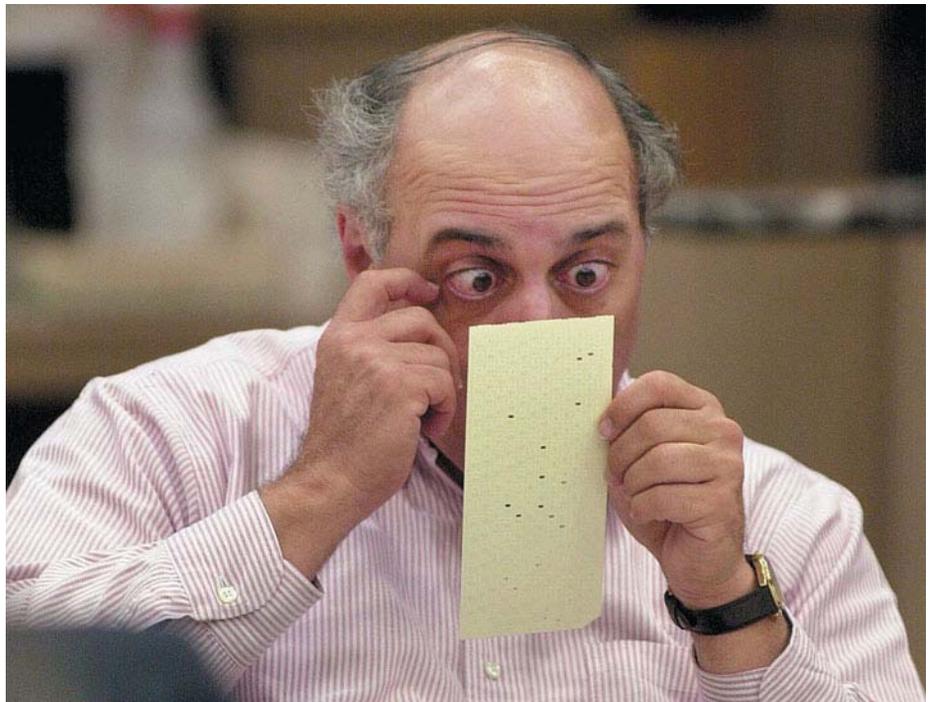
SOURCE: U.S. Census Bureau Current Population Surveys.

Of course, today's youth have not had any policy impact them in the way that, say, the introduction of Medicare or the military draft and the Vietnam War affected previous generations. However, the causes of young people's political apathy probably run deeper. Today's young adults have grown up in an environment in which news about political events has been increasingly more avoidable than in the past. When CBS, NBC, and ABC dominated the airwaves, in the 1960s and 1970s, their extensive coverage of presidential speeches, political conventions, and presidential debates frequently left little else to watch on TV. As channels proliferated over subsequent decades, it became much easier to avoid exposure to politics by switching the channel—and of course the Internet has exponentially broadened the choices. Major political events were once shared national experiences. But for many young people today, September 11, 2001, represents the only time that they closely followed a major national event along with everyone else.

Consider some contrasting statistics about audiences for presidential speeches. Presidents Nixon, Ford, and Carter all got an average Nielsen rating of 50 for their televised addresses, meaning that half the population was watching. In contrast, President Obama averaged only about 23 for his nationally televised appearances from 2009 to 2011, despite the public's anxiety about the economy.⁸ Political conventions, which once received more TV coverage than the Summer Olympics, have been relegated to an hour per night and draw abysmal ratings. The 2008 presidential debates averaged a respectable Nielsen rating of 35, but this was only about three-fifths of the size of the typical debate audience from 1960 to 1980.

In sum, young people today have never known a time when most citizens paid attention to major political events. As a result, most of them have yet to get into the habit of following and participating in politics. In a 2010 Pew Research Center survey, 27 percent of young adults said they enjoyed keeping up with the news, compared to 60 percent of senior citizens. And young people have grown up in a fragmented media environment in which hundreds of TV channels and millions of Internet sites have provided them with a rich and varied socialization experience but have also enabled them to easily avoid political events. It has become particularly difficult to convince a generation that has channel and Internet surfed all their lives that politics really does matter.

How will further expansion of channels and, especially, blogs and other Web sites, affect youth interest in and knowledge of politics? Political scientists see both opportunities and



The narrow 537-vote margin by which George W. Bush carried the state of Florida in 2000 proved the old adage that “every vote counts.” Here, an election official strains to figure out how to interpret a voter’s punch in the tedious process of recounting ballots by hand.

challenges. Some optimistic observers see these developments as offering “the prospect of a revitalized democracy characterized by a more active and informed citizenry.”⁹ Political junkies will certainly find more political information available than ever before, and electronic communications will make it easier for people to express their political views in various forums and directly to public officials. However, with so many media choices for so many specific interests, it will also be easy to avoid the subject of public affairs. It may also be easier to avoid a range of opinions. Political scientist Jeremy Mayer argues that “if we all get to select exactly how much campaign news we will receive, and the depth of that coverage, it may be that too many Americans will choose shallow, biased sources of news on the Internet.”¹⁰

Groups that are concerned about low youth turnout are focusing on innovative ways of reaching out to young people via new technologies, such as social networking sites like Facebook, to make them more aware of politics. In doing so, they are encouraged and spurred by the fact that young people are far from inactive in American society and in recent years have been doing volunteer community service at record rates. As Harvard students Ganesh Sitaraman and Previn Warren write in *Invisible Citizens: Youth Politics After September 11*, “Young people are some of the most active members of their communities and are devoting increasing amounts of their time to direct service work and volunteerism.”¹¹ It is only when it comes to politics that young people seem to express indifference about getting involved.

It is our hope that after reading this book, you will be persuaded that paying attention to politics and government is important. Government has a substantial impact on all our lives. But it is also true that we have the opportunity to have a substantial impact on government. Involvement in public affairs can take many forms, ranging from simply becoming better informed by browsing through political Web sites to running for elected office. In between are countless opportunities for *everyone* to make a difference.

government
The institutions through which public policies are made for a society.

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Government

1.1 Identify the key functions of government and explain why they matter.

The institutions that make public policy decisions for a society are collectively known as **government**. In the case of our own national government, these institutions are Congress, the president, the courts, and federal administrative agencies (“the bureaucracy”). Thousands of state and local governments also decide on policies that influence our lives. There are about 500,000 elected officials in the United States. Thus, policies that affect you are being made almost constantly.



When elections result in a change of party control, power is transferred peacefully in the United States. In this 2011 photo, the outgoing Speaker of the House, Democrat Nancy Pelosi, symbolically passes the gavel to the incoming Speaker, Republican John Boehner.

Because government shapes how we live, it is important to understand the process by which decisions are made as well as what is actually decided. Two fundamental questions about governing will serve as themes throughout this book:

- ***How should we govern?*** Americans take great pride in calling their government democratic. This chapter examines the workings of democratic government; the chapters that follow will evaluate the way American government actually works compared to the standards of an “ideal” democracy. We will continually ask, “Who holds power and who influences the policies adopted by government?”
- ***What should government do?*** This text explores the relationship between *how* American government works and *what* it does. In other words, it addresses the question, “Does our government do what we want it to do?” Debates over the scope of governmental power are among the most important in American political life today. Some people would like to see the government take on more responsibilities; others believe it already takes on too much.

While citizens often disagree about what their government should do for them, all governments have certain functions in common. National governments throughout the world perform the following functions:

- ***Maintain a national defense.*** A government protects its national sovereignty, usually by maintaining armed forces. In the nuclear age, some governments possess awesome power to make war through highly sophisticated weapons. The United States currently spends over \$650 billion a year on national defense. Since September 11, 2001, the defense budget has been substantially increased in order to cope with the threat of terrorism on U.S. soil.
- ***Provide public goods and services.*** Governments in this country spend billions of dollars on schools, libraries, hospitals, highways, and many other public goods



Governments provide a wide range of public services, including providing a national defense. Because of the threat from Al Qaeda, U.S. troops have been in Afghanistan since 2001. Here, an Afghan farmer walks by while U.S. troops work to secure the road against improvised explosive devices planted by Taliban insurgents.

and services. These goods and services are of two types. Some are what is called **collective goods**; if they exist, by their very nature they cannot be denied to anyone and therefore must be shared by everyone. Access to highways, for example, cannot be denied. As the private sector would have no incentive to provide goods and services that everyone automatically has access to, these can be provided only by government. Other public goods and services, such as college or medical care, can be provided to some individuals without being provided to all; these are widely provided by the private sector as well as by government.

- **Preserve order.** Every government has some means of maintaining order. When people protest in large numbers, governments may resort to extreme measures to restore order. For example, the National Guard was called in to stop the looting and arson after rioting broke out in Los Angeles following the 1992 Rodney King verdict.
- **Socialize the young.** Governments politically socialize the young—that is, instill in children knowledge of and pride in the nation and its political system and values. Most modern governments pay for education, and school curricula typically include a course on the theory and practice of the country’s government. Rituals like the daily Pledge of Allegiance seek to foster patriotism and love of country.
- **Collect taxes.** Approximately one out of every three dollars earned by American citizens goes to national, state, and local taxes—money that pays for the public goods and services the government provides.

All these governmental tasks add up to weighty decisions that our political leaders must make. For example, how much should we spend on national defense as opposed to education? How high should taxes for Medicare and Social Security be? We answer such questions through politics.

collective goods

Goods and services, such as clean air and clean water, that by their nature cannot be denied to anyone.

politics

The process determining the leaders we select and the policies they pursue. Politics produces authoritative decisions about public issues.

political participation

All the activities by which citizens attempt to influence the selection of political leaders and the policies they pursue. Voting is the most common means of political participation in a democracy. Other means include contacting public officials, protest, and civil disobedience.

Politics

1.2 Define politics in the context of democratic government.

Politics determines whom we select as our governmental leaders and what policies these leaders pursue. Political scientists often cite Harold D. Lasswell’s famous definition of politics: “Who gets what, when, and how.”¹² It is one of the briefest and most useful definitions of politics ever penned. Admittedly, this broad definition covers a lot of ground (office politics, sorority politics, and so on) in which political scientists are generally not interested. They are interested primarily in politics related to governmental decision making.

The media usually focus on the *who* of politics. At a minimum, this includes voters, candidates, groups, and parties. *What* refers to the substance of politics and government—benefits, such as medical care for the elderly, and burdens, such as new taxes. *How* refers to the ways in which people participate in politics. People get what they want through voting, supporting, compromising, lobbying, and so forth. In this sense, government and politics involve winners and losers. Behind every arcane tax provision or item in an appropriations bill, there are real people getting something or getting something taken away.

The ways in which people get involved in politics make up their **political participation**. Many people judge the health of a government by how widespread political participation is. America does quite poorly when judged by its voter turnout, which is one of the lowest in the world. Low voter turnout has an effect on who

single-issue groups

Groups that have a narrow interest on which their members tend to take an uncompromising stance.

policymaking system

The process by which policy comes into being and evolves. People's interests, problems, and concerns create political issues for government policymakers. These issues shape policy, which in turn impacts people, generating more interests, problems, and concerns.



Pro-life and pro-choice groups are single-minded and usually uncompromising. Few issues stir up as much passion as whether abortion should be permitted and, if so, under what conditions.

holds political power. Because so many people do not show up at the polls, voters are a distorted sample of the public as a whole. Groups with a high turnout rate, such as the elderly, benefit, whereas those with a low turnout rate, such as young people, lack political clout.

Voting is only one form of political participation, as you'll see in later chapters. For a few Americans, politics is a vocation: they run for office, and some even earn their livelihood from holding political office. In addition, there are many Americans who treat politics as critical to their interests. Many of these people are members of **single-issue groups**—groups so concerned with one issue that members often cast their votes on the basis of that issue only, ignoring a politician's stand on everything else. Groups of activists dedicated either to outlawing abortion or to preserving abortion rights are good examples of single-issue groups.

Individual citizens and organized groups get involved in politics because they understand that public policy choices made by governments affect them in significant ways. Will all those who need student loans receive them? Will everyone have access to medical care? Will people be taken care of in their old age? Is the water safe to drink? These and other questions tie politics to policymaking.

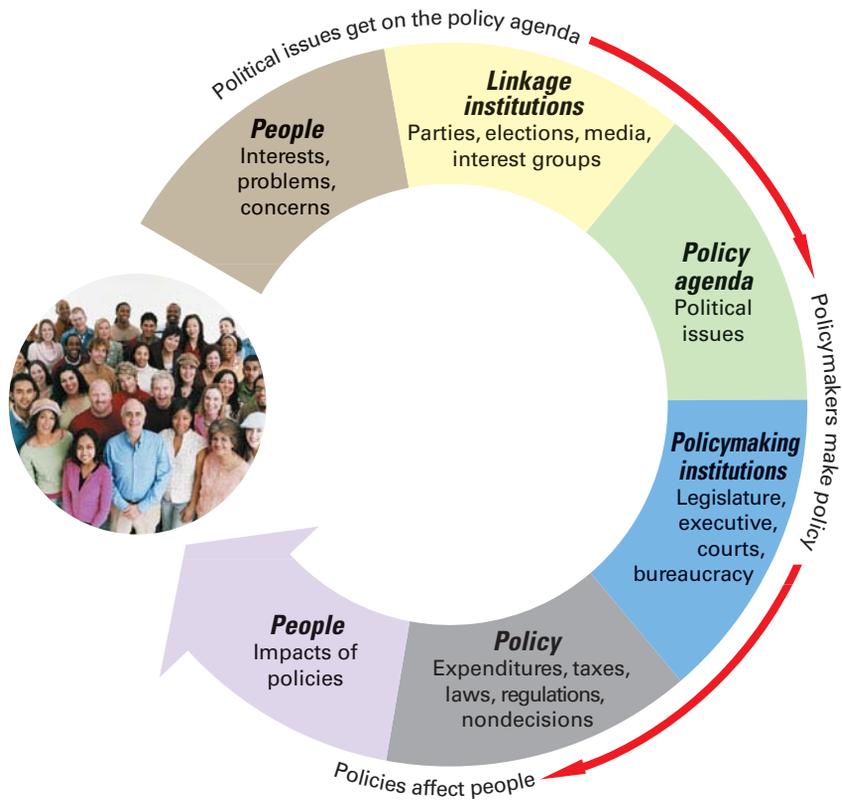
The Policymaking System

1.3

Assess how citizens can have an impact on public policy and how policies can impact people.

Americans frequently expect the government to do something about their problems. For example, the president and members of Congress are expected to keep the economy humming along; voters will penalize them at the polls if they do not. It is through the **policymaking system** that our government responds to the priorities of its people. Figure 1.4 shows a skeletal model of this system, in which people shape policies and in turn are impacted by them. The rest of this book will flesh out this model, but for now it will help you understand how government policy comes into being and evolves over time.

FIGURE 1.4 THE POLICYMAKING SYSTEM



linkage institutions

The political channels through which people’s concerns become political issues on the policy agenda. In the United States, linkage institutions include elections, political parties, interest groups, and the media.

policy agenda

The issues that attract the serious attention of public officials and other people involved in politics at a point in time.

□ People Shape Policy

The policymaking system begins with people. All Americans have interests, problems, and concerns that are touched on by public policy. Some people think the government should spend more to train people for jobs in today’s increasingly technology-oriented economy; others think that the government is already spending too much, resulting in high taxes that discourage business investments. Some citizens expect government to do something to curb domestic violence; others are concerned about prospects that the government may make it much harder to buy a handgun.

What do people do to express their opinions in a democracy? As mentioned, people have numerous avenues for participation, such as voting for candidates who represent their opinions, joining political parties, posting messages to Internet chat groups, and forming *interest groups*—organized groups of people with a common interest. In this way, people’s concerns enter the linkage institutions of the policymaking system. **Linkage institutions**—parties, elections, interest groups, and the media—transmit Americans’ preferences to the policymakers in government. Parties and interest groups strive to ensure that their members’ concerns receive appropriate political attention. The media investigate social problems and inform people about them. Elections provide citizens with the chance to make their opinions heard by choosing their public officials.

All these institutions help to shape the government’s **policy agenda**, the issues that attract the serious attention of public officials and other people actively involved in politics at a given time. Some issues will be considered, and others will not. If politicians want to get elected, they must pay attention to the problems that concern voters. When you vote, you are partly looking at whether a candidate shares your agenda. If you are worried about rising health care costs and a certain candidate talks only about America’s moral decay and ending legalized abortions, you will probably support another candidate.

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political issue

An issue that arises when people disagree about a problem and how to fix it.

policymaking institutions

The branches of government charged with taking action on political issues. The U.S. Constitution established three policymaking institutions—Congress, the presidency, and the courts. Today, the power of the bureaucracy is so great that most political scientists consider it a fourth policymaking institution.

public policy

A choice that government makes in response to a political issue. A policy is a course of action taken with regard to some problem.

policy impacts

The effects a policy has on people and problems. Impacts are analyzed to see how well a policy has met its goal and at what cost.

A government’s policy agenda changes regularly. When jobs are scarce and business productivity is falling, economic problems occupy a high position on the government’s agenda. If the economy is doing well and trouble spots around the world occupy the headlines, foreign policy questions are bound to dominate the agenda. In general, bad news—particularly about a crisis situation—is more likely than good news to draw sufficient media attention to put a subject on the policy agenda. As the old saying goes, “Good news is no news.” When unemployment rises sharply, it leads the news; when jobs are plentiful, the latest unemployment report is much less of a news story. Thus, the policy agenda responds more to societal failures than successes. The question politicians constantly ask is, “How can we as a people do better?”

People, of course, do not always agree on what government should do. Indeed, one group’s positions and interests are often at odds with those of another group. A **political issue** is the result of people disagreeing about a problem or about the public policy needed to fix it. There is never a shortage of political issues; government, however, will not act on any issue until it is high on the policy agenda.

Policymakers stand at the core of the system, working within the three **policymaking institutions** established by the U.S. Constitution: Congress, the presidency, and the courts. Policymakers scan the issues on the policy agenda, select those they consider important, and make policies to address them. Today, the power of the bureaucracy is so great that most political scientists consider it a fourth policymaking institution.

Very few policies are made by a single policymaking institution. Environmental policy is a good example. Some presidents have used their influence with Congress to urge clean-air and clean-water policies. When Congress responds by passing legislation to clean up the environment, bureaucracies have to implement the new policies. The bureaucracies, in turn, create extensive volumes of rules and regulations that define how policies are to be implemented. In addition, every law passed and every rule made can be challenged in the courts. Courts make decisions about what policies mean and whether they conflict with the Constitution.

□ Policies Impact People

Every decision that government makes—every law it passes, budget it establishes, and ruling it hands down—is **public policy**. Public policies are of various types, depending in part on which policymaking institution they originated with. Some of the most important types—*statute, presidential action, court decision, budgetary choice, and regulation*—are defined and exemplified in Table 1.1.

Once policies are made and implemented, they affect people. **Policy impacts** are the effects that a policy has on people and on society’s problems. People want policy

TABLE 1.1 TYPES OF PUBLIC POLICIES

Type	Definition	Example
Congressional statute	Law passed by Congress	The \$787 billion American Recovery and Reinvestment Act of 2009 is enacted.
Presidential action	Decision by president	American troops are withdrawn from Iraq.
Court decision	Opinion by Supreme Court or other court	Supreme Court rules that individuals have a constitutional right to own a gun.
Budgetary choices	Legislative enactment of taxes and expenditures	The federal budget resolution is enacted.
Regulation	Agency adoption of regulation	The Department of Education issues guidelines for qualifying for the federal student loan forgiveness program.

that effectively addresses their interests, problems, and concerns; clearly, a new law, executive order, bureaucratic regulation, or court judgment doesn't mean much if it doesn't work. Environmentalists want an industrial emissions policy that not only claims to prevent air pollution but also does so. Minority groups want a civil rights policy that not only promises them equal treatment but also ensures it.

Having a policy implies having a goal. Whether we want to reduce poverty, cut crime, clean the water, or hold down inflation, we have a goal in mind. Policy impact analysts ask how well a policy achieves its goal—and at what cost. The analysis of policy impacts carries the policymaking system back to its point of origin: the interests, problems, and concerns of the people. Translating people's desires into effective public policy is crucial to the workings of democracy.

Democracy in America

1.4

Identify the key principles of democracy and outline theories regarding how it works in practice and the challenges democracy faces today.

Democracy is a system of selecting policymakers and of organizing government so that policy reflects citizens' preferences. Today, the term *democracy* takes its place among terms like *freedom*, *justice*, and *peace* as a word that seemingly has only positive connotations; surveys around the world routinely show that most people in most democracies believe that democracy is the best form of government. Yet the writers of the U.S. Constitution had no fondness for democracy, as many of them doubted the ability of ordinary Americans to make informed judgments about what government should do. Roger Sherman, a delegate to the Constitutional Convention, said "The people should have as little to do as may be about the government." Only much later did Americans come to cherish democracy and believe that all citizens should actively participate in choosing their leaders.

Most Americans would probably say that democracy is "government by the people." These words are, of course, part of the famous phrase by which Abraham Lincoln defined democracy in his Gettysburg Address: "government of the people, by the people, and for the people." The extent to which each of these three aspects of democracy holds true is a matter crucial to evaluating how well our government is working. Certainly, government has always been "of the people" in the United States, for the Constitution forbids the granting of titles of nobility—a status of privilege within the government, usually passed down from generation to generation. On the other hand, it is a physical impossibility for government to be "by the people" in a nation of over 300 million people. Therefore, our democracy involves choosing people from among our midst to govern. Where the serious debate begins is whether political leaders govern "for the people," as there always are significant biases in how the system works. Democratic theorists have elaborated a set of goals to use in evaluating this crucial question.

□ Traditional Democratic Theory

Traditional democratic theory rests on a number of key principles that specify how governmental decisions are made in a democracy. Robert Dahl, one of America's leading theorists, suggests that an ideal democratic process should satisfy the following five criteria:

- **Equality in voting.** The principle of "one person, one vote" is basic to democracy. No one's vote should count more than anyone else's.
- **Effective participation.** Citizens must have adequate and equal opportunities to express their preferences throughout the decision-making process.

democracy

A system of selecting policymakers and of organizing government so that policy represents and responds to the public's preferences.

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Explore on MyPoliSciLab

Simulation: You Are a Candidate for Congress

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majority rule

A fundamental principle of traditional democratic theory. In a democracy, choosing among alternatives requires that the majority's desire be respected.

minority rights

A principle of traditional democratic theory that guarantees rights to those who do not belong to majorities.

representation

A basic principle of traditional democratic theory that describes the relationship between the few leaders and the many followers.

pluralism

A theory of American democracy emphasizing that the policymaking process is very open to the participation of all groups with shared interests, with no single group usually dominating. Pluralists tend to believe that as a result, public interest generally prevails.

- **Enlightened understanding.** A democratic society must be a marketplace of ideas. A free press and free speech are essential to civic understanding. If one group monopolizes and distorts information, citizens cannot truly understand issues.
- **Citizen control of the agenda.** Citizens should have the collective right to control the government's policy agenda. If particular groups, such as the wealthy, have influence far exceeding what would be expected based on their numbers, then the agenda will be distorted—the government will not be addressing the issues that the public as a whole feels are most important.
- **Inclusion.** The government must include, and extend rights to, all those subject to its laws. Citizenship must be open to all within a nation if the nation is to call itself democratic.¹³

Ideally, only if it satisfies these criteria can a political system be called democratic. Furthermore, democracies must practice **majority rule**, meaning that policies made should reflect the will of over half the voters. At the same time, most Americans would not want to give the majority free rein to do anything they can agree on. Restraints on the majority are built into the American system of government in order to protect the minority. Thus, the majority cannot infringe on **minority rights**; freedom of assembly, freedom of speech, and so on are freedoms for those in a minority as well as the majority.

In a society too large to make its decisions in open meetings, a few must look after the concerns of the many. The relationship between the few leaders and the many citizens is one of **representation**. The literal meaning of representation is to “make present once again.” In politics, this means that the desires of the people should be replicated in government through the choices of elected officials. The closer the correspondence between representatives and their constituents, the closer the approximation to an ideal democracy. As might be expected for such a crucial question, theorists disagree widely about the extent to which this actually occurs in America.

Three Contemporary Theories of American Democracy

Theories of American democracy are essentially theories about who has power and influence. All, in one way or another, ask the question, “Who really governs in our nation?” Each focuses on a key aspect of politics and government, and each reaches a somewhat different conclusion about the state of American democracy.

PLURALISM One important theory of American democracy, **pluralism**, states that groups with shared interests influence public policy by pressing their concerns through organized efforts. The National Rifle Association (NRA), the National Organization for Women (NOW), and the American Council on Education (ACE) are contemporary examples of such interest groups.

According to pluralist theory, because of open access to various institutions of government and public officials, organized groups can compete with one another for control over policy and no one group or set of groups dominates. Given that power is dispersed in the American form of government, groups that lose in one arena can take their case to another. For example, civil rights groups faced congressional roadblocks in the 1950s but were able to win the action they were seeking from the courts.

Pluralists are generally optimistic that the public interest will eventually prevail in the making of public policy through a complex process of bargaining and compromise. They believe that, rather than speaking of majority rule, we should speak of groups of minorities working together. Robert Dahl expresses this view well when he writes that in America “all active and legitimate groups in the population can make themselves heard at some crucial stage in the process.”¹⁴

Group politics is certainly as American as apple pie. Writing in the 1830s, Alexis de Tocqueville called us a “nation of joiners” and pointed to the high level of associational activities as one of the crucial reasons for the success of American democracy.

The recent explosion of interest group activity can therefore be seen as a very positive development from the perspective of pluralist theory. Interest groups and their lobbyists—the groups’ representatives in Washington—have become masters of the technology of politics. Computers, mass mailing lists, sophisticated media advertising, and hard-sell techniques are their stock-in-trade. As a result, some observers believe that Dahl’s pluralist vision of all groups as being heard through the American political process is more true now than ever before.

On the other hand, Robert Putnam argues that many of the problems of American democracy today stem from a decline in group-based participation.¹⁵ Putnam theorizes that advanced technology, particularly television, has served to increasingly isolate Americans from one another. He shows that membership in a variety of civic associations, such as parent–teacher associations, the League of Women Voters, and the Elks, Shriners, and Jaycees, has been declining for decades. Interestingly, Putnam does not interpret the decline of participation in civic groups as meaning that people have become “couch potatoes.” Rather, he argues that Americans’ activities are becoming less tied to institutions and more self-defined. The most famous example he gives to illustrate this trend is the fact that membership in bowling leagues has dropped sharply at the same time that more people are bowling—indicating that more and more people must be bowling alone. Putnam believes that participation in interest groups today is often like bowling alone. Groups that have mushroomed lately, such as the AARP, typically just ask their members to participate by writing a check from the comfort of their own home. If people are indeed participating in politics alone rather than in groups, then pluralist theory is becoming less descriptive of American politics today.

ELITISM Critics of pluralism believe that it paints too rosy a picture of American political life. By arguing that almost every group can get a piece of the pie, they say, pluralists miss the larger question of how the pie is distributed. The poor may get their food stamps, but businesses get massive tax deductions worth far more. Some governmental programs may help minorities, but the income gap between whites and blacks remains wide.

Elitism contends that our society, like all societies, is divided along class lines and that an upper-class elite pulls the strings of government. Wealth—the holding of assets such as property, stocks, and bonds—is the basis of this power. Over a third of the nation’s wealth is currently held by just 1 percent of the population. Elite and class theorists believe that this 1 percent of Americans controls most policy decisions because they can afford to finance election campaigns and control key institutions, such as large corporations. According to elite and class theory, a few powerful Americans do not merely influence policymakers—they *are* the policymakers.

At the center of all theories of elite dominance is big business, whose dominance may have grown in recent decades. Thus, political scientists Jacob Hacker and Paul Pierson wrote in 2005 that “America’s political market no longer looks like the effectively functioning market that economics textbooks laud. Rather, it increasingly resembles the sort of market that gave us the Enron scandal, in which corporate bigwigs with privileged information got rich at the expense of ordinary shareholders, workers, and consumers.”¹⁶ With the increasing dominance of big business, elite theorists point out, income and wealth have become more concentrated. After the government bailout of large financial firms in 2008, public resentment about this concentration of income and wealth escalated notably. In 2011, the “Occupy Wall Street” movement emerged to visibly protest the rising disparities. Its slogan “We are the 99 percent” referred to the vast concentration of wealth among the top 1 percent of income earners, among them Wall Street executives.

The most extreme proponents of elite theory maintain that who holds office in Washington is of marginal consequence; the corporate giants always have the power. Clearly, most people in politics would disagree with this view, noting that, for example, it made a difference that Bush was elected in 2000 rather than Gore. According to

elitism

A theory of American democracy contending that an upper-class elite holds the power and makes policy, regardless of the formal governmental organization.

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hyperpluralism

A theory of American democracy contending that groups are so strong that government, which gives in to the many different groups, is thereby weakened.

Gore's promises in 2000, the wealthiest Americans would have received no tax cuts had he become president; under President Bush, all taxpayers, including the wealthiest Americans, saw their taxes cut.

HYPERPLURALISM A third theory, **hyperpluralism**, offers a different critique of pluralism. Hyperpluralism is pluralism gone sour. In this view, the many competing groups are so strong that government is weakened, as the influence of so many groups cripples government's ability to make policy. The problem is not that a few groups excessively influence government action but that many groups together render government unable to act.

Whereas pluralism maintains that input from groups is a good thing for the political decision-making process, hyperpluralist theory asserts that there are *too* many ways for groups to control policy. Our fragmented political system made up of governments with overlapping jurisdictions is one major factor that contributes to hyperpluralism. Too many governments can make it hard to coordinate policy implementation. Any policy requiring the cooperation of the national, state, and local levels of government can be hampered by the reluctance of any one of them. Furthermore, groups use the fragmented system to their advantage. As groups that lose policymaking battles in Congress increasingly carry the battle to the courts, the number of cases brought to state and federal courts has soared. Ecologists use legal procedures to delay construction projects they feel will damage the environment, businesses take federal agencies to court to fight the implementation of regulations that will cost them money, labor unions go to court to secure injunctions against policies they fear will cost them jobs, and civil liberties groups go to court to defend the rights of people who are under investigation for possible terrorist activities. The courts have become one more battleground in which policies can be effectively opposed as each group tries to bend policy to suit its own purposes.

Hyperpluralist theory holds that government gives in to every conceivable interest and single-issue group. Groups have become sovereign, and government is merely their servant. When politicians try to placate every group, the result is confusing, contradictory, and muddled policy—if the politicians manage to make policy at all. Like elite and class theorists, hyperpluralist theorists suggest that the public interest is rarely translated into public policy.

□ Challenges to Democracy

Regardless of which theory is most convincing, there are a number of continuing challenges to democracy. Many of these challenges apply to American democracy as well as to other democracies around the world.

INCREASED COMPLEXITY OF ISSUES Traditional democratic theory holds that ordinary citizens have the good sense to reach political judgments and that government has the capacity to act on those judgments. Today, however, we live in a society with complex issues and experts whose technical knowledge of those issues vastly exceeds the knowledge of the general population. What, after all, does the average citizen—however conscientious—know about eligibility criteria for welfare, agricultural price supports, foreign competition, and the hundreds of other issues that confront government each year? Even the most rigorous democratic theory does not demand that citizens be experts on everything, but as human knowledge has expanded, it has become increasingly difficult for individual citizens to make well-informed decisions.

LIMITED PARTICIPATION IN GOVERNMENT When citizens do not seem to take their citizenship seriously, democracy's defenders worry. There is plenty of evidence that Americans know relatively little about who their leaders are, much less about their policy decisions. Furthermore, Americans do not take full advantage of

their opportunities to shape government or select its leaders. Limited participation in government challenges the foundation of democracy. In particular, because young people represent the country's future, their low voting turnout rates point to an even more serious challenge to democracy on the horizon.

ESCALATING CAMPAIGN COSTS Many political observers worry about the close connection between money and politics, especially in congressional elections. Winning a House seat these days usually requires a campaign war chest of *at least* a million dollars, and Senate races are even more costly. Congressional candidates have become increasingly dependent on political action committees (PACs) to fund their campaigns because of the escalation of campaign costs. These PACs often represent specific economic interests, and they care little about how members of Congress vote on most issues—just the issues that particularly affect them. Critics charge that when it comes to the issues PACs care about, the members of Congress listen, lest they be denied the money they need for their reelection. When democracy confronts the might of money, the gap between democratic theory and reality widens further.

DIVERSE POLITICAL INTERESTS The diversity of the American people is reflected in the diversity of interests represented in the political system. As will be shown in this book, this system is so open that interests find it easy to gain access to policymakers. When interests conflict, which they often do, no coalition may be strong enough to form a majority and establish policy. But each interest may use its influence to thwart those whose policy proposals they oppose. In effect, they have a veto over policy, creating what is often referred to as **policy gridlock**. In a big city, gridlock occurs when there are so many cars on the road that no one can move; in politics, it occurs when each policy coalition finds its way blocked by others.

Democracy is not necessarily an end in itself. For many, evaluations of democracy depend on what democratic government produces. Thus, a major challenge to democracy in America is to overcome the diversity of interests and fragmentation of power in order to deliver policies that are responsive to citizens' needs.

policy gridlock

A condition that occurs when interests conflict and no coalition is strong enough to form a majority and establish policy, so nothing gets done.

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The influence of the wealthy on politics drew increased public attention in 2012, as billionaires like Sheldon and Miriam Adelson (shown here) made multimillion-dollar contributions to Super PACs that supported particular presidential candidates. With their net worth of over \$25 billion, the Adelsons' announced intention of spending \$100 million on the presidential campaign was equivalent to the average family with a net worth of \$77,000 committing to spend \$308.

political culture

An overall set of values widely shared within a society.

□ American Political Culture and Democracy

The key factor that holds American democracy together, in the view of many scholars, is its **political culture**—the overall set of values widely shared within American society. As Ronald Inglehart and Christian Welzel argue in their book on cultural change and democracy, “Democracy is not simply the result of clever elite bargaining and constitutional engineering. It depends on deep-rooted orientations among the people themselves. These orientations motivate them to demand freedom and responsive government. . . . Genuine democracy is not simply a machine that, once set up, functions by itself. It depends on the people.”¹⁷

Because Americans are so diverse in terms of ancestry, religion, and heritage, the political culture of the United States is especially crucial to understanding its government. What unites Americans more than anything else is a set of shared beliefs and values. As G. K. Chesterton, the noted British observer of American politics, wrote in 1922, “America is the only nation in the world that is founded on a creed. That creed is set forth with dogmatic and even theological lucidity in the Declaration of Independence.”¹⁸ Arguing along the same lines, Seymour Martin Lipset writes that “the United States is a country organized around an ideology which includes a set of dogmas about the nature of good society.”¹⁹ Lipset argues that the American creed can be summarized by five elements: liberty, egalitarianism, individualism, laissez-faire, and populism.²⁰

LIBERTY One of the most famous statements of the American Revolution was Patrick Henry’s “Give me liberty or give me death.” During the Cold War, a common bumper sticker was “Better Dead Than Red,” reflecting many Americans’ view that they would prefer to fight to the bitter end than submit to the oppression of communist rule. To this day, New Hampshire’s official state motto is “Live Free or Die.” When immigrants are asked why they came to America, by far the most common response is to live in freedom.

Freedom of speech and religion are fundamental to the American way of life. In the Declaration of Independence, Thomas Jefferson placed liberty right along with life and the pursuit of happiness as an “unalienable right” (that is, a right not awarded by human power, not transferable to another power, and not revocable).

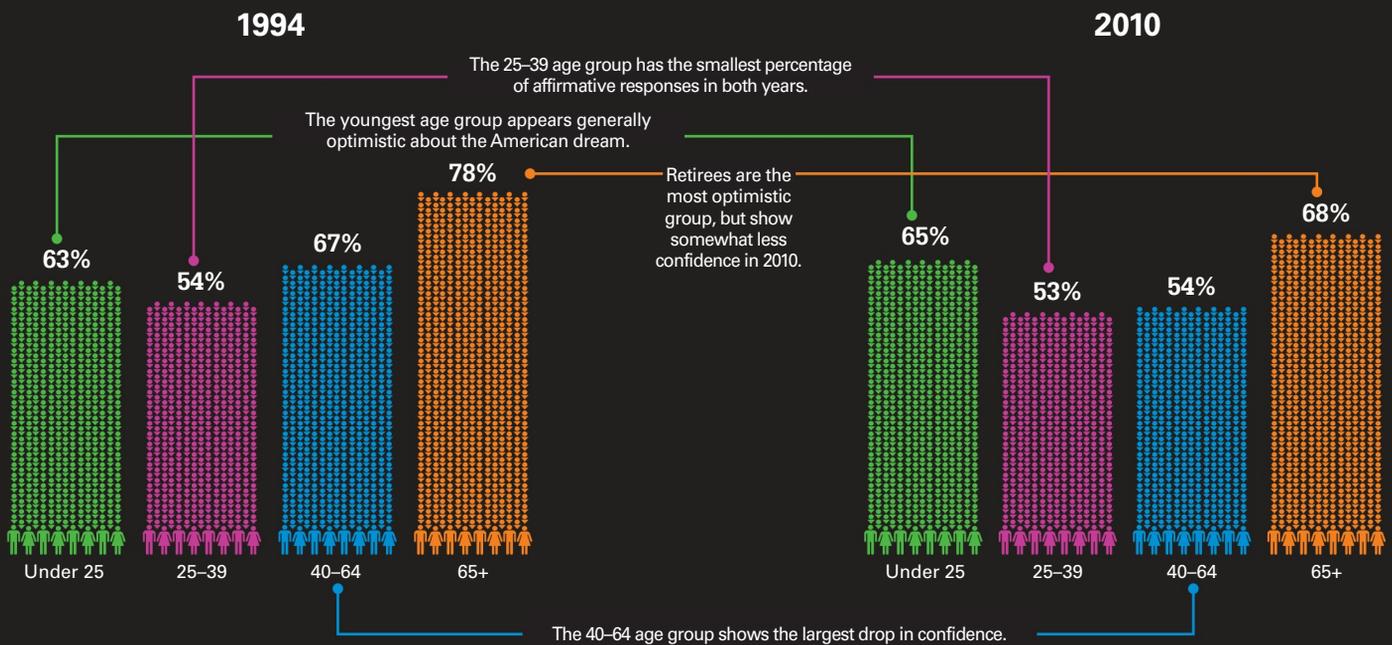


One of the fundamental values that most Americans cherish is that of liberty. The state of New Hampshire has even gone so far to place a slogan to this effect on all the automobile license plates in the state.

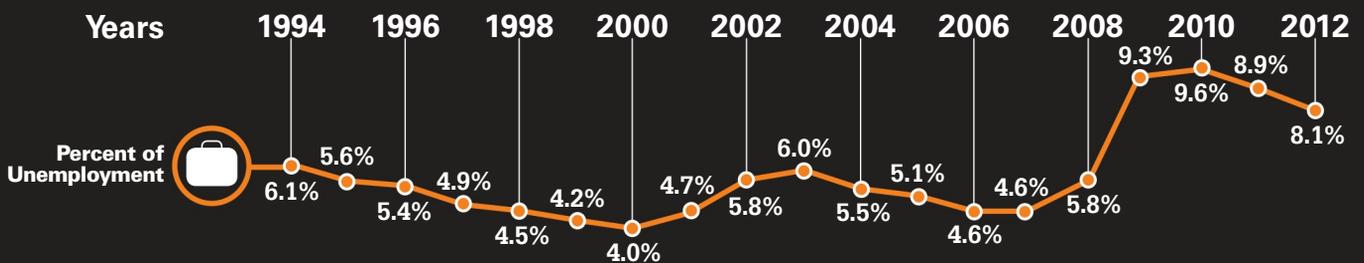
Can You Get Ahead in America?

Whether the American dream is still attainable is a question that goes to the core of American identity. In 1994 and 2010, survey researchers asked Americans, "Do you think your standard of living is better than your parents' was when they were the age you are now?" In both years, the responses suggest that a majority believe in the American dream, but there are differences across generations, perhaps related to economic factors such as the unemployment rate.

Generational Differences



Unemployment in the United States



SOURCE: Data from General Social Survey, 1994 and 2010; and the U.S. Bureau of Labor Statistics.

Investigate Further

Concept What is the American dream? It is the belief that each generation will do better than the one before it. The American dream can be measured by asking people if they think they are doing better than their parents at the same stage of life.

Connection How might the generations differ when it comes to the American dream? In 2010, the Millennial generation (under 25), despite facing high unemployment, were more optimistic than members of Generation X (who straddled the next two age groups). And Gen Xers in 2010 seemed less optimistic than in 1994, when they were the under-25 group.

Cause Why is Generation X less optimistic in 2010? One reason may be that their initial and prime earning years were accompanied by recessions in 1990, 2000, and 2009, and by spikes in unemployment that affect both own generation and their their children's.

EGALITARIANISM The most famous phrase in the history of democracy is the Declaration of Independence’s statement “We hold these truths to be self-evident, that all men are created equal. . . .” As the French observer Alexis de Tocqueville noted long ago, egalitarianism in the United States involves equality of opportunity and respect in the absence of a monarchy and aristocracy. Americans have never been equal in terms of condition. What is most critical to this part of the American creed is that everyone have a chance to succeed in life.

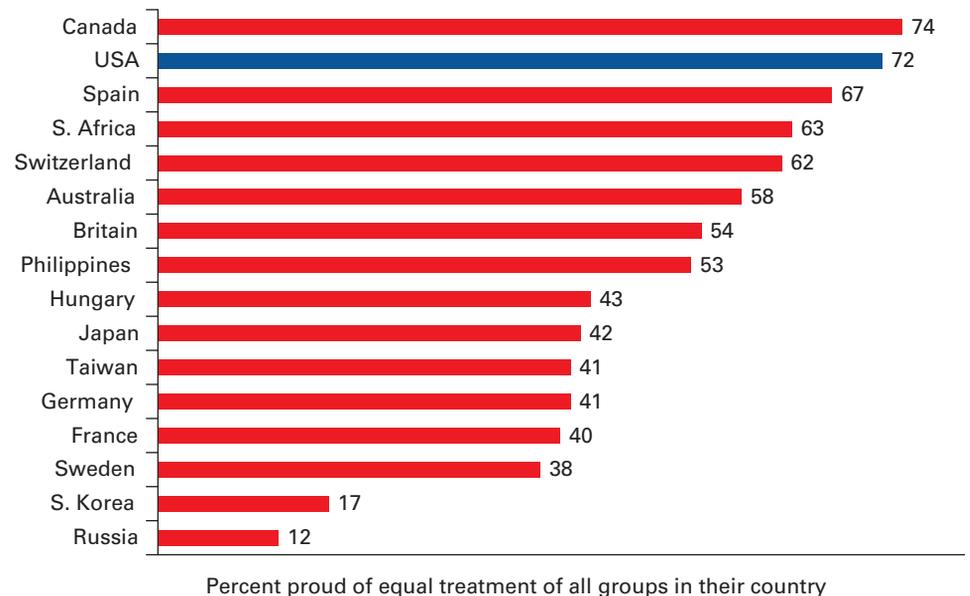
Tocqueville accurately foresaw that the social equality he observed in American life in the 1830s would eventually lead to political equality. Although relatively few Americans then had the right to vote, he predicted that all Americans would be given this right because, in order to guarantee equality of opportunity, everyone must have an equal chance to participate in democratic governance. Thus, another key aspect of egalitarianism is equal voting rights for all adult American citizens.

The ideal of egalitarianism extends also to equality of opportunity for members of all groups. In a recent survey, about three out of four Americans said they were proud of the fair and equal treatment of all groups in the United States. As you can see in Figure 1.5, this level of pride in the country’s egalitarianism is extremely high compared to that in other democracies.

INDIVIDUALISM One of the aspects of American political culture that has shaped the development of American democracy has been individualism—the belief that people can and should get ahead on their own. The immigrants who founded American society may have been diverse, but many shared a common dream of America as a place where one could make it on one’s own without interference from government. Louis Hartz’s *The Liberal Tradition in America* is a classic analysis of the dominant political beliefs during America’s formative years. Hartz argues that the major force behind limited government in America is that it was settled by people who fled from the feudal and clerical oppressions of the Old World. Once in the New World, they wanted little from government other than for it to leave them alone.²¹

FIGURE 1.5 PRIDE IN EQUAL TREATMENT OF GROUPS IN THE UNITED STATES AND OTHER ESTABLISHED DEMOCRACIES

Americans rank very high in terms of being proud of their country’s fair and equal treatment of all groups. This figure shows the percentages who said “very proud” or “somewhat proud” in response to the question, “How proud are you of [country] in . . . its fair and equal treatment of all groups—very proud, somewhat proud, not very proud, not proud at all?”



SOURCE: Authors’ analysis of 2003 International Social Survey Program surveys.

Another explanation for American individualism is the existence of a bountiful frontier, at least up until the start of the twentieth century. Not only did many people come to America to escape from governmental interference, but the frontier allowed them to get away from government almost entirely once they arrived. Frederick Jackson Turner's famous work on the significance of the frontier in American history argues that "the frontier is productive of individualism."²² According to Turner, being in the wilderness and having to survive on one's own left settlers with an aversion to any control from the outside world—particularly from the government.

LAISSEZ-FAIRE An important result of American individualism has been a clear tendency to prefer laissez-faire economic policies, which promote free markets and limited government. As John Kingdon writes in his book *America the Unusual*, "Government in the United States is much more limited and much smaller than government in virtually every other advanced industrialized country on earth."²³ Compared to most other economically developed nations, the United States devotes a smaller percentage of its resources to government. Americans have a lighter tax burden than citizens of other democratic nations.

Further, all of the other advanced industrial democracies have long had a system of national health insurance that guarantees care to all their citizens; it wasn't until 2010 that the United States established a system to guarantee most Americans health insurance with the passage of the Patient Protection and Affordable Care Act. In other countries, national governments have taken it on themselves to start up airline, telephone, and communications companies. Governments have built a substantial percentage of the housing in most Western nations, compared to only a small fraction of the housing in America. Thus, in terms of its impact on citizens' everyday lives, government in the United States actually does less than the governments of these other democracies.

POPULISM Abraham Lincoln summarized American democracy as "government of the people, for the people, and by the people." Such an emphasis on *the people* is at the heart of populism, which can best be defined as a political philosophy supporting the rights of average citizens in their struggle against privileged elites. As Lipset writes, American populist thought holds that the people at large "are possessed of some kind of sacred mystique, and proximity to them endows the politician with esteem—and with legitimacy."²⁴

In America, being on the side of the ordinary people against big interests is so valued that liberal and conservative politicians alike frequently claim this mantle. Liberals are inclined to argue that they will stand up to big multinational corporations and protect the interests of ordinary Americans. Conservatives, on the other hand, are likely to repeat Ronald Reagan's famous promise to get big government off the backs of the American people. A populist pledge to "put the people first" is always a safe strategy in the American political culture.

□ A Culture War?

Although Americans are widely supportive of cultural values like liberty and egalitarianism, some scholars are concerned that a sharp polarization into rival liberal versus conservative political cultures has taken place in recent years. James Q. Wilson defines such a polarization as "an intense commitment to a candidate, a culture, or an ideology that sets people in one group definitively apart from people in another, rival group."²⁵ Wilson maintains that America is a more polarized nation today than at any time in living memory. He argues that the intensity of political divisions in twenty-first-century America is a major problem, writing that "a divided America encourages our enemies, disheartens our allies, and saps our resolve—potentially to fatal effect."²⁶

Point to Ponder

In his first major political speech, Barack Obama proclaimed that there was no such thing as red or blue states—only the United States. For Obama, the social and political stereotypes portrayed in this Pulitzer Prize–winning cartoon are exaggerations.

What do you think—is there a cultural war going on in America?



SOURCE: David Horsey, *Seattle-Post Intelligencer*, 2002.

Other scholars, however, believe that there is relatively little evidence of a so-called culture war going on among ordinary American citizens. Morris Fiorina concludes, “There is little indication that voters are polarized now or that they are becoming more polarized—even when we look specifically at issues such as abortion that supposedly are touchstone issues in the culture war. If anything, public opinion has grown more centrist on such issues and more tolerant of the divergent views, values, and behavior of other Americans.”²⁷ Wayne Baker outlines three ways in which America might be experiencing a crisis of cultural values: (1) a loss over time of traditional values, such as the importance of religion and family life; (2) an unfavorable comparison with the citizens of other countries in terms of key values such as patriotism; and (3) the division of society into opposed groups with irreconcilable moral differences. Baker tests each of these three possibilities thoroughly with recent survey data from the United States and other countries and finds little evidence of cultural division or an ongoing crisis of values in America.²⁸

The Scope of Government in America

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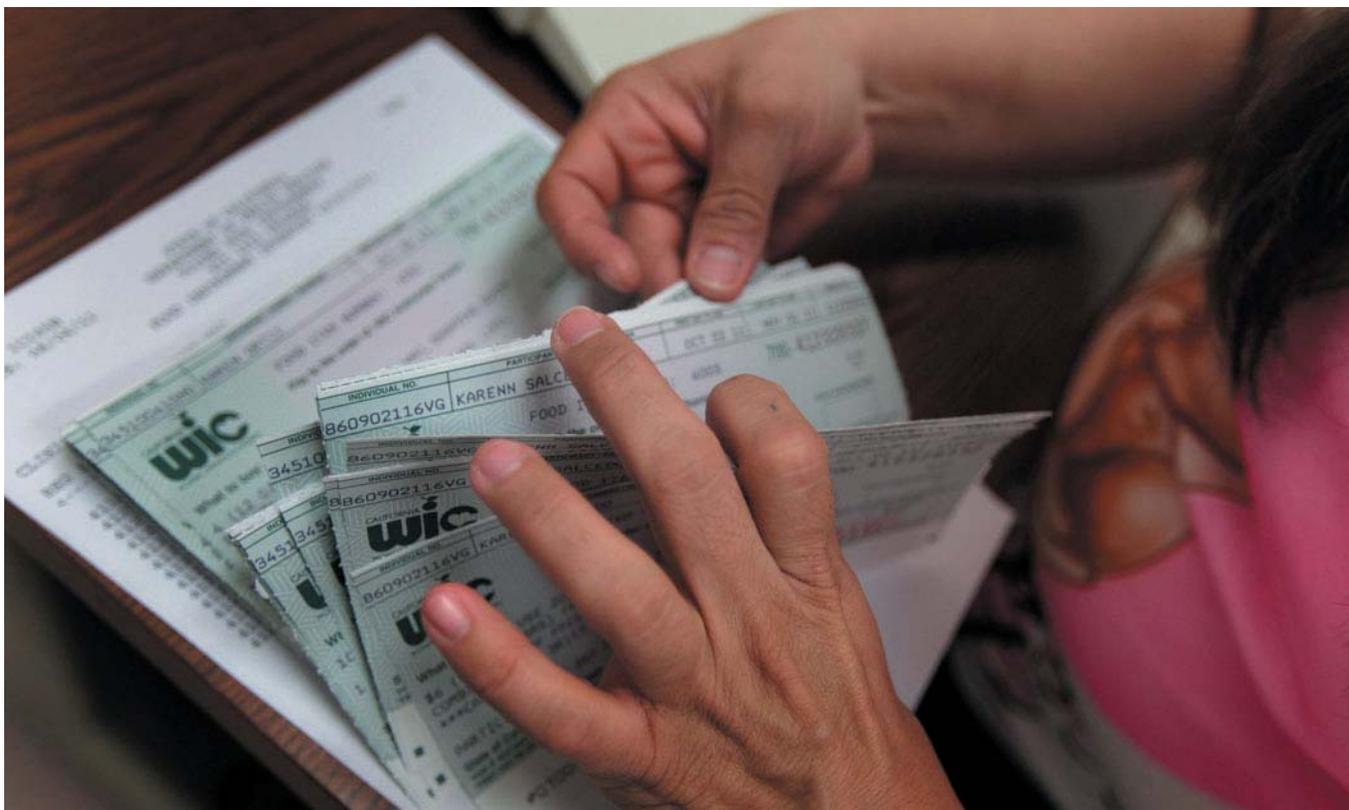
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Outline the central arguments of the debate in America over the proper scope of government.

In proposing a massive \$787 billion economic stimulus package to deal with the nation’s economic woes in 2009, President Obama stated, “It is true that we cannot depend on government alone to create jobs or long-term growth, but at this particular moment, only government can provide the short-term boost necessary to lift us from a recession this deep and severe.” In response, Republican House Leader John Boehner countered, “This bill makes clear that the era of Big Government is back, and the Democrats expect you to pay for it.” He and other conservatives opposed the stimulus bill, arguing that such increases in the scope of the federal government would result in less freedom and prosperity. Had they been in the majority in 2009, they would have focused instead on tax cuts that would have had the effect of reducing the scope of government.

Those who are inclined to support an active role for government argue that its intervention is sometimes the only means of achieving important goals in American society. How else, they ask, can we ensure that people have enough to eat, clean air and water, and affordable health care? How else can we ensure that the disadvantaged are given opportunities for education and jobs and are not discriminated against?



The Women, Infants, and Children (WIC) program is just one of many federal programs that provides support for individuals with low income. Here, a worker in Los Angeles organizes WIC vouchers, which currently go to about 9 million women, infants, and children under the age of 5. Supporters of such programs argue that they provide a much-needed safety net, enabling people to get by during hard times. Critics see these programs as expanding the scope of government too much and as often encouraging a dependency that actually perpetuates poverty.

gross domestic product

The sum total of the value of all the goods and services produced in a year in a nation.

Opponents of widening the scope of government agree that these are worthwhile goals but challenge whether involving the federal government is an effective way to pursue them. Dick Arney, who was one of the key figures in the establishment of the conservative Tea Party movement, expressed this view well when he wrote, “There is more wisdom in millions of individuals making decisions in their own self-interest than there is in even the most enlightened bureaucrat (or congressman) making decisions on their behalf.”²⁹ Or, as Ronald Reagan argued in his farewell presidential address, “As government expands, liberty contracts.”

To understand the dimensions of this debate, it is important first to get some sense of the current scope of the federal government’s activities.

□ How Active Is American Government?

In terms of dollars spent, government in America is vast. Altogether, our governments—national, state, and local—spend about a third of our **gross domestic product (GDP)**, the total value of all goods and services produced annually by the United States. Government not only spends large sums of money but also employs large numbers of people. About 24 million Americans work for our government, mostly at the state and local level as teachers, police officers, university professors, and so on. Consider some facts about the size of our national government:

- It spends about \$3.7 trillion annually (printed as a number, that’s \$3,700,000,000,000 a year).
- It employs about 2.8 million civilians, as well as 1.4 million in the military.
- It owns about one-third of the land in the United States.
- It occupies over 3.2 billion square feet of office space.

How does the American national government spend \$3.7 trillion a year? National defense takes about one-sixth of the federal budget, a much smaller percentage than it did three decades ago—even with the increase after September 11. Social Security consumes more than one-fifth of the budget. Medicare is another big-ticket item, requiring a little over one-tenth of the budget. State and local governments also get important parts of the federal government’s budget. The federal government helps fund highway and airport construction, police departments, school districts, and other state and local functions.

When expenditures grow, tax revenues must grow to pay the additional costs. When taxes do not grow as fast as spending, a budget deficit results. The federal government ran a budget deficit every year from 1969 through 1997. The last few Clinton budgets showed surpluses, but soon after George W. Bush took over, the government was running a deficit once again due to the combination of reduced taxes and of increased expenditures on national security following the events of September 11. The severe economic recession that took hold at the end of Bush’s presidency led to his running up further red ink in 2008 to bail out the financial system and to Obama’s doing the same in 2009 with an economic stimulus package to combat unemployment. The net result was that in each fiscal year from 2009 through 2012 the annual deficit exceeded one trillion dollars. All told, the many years of deficit spending have left the country with a national debt of over \$16 trillion, which will continue to pose a problem for policymakers for decades to come.

The sheer size of federal government expenditures should hardly be surprising in light of the many issues that Americans have come to expect their government to deal with. Whatever the national problem—unemployment, terrorism, illegal immigration, energy, education, lack of access to health care—many people expect Congress and the president to work to solve it through legislation. In short, the American government is vast on any measure—whether dollars spent, persons employed, or laws passed. Our concern, however, is not so much about the absolute size of government as about whether the level of government activity is what we want it to be.

Review the Chapter



Government

- 1.1** Identify the key functions of government and explain why they matter, p. 9.

The functions that all governments perform include maintaining a national defense, providing public services, preserving order, socializing the young, and collecting taxes. By performing these functions, governments regularly shape the way in which we live.

Politics

- 1.2** Define politics in the context of democratic government, p. 11.

Politics determines what leaders we select and what policies they pursue. The *who* of politics is the voters, candidates, parties, and groups; the *what* is the benefits and burdens of government; the *how* is the various ways in which people participate in politics.

The Policymaking System

- 1.3** Assess how citizens can have an impact on public policy and how policies can impact people, p. 12.

The policymaking system is in effect a cycle. Citizens' interests and concerns are transmitted through linkage institutions (parties and elections, interest groups, the media). These concerns shape the government's policy agenda, from which those in policymaking institutions (Congress, the presidency, the courts) choose issues to address. The policies that are made (laws, executive orders, regulations, and court judgments) then influence people's lives.

Democracy in America

- 1.4** Identify the key principles of democracy and outline theories regarding how it works in practice and the challenges democracy faces today, p. 15.

According to traditional democratic theory, the ideal democracy is characterized by "one person, one vote," equal opportunities to participate, freedom of speech and the press, citizen control of the policy agenda, and inclusion. Pluralist theory holds that American democracy works well, as competition among many organized groups means that the public interest becomes public policy. This view is disputed by elitist theory, which claims that the powerful few dominate, and by hyperpluralist theory, which sees the excessive influence of many competing groups as leading to muddled policy or inaction. Contemporary challenges to American and other democracies include the complexity of issues today, citizens' limited participation, escalating campaign costs, and the policy gridlock resulting from diverse political interests.

Government in America

- 1.5** Outline the central arguments of the debate in America over the proper scope of government, p. 25.

One of the most important issues facing modern American democracy is the proper scope of government. Politicians constantly debate whether the scope of government responsibilities is too vast, just about right, or not comprehensive enough. This debate concerns whether the goals that are agreed to be important are best achieved through government action or rather through means other than government.

Learn the Terms



government, p. 9
 collective goods, p. 11
 politics, p. 11
 political participation, p. 11
 single-issue groups, p. 12
 policymaking system, p. 12
 linkage institutions, p. 13
 policy agenda, p. 13

political issue, p. 14
 policymaking institutions, p. 14
 public policy, p. 14
 policy impacts, p. 14
 democracy, p. 15
 majority rule, p. 16
 minority rights, p. 16
 representation, p. 16

pluralism, p. 16
 elitism, p. 17
 hyperpluralism, p. 18
 policy gridlock, p. 19
 political culture, p. 20
 gross domestic product, p. 26



1. Which of the following is an example of a collective good?

- a. medical care
- b. college education
- c. automobile insurance
- d. home ownership
- e. highway system

2. Government is typically made up of the institutions that make public policy decisions for a society.

True ____ False ____

3. List and explain at least three of the functions that national governments perform, according to this textbook. To what extent do you think each of these is an important function? Explain your answer.

4. Which of the following is *not* a form of political participation?

- a. contacting public officials
- b. marching in political protests
- c. voting
- d. acts of civil disobedience
- e. none of the above

5. Harold Lasswell defined politics as “who gets what, when, and how.” Explain what he meant by this definition as you apply it to an issue area of your choice.

6. All of the following are considered linkage institutions EXCEPT _____

- a. the media.
- b. interest groups.
- c. political parties.
- d. courts.
- e. elections.

7. How do people affect public policy within the policymaking system? Why is the policy agenda so important to the policymaking system, and how might it help or hinder public influence over policymaking institutions?

8. According to Robert Dahl’s traditional democratic theory, an ideal democratic process should satisfy all of the following criteria EXCEPT _____

- a. equality in voting.
- b. effective participation.
- c. enlightened understanding.
- d. citizen control of the agenda.
- e. majority rule.

9. The theory of hyperpluralism is based on the assumption that input from interest groups is good for the political decision-making process.

True ____ False ____

10. What are the four continuing challenges to democracy mentioned in this textbook? Of those, which do you think poses the most significant challenge to American democracy, and why? How would you attempt to meet this particular challenge?

11. What are the five central features of American political culture, or the “American creed,” according to Seymour Martin Lipset? Why is political culture a key factor in holding American democracy together? Do you think there is a culture war going in the United States that may serve to polarize Americans? What is the evidence in favor of and against the existence of a culture war today?

12. The federal government has usually run a budget deficit since 1969, except for during part of the administration of which president?

- a. Richard Nixon
- b. Jimmy Carter
- c. Ronald Reagan
- d. Bill Clinton
- e. George W. Bush

13. What are the primary arguments in favor of and against an active role for government in today’s society? Use a current policy example to support your answer.

Explore Further

WEB SITES

www.policyalmanac.org

Contains a discussion of major policy issues of the day and links to resources about them.

www.bowlingalone.com

A site designed to accompany Robert Putnam's work, which contains information concerning the data he used and projects he is working on to reinvigorate American communities.

www.politicalwire.com

A good daily guide to some of the most interesting political stories of the day, as seen from a liberal's perspective.

www.realclearpolitics.com

A good daily guide to some of the most interesting political stories of the day, as seen from a conservative's perspective.

FURTHER READING

Alesina, Alberto and Edward L. Glaeser. *Fighting Poverty in the US and Europe: A World of Difference*. New York: Oxford, 2004. A comprehensive analysis of how and why the scope of government is smaller in the United States than in Europe.

Bok, Derek. *The State of the Nation: Government and the Quest for a Better Society*. Cambridge, MA: Harvard University Press, 1996. An excellent analysis of how America is doing, compared to other major democracies, on a wide variety of policy aspects.

Dahl, Robert A. *Democracy and Its Critics*. New Haven, CT: Yale University Press, 1982. A very thoughtful work by one of the world's most articulate advocates of pluralist theory.

de Tocqueville, Alexis. *Democracy in America*. New York: Mentor Books, 1956. This classic by a nineteenth-century French aristocrat remains one of the most insightful works on the nature of American society and government.

Hartz, Louis. *The Liberal Tradition in America*. New York: Harcourt, Brace, 1955. A classic analysis of why the scope of American government has been more limited than in other democracies.

Kingdon, John W. *Agendas, Alternatives, and Public Policies*. 2nd ed. New York: HarperCollins, 1995. One of the best efforts by a political scientist to examine the political agenda.

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Putnam, Robert. *Bowling Alone: The Collapse and Revival of American Community*. New York: Simon & Schuster, 2000. Putnam's highly influential work shows how Americans have become increasingly disconnected from one another since the early 1960s.

Sitaraman, Ganesh and Previn Warren. *Invisible Citizens: Youth Politics After September 11*. New York: iUniverse, Inc., 2003. Two Harvard students examine why today's youth demonstrate a commitment to community service while at the same time largely neglect involvement in politics.

Stanley, Harold W., and Richard G. Niemi. *Vital Statistics on American Politics, 2011–2012*. Washington, DC: CQ Press, 2012. Useful data on government, politics, and policy in the United States.

Wolfe, Alan. *Does American Democracy Still Work?* New Haven: Yale University Press, 2006. An influential critique of the problems of democracy in America today.





2

The Constitution

Politics in Action: Amending the Constitution



Gregory Lee Johnson knew little about the Constitution, but he knew that he was upset. He felt that the buildup of nuclear weapons in the world threatened the planet's survival, and he wanted to protest presidential and corporate policies concerning nuclear weapons. Yet he had no money to hire a lobbyist or to purchase an ad in a newspaper. So he and some other demonstrators marched through the streets of Dallas, chanting political slogans and stopping at several corporate locations to stage “die-ins” intended to dramatize the consequences of nuclear war. The demonstration ended in front of Dallas City Hall, where Gregory doused an American flag with kerosene and set it on fire.

Burning the flag violated the law, and Gregory was convicted of “desecration of a venerated object,” sentenced to one year in prison, and fined \$2,000. He appealed his conviction, claiming that the law that prohibited burning the flag violated his freedom of speech. The U.S. Supreme Court agreed in the case of *Texas v. Gregory Lee Johnson*.

Gregory was pleased with the Court's decision, but he was nearly alone. The public howled its opposition to the decision, and President George H. W. Bush called for a constitutional amendment authorizing punishment of flag desecraters. Many public officials vowed to support the amendment, and organized opposition to it was scarce. However, an amendment to prohibit burning the American flag did not obtain the two-thirds vote in each house of Congress necessary to send it to the states for ratification.

2.1

Describe the ideas behind the American Revolution and their role in shaping the Constitution, p. 35.

2.2

Analyze how the weaknesses of the Articles of Confederation led to its failure, p. 40.

2.3

Describe the delegates to the Constitutional Convention and the core ideas they shared, p. 44.

2.4

Categorize the issues at the Constitutional Convention and outline the resolutions reached on each type of issue, p. 45.

2.5

Analyze how the components of the Madisonian system addressed the dilemma of reconciling majority rule with the protection of minority interests, p. 50.

2.6

Compare and contrast the Federalists and Anti-Federalists in terms of their background and their positions regarding government, p. 54.

2.7

Explain how the Constitution can be formally amended and how it changes informally, p. 57.

2.8

Assess whether the Constitution establishes a majoritarian democracy and how it limits the scope of government, p. 64.



The Constitution guarantees rights, even in the face of widespread public opposition. Thus, protestors, like those pictured here, can engage in the unpopular act of burning the flag to make a political point.



The Big Picture What does the Constitution leave out? Author George C. Edwards III delves into why the government becomes deadlocked and how understanding the Constitution allows us to adjust expectations for what the government can—and cannot—accomplish.



The Basics What is the purpose of a Constitution? In this video, you will discover the reasons why the Framers wrote the Constitution and how the Constitution sets up checks and balances, the protection of liberties, and the framework we need for a functioning democracy.



In Context Why is it unusual that the United States Constitution has governed so long in its present form? Fordham University political scientist Costas Panagopolos explains why the Constitution is such a rarity and how it has succeeded in an evolving American society.



Thinking Like a Political Scientist How do the institutions created by the U.S. Constitution operate and how has their role changed over time? Fordham University political scientist Costas Panagopolos examines this and other emerging issues in the research and in the study of the Constitution.



In the Real World How well does the system of checks and balances in the United States work, and is it actually fair? Real people voice their opinions on whether or not they believe it is constitutional for Congress to check the power of the president—and vice versa.



So What? Discover why change in the government sometimes seems next-to-impossible. Author George C. Edwards III illustrates how the Constitution encourages government to move slowly, and provides some theories on why maybe that's not such a bad thing.



Instead, Congress passed a law—the Flag Protection Act—that outlawed the desecration of the American flag. The next year, however, in *United States v. Eichman*, the Supreme Court found the act an impermissible infringement on free speech.

After years of political posturing, legislation, and litigation, little has changed. Burning the flag remains a legally protected form of political expression despite the objections of the overwhelming majority of the American public. Gregory Johnson did not prevail because he was especially articulate, nor did he win because he had access to political resources, such as money or powerful supporters. He won because of the nature of the Constitution.

Understanding how an unpopular protestor like Gregory Lee Johnson could triumph over the combined forces of the public and its elected officials is central to understanding the American system of government. The Constitution supersedes ordinary law, even when the law represents the wishes of a majority of citizens. The Constitution not only guarantees individual rights but also decentralizes power. Even the president could not force Congress to start the process of amending the Constitution. Power is not concentrated efficiently in the hands of one person, such as the president. Instead, there are numerous checks on the exercise of power and many obstacles to change. Some complain that this system produces stalemate, while others praise the way in which it protects minority views. Both positions are correct.

Gregory Johnson's case raises some important questions about government in America. What does democracy mean if the majority does not always get its way? Is this how we should be governed? And is it appropriate that the many limits on the scope of government action, both direct and indirect, sometimes prevent action desired by most people?

A **constitution** is a nation's basic law. It creates political institutions, allocates power within government, and often provides guarantees to citizens. A constitution is also an unwritten accumulation of traditions and precedents that have established acceptable means of governing. As the body of rules that govern our nation, the U.S. Constitution has an impact on many aspects of our everyday lives, such as the rights we enjoy, the health care we receive, and the taxes we pay. Our theme of the scope of government runs throughout this chapter, which focuses on what the national government can and cannot do. A nation that prides itself on being “democratic” must evaluate the Constitution according to democratic standards, the core of our other theme. To understand government and to answer questions about how we are governed and what government does, we must first understand the Constitution.

constitution

A nation's basic law. It creates political institutions, assigns or divides powers in government, and often provides certain guarantees to citizens. Constitutions can be either written or unwritten.

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The Origins of the Constitution

2.1

Describe the ideas behind the American Revolution and their role in shaping the Constitution.

In the summer of 1776, a small group of men met in Philadelphia and passed a resolution that began an armed rebellion against the government of what was then the most powerful nation on Earth. The resolution was, of course, the Declaration of Independence, and the armed rebellion, the American Revolution.

The attempt to overthrow a government forcibly is a serious and unusual act. All countries, including the United States, consider it treasonous and levy serious punishments for it. A set of compelling ideas drove our forefathers to take such drastic and risky action. Understanding the Constitution requires an understanding of these ideas.

□ The Road to Revolution

By eighteenth-century standards, life was not bad for most people in America at the time of the Revolution (slaves and indentured servants being major exceptions). In fact, white colonists “were freer, more equal, more prosperous, and less burdened with

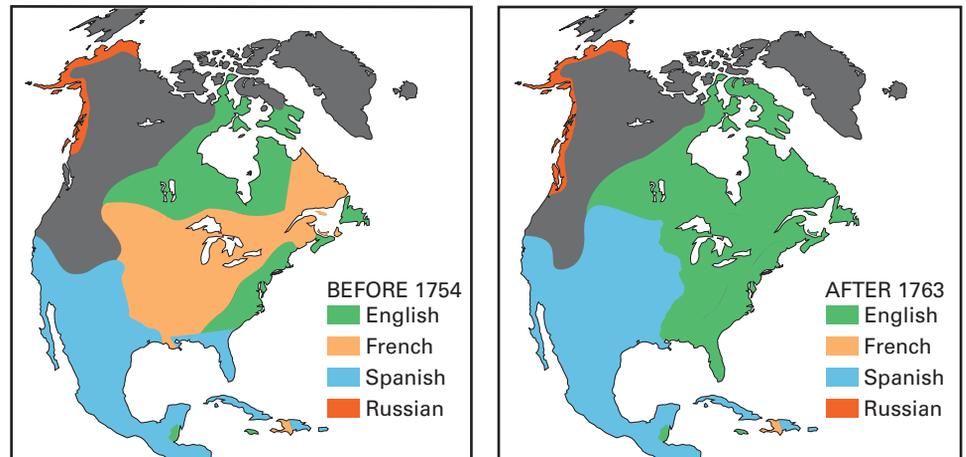
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Declaration of Independence

The document approved by representatives of the American colonies in 1776 that stated their grievances against the British monarch and declared their independence.

FIGURE 2.1 EUROPEAN CLAIMS IN NORTH AMERICA

Following its victory in the French and Indian War in 1763, Britain obtained an enormous new territory to govern. To raise revenues to defend and administer the territory, it raised taxes on the colonists and tightened enforcement of trade regulations. (Britain also gained Florida from Spain as a result of the war.)



cumbersome feudal and monarchical restraints than any other part of mankind.”¹ Although the colonies were part of the British Empire, the king and Parliament generally confined themselves to governing America’s foreign policy and trade. Almost everything else was left to the discretion of individual colonial governments. Although commercial regulations irritated colonial shippers, planters, land speculators, and merchants, these rules had little influence on the vast bulk of the population, who were self-employed farmers or artisans.

As you can see in Figure 2.1, Britain obtained an enormous new territory in North America after the French and Indian War (also known as the Seven Years’ War) ended in 1763. The cost of defending this territory against foreign adversaries was large, and Parliament reasoned that it was only fair that those who were the primary beneficiaries—the colonists—should contribute to their own defense. Thus, in order to raise revenue for colonial administration and defense, the British Parliament passed a series of taxes on newspapers, official documents, paper, glass, paint, and tea. Britain also began tightening enforcement of its trade regulations, which were designed to benefit the mother country, not the colonists.

The colonists lacked direct representation in Parliament and resented the legislature imposing taxes without their consent. They protested, boycotted the taxed goods, and, as a symbolic act of disobedience, even threw 342 chests of tea into Boston Harbor. Britain reacted by applying economic pressure through a naval blockade of the harbor, further fueling the colonists’ anger. The colonists responded by forming the First Continental Congress in September 1774, sending delegates from each colony to Philadelphia to discuss the future of relations with Britain.

□ Declaring Independence

Talk of independence was common among the delegates. Thomas Paine’s fiery tract *Common Sense* appeared in January 1776 and fanned the already hot flames of revolution. In May and June 1776, the Continental Congress began debating resolutions about independence. On June 7, Richard Henry Lee of Virginia moved “that these United States are and of right ought to be free and independent states.” A committee composed of Thomas Jefferson of Virginia, John Adams of Massachusetts, Benjamin Franklin of Pennsylvania, Roger Sherman of Connecticut, and Robert Livingston of New York was formed to draft a document to justify the inevitable declaration. On July 2, Congress formally approved Lee’s motion to declare independence from England. Congress adopted the **Declaration of Independence** two days later, on July 4.

The primary author of the Declaration of Independence was Thomas Jefferson, a 33-year-old, well-educated Virginia lawmaker who was a talented author steeped in the philosophical writings of European moral philosophers.² The Declaration quickly became one of the most widely quoted and revered documents in America. Filled with fine principles and bold language, it can be read as both a political tract and a philosophical treatise.

Politically, the Declaration was a polemic, a political argument, announcing and justifying a revolution to the citizens of the colonies. Most of the document—27 of its 32 paragraphs—listed the ways in which the king had abused the colonies. The delegates accused George III of all sorts of evil deeds, including inciting the “merciless Indian savages” to make war on the colonists. The delegates focused blame on the king because they held that only he, not Parliament, had authority over the colonies.

The Declaration’s polemical aspects were also important because the colonists needed foreign assistance to take on Britain, the most powerful nation in the world. France, which was engaged in a war with Britain, was a prime target for the delegates’ diplomacy and eventually provided aid that was critical to the success of the Revolution.

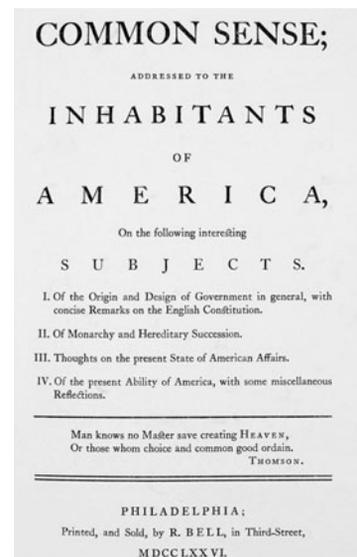
Today, we study the Declaration of Independence more as a statement of philosophy than as a political call to arms. In just a few sentences, Jefferson set forth the American democratic creed, the most important and succinct statement of the philosophy underlying American government—as applicable today as it was in 1776.

□ The English Heritage: The Power of Ideas

The Declaration articulates ideas that were by then common knowledge on both sides of the Atlantic, especially among those people who wished to challenge the power of kings. Franklin, Jefferson, James Madison of Virginia, Robert Morris of Pennsylvania, Alexander Hamilton of New York, and other intellectual leaders in the colonies were learned and widely read men, familiar with the works of English, French, and Scottish political philosophers. These leaders corresponded about the ideas they were reading,



John Adams (from right), Roger Sherman, Robert R. Livingston, Thomas Jefferson, and Benjamin Franklin submit the Declaration of Independence to Continental Congress President John Hancock. Legend has it that Hancock remarked, “We must be unanimous; there must be no pulling different ways; we must hang together,” to which Franklin replied, “We must indeed all hang together, or, most assuredly, we shall hang separately.”



Thomas Paine’s *Common Sense* encouraged the colonists to declare independence from Britain.

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natural rights

Rights inherent in human beings, not dependent on governments, which include life, liberty, and property. The concept of natural rights was central to English philosopher John Locke's theories about government and was widely accepted among America's Founders.

consent of the governed

The idea that government derives its authority by sanction of the people.

limited government

The idea that certain restrictions should be placed on government to protect the natural rights of citizens.

quoted philosophers in their debates over the Revolution, and applied those ideas to the new government they formed through the framework of the Constitution.

John Locke was one of the most influential philosophers read by the colonists. His writings, especially *The Second Treatise of Civil Government* (1689), profoundly influenced American political leaders. His work was “the dominant political faith of the American colonies in the second quarter of the eighteenth century.”³

The foundation on which Locke built his powerful philosophy was a belief in **natural rights**—rights inherent in human beings, not dependent on governments. Before governments arose, Locke held, people existed in a state of nature, in which they were governed not by formal laws but by the laws of nature—laws determined by people's innate moral sense. This natural law provided natural rights, including life, liberty, and property. Natural law could even justify a challenge to the rule of a tyrannical king because it was superior to manmade law. Government, Locke argued, must be built on the **consent of the governed**; in other words, the people must agree on who their rulers will be. It should also be a **limited government**; that is, there must be clear restrictions on what rulers can do. Indeed, the sole purpose of government, according to Locke, was to protect natural rights. The idea that certain things were beyond the realm of government contrasted sharply with the traditional notion that kings possessed divinely granted absolute rights over their subjects.

Two limits on government were particularly important to Locke. First, governments must provide standing laws so that people know in advance whether their acts will be acceptable. Second, and Locke was very forceful on this point, “the supreme power cannot take from any man any part of his property without his consent.” To Locke, the preservation of property was the principle purpose of government. The sanctity of property was one of the few ideas absent from Jefferson's draft of the Declaration of Independence, which altered Locke's phrase “life, liberty, and property” to “life, liberty, and the pursuit of happiness.” We shall soon see, however, how the Lockean idea of the sanctity of property figured prominently at the Constitutional Convention. James Madison, the most influential member of that body, directly echoed Locke's view that the preservation of property is the purpose of government.

Locke argued that in an extreme case, people have a right to revolt against a government that no longer has their consent. Locke anticipated critics' charges that this right would lead to constant civil disturbances. He emphasized that people should not revolt until injustices become deeply felt. The Declaration of Independence accented the same point, declaring that “governments long established should not be changed for light and transient causes.” But when matters went beyond “patient sufferance,” severing these ties was not only inevitable but also necessary.

Locke represented only one element of revolutionary thought from which Jefferson and his colleagues borrowed. In the English countryside, there was also a well-established tradition of opposition to the executive power of the Crown and an emphasis on the rights of the people. Moreover, the American colonists themselves had developed a set of ideas stressing moral virtue, patriotism, relations based on merit, and the equality of independent citizens. These American ideas intensified the radicalism of the British “country” ideology and linked it with older currents of European thought, stretching back to antiquity, regarding the rights of citizens and the role of government.

□ The American Creed

There are some remarkable parallels between Locke's thought and Jefferson's language in the Declaration of Independence (see Table 2.1). Finessing the issue of how the rebels knew that men had rights, Jefferson simply declared that it was “self-evident” that men were equally “endowed by their Creator with certain unalienable rights,” including “life, liberty, and the pursuit of happiness.” Because the purpose of government was to “secure” these rights, the people could form a new government if it failed to do so.

TABLE 2.1 LOCKE AND THE DECLARATION OF INDEPENDENCE: SOME PARALLELS

Locke	Declaration of Independence
Natural Rights “The state of nature has a law to govern it” “life, liberty, and property”	“Laws of Nature and Nature’s God” “life, liberty, and the pursuit of happiness.”
Purpose of Government “to preserve himself, his liberty, and property”	“to secure these rights”
Equality “men being by nature all free, equal and independent”	“all men are created equal”
Consent of the Governed “for when any number of men have, by the consent of every individual, made a community, with a power to act as one body, which is only by the will and determination of the majority”	“Governments are instituted among men, deriving their just powers from the consent of the governed.”
Limited Government “Absolute arbitrary power, or governing without settled laws, can neither of them consist with the ends of society and government.” “As usurpation is the exercise of power which another has a right to, so tyranny is the exercise of power beyond right, which nobody can have a right to.”	“The history of the present King of Great Britain is a history of repeated injuries and usurpations.”
Right to Revolt “The people shall be the judge. . . . Oppression raises ferments and makes men struggle to cast off an uneasy and tyrannical yoke.”	“Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes. . . . But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government.”

It was in the American colonies that the powerful ideas of European political thinkers took root and grew into what Seymour Martin Lipset termed the “first new nation.”⁵ With these revolutionary ideas in mind, Jefferson claimed in the Declaration of Independence that people should have primacy over governments, that they should rule instead of being ruled. Moreover, each person was important as an individual, “created equal,” and endowed with “unalienable rights.” Consent of the governed, not divine rights or tradition, made the exercise of political power legitimate.

No government had ever been based on these principles. Ever since 1776, Americans have been concerned about fulfilling the high aspirations of the Declaration of Independence.

□ Winning Independence

The pen may be mightier than the sword, but declaring independence did not win the Revolution—it merely announced its beginning. John Adams wrote to his wife, Abigail, “You will think me transported with enthusiasm, but I am not. I am well aware of the toil, blood, and treasure that it will cost us to maintain this Declaration, and support and defend these states.” Adams was right. The colonists seemed little match for the finest army in the world, whose size was nearly quadrupled by hired guns from the German state of Hesse and elsewhere. In 1775, the British had 8,500 men stationed in the colonies and had hired nearly 30,000 mercenaries. Initially, the colonists had only 5,000 men in uniform, and their number waxed and waned as the war progressed. Nevertheless, in 1783, the American colonies won their war of independence. How they eventually won is a story best left to history books. In the following sections we will explore how they formed a new government.

Articles of Confederation

The first constitution of the United States, adopted by Congress in 1777 and enacted in 1781. The Articles established a national legislature, the Continental Congress, but most authority rested with the state legislatures.

□ The “Conservative” Revolution

Revolutions such as the 1789 French Revolution, the 1917 Russian Revolution, and the 1978–1979 Iranian Revolution produced great societal change—as well as plenty of bloodshed. The American Revolution was different. Despite the revolutionary ideas behind it, the Revolution was essentially a conservative movement that did not drastically alter the colonists’ way of life. Its primary goal was to restore rights that the colonists felt were theirs as British subjects and to enable them to live as they had before Britain tightened its regulations following the Seven Years’ War.

American colonists did not feel the need for great social, economic, or political upheavals. Despite their opposition to British rule, they “were not oppressed people; they had no crushing imperial shackles to throw off.”⁶ As a result, the Revolution did not create class conflicts that would split society for generations to come. The colonial leaders’ belief that they needed the consent of the governed blessed the new nation with a crucial element of stability—a stability the nation would need.

The Government That Failed: 1776–1787

2.2 Analyze how the weaknesses of the Articles of Confederation led to its failure.



The Continental Congress that adopted the Declaration of Independence was only a voluntary association of the states. In 1776, Congress appointed a committee to draw up a plan for a permanent union of the states. That plan, our first constitution, was the **Articles of Confederation**.⁷

□ The Articles of Confederation

The Articles established a government dominated by the states. The United States, according to the Articles, was a confederation, a “league of friendship and perpetual union” among 13 states. The Articles established a national legislature with one house; states could send as many as seven delegates or as few as two, but each state had only one vote. There was no president and no national court, and the powers of the national legislature were strictly limited. Most authority rested with the state legislatures because the new nation’s leaders feared that a strong central government would become as tyrannical as British rule. Table 2.2 summarizes the key provisions of the Articles.

TABLE 2.2 KEY PROVISIONS OF THE ARTICLES OF CONFEDERATION

Feature of National Government	Provision
Central government	Weak
Executive	None
Legislature	One chamber with one vote per state
Courts	None
Regulation of commerce	None
Taxation	Dependent on states
Amendment of Articles	Required unanimous consent
National defense	Could raise and maintain an army and navy
Power over states	None

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Because unanimous consent of the states was needed to put the Articles into operation, the Articles adopted by the Continental Congress in 1777 did not go into effect until 1781, when laggard Maryland finally ratified them. In the meantime, the Continental Congress barely survived, lurching from crisis to crisis. At one point during the war, some of Washington's troops threatened to create a monarchy with him as king unless Congress paid their overdue wages.

Even after the states ratified the Articles of Confederation, many logistical and political problems plagued Congress. State delegations attended haphazardly. Congress had few powers outside maintaining an army and navy—and little money to do even that. It had to request money from the states because it had no power to tax. If states refused to send money (which they often did), Congress did without. In desperation, Congress sold off western lands (land east of the Mississippi and west of the states) to speculators, issued securities that sold for less than their face value, or used its own presses to print money that was virtually worthless. Congress also voted to disband the army despite continued threats from Britain and Spain.

Congress lacked the power to regulate commerce, which inhibited foreign trade and the development of a strong national economy. It did, however, manage to develop sound policies for the management of the western frontiers, passing the Northwest Ordinance of 1787 that encouraged the development of the Great Lakes region.

In general, the weak and ineffective national government could take little independent action. All government power rested in the states. The national government could not compel the states to do anything, and it had no power to deal directly with individual citizens. The weakness of the national government prevented it from dealing with the hard times that faced the new nation. There was one benefit of the Articles, however: when the nation's leaders began to write a new Constitution, they could look at the provisions of the Articles of Confederation and know some of the things they should avoid.

Why It Matters to You

A Strong National Government

One of the most important features of the Constitution is the creation of a strong national government. If the Framers had retained a weak national government, as under the Articles of Confederation, Congress could not create a great national economic market through regulating interstate commerce, the president could not conduct a vigorous foreign policy, federal courts could not issue orders to protect civil rights, and the federal government could not raise the funds to pay for Social Security benefits or grants and loans for college students.

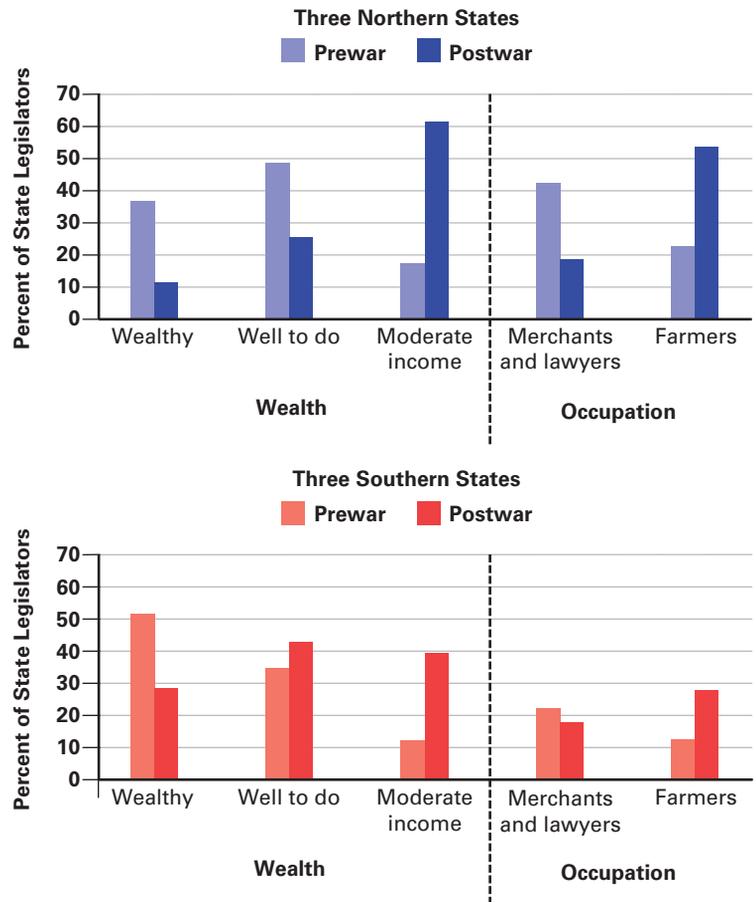
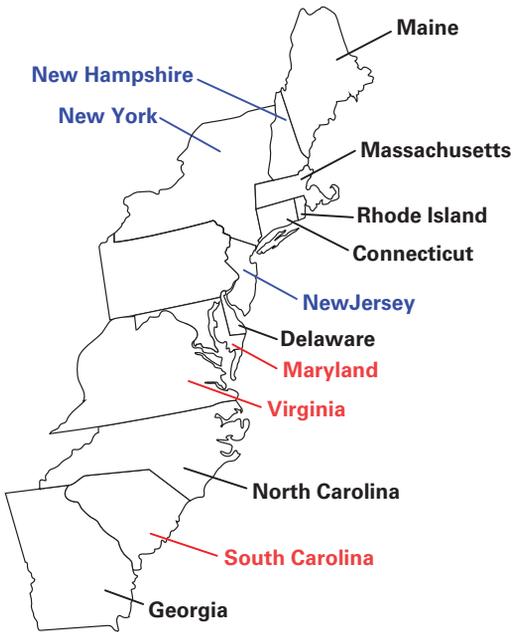
Changes in the States

What was happening in the states was as important as what was happening in Congress. The most significant change was a dramatic increase in democracy and liberty, at least for white males. Many states adopted bills of rights to protect freedoms, abolished religious qualifications for holding office, and liberalized requirements for voting.

Expanded political participation brought to power a new middle class, which included artisans and farmers who owned small homesteads. Before the Revolution, almost all members of New York's assembly had been wealthy urban merchants, large landowners, or lawyers. In the 1769 assembly, for example, only 25 percent of the legislators were farmers, even though nearly 95 percent of New Yorkers were farmers. After the Revolution, a major power shift occurred. With expanded voting privileges, farmers and artisans became a decisive majority in the New York assembly, and the old

FIGURE 2.2 POWER SHIFT: ECONOMIC STATUS OF STATE LEGISLATORS BEFORE AND AFTER THE REVOLUTIONARY WAR

After the Revolution, power in the state legislatures shifted from the hands of the wealthy to those with more moderate incomes and from merchants and lawyers to farmers. This trend was especially evident in the northern states.



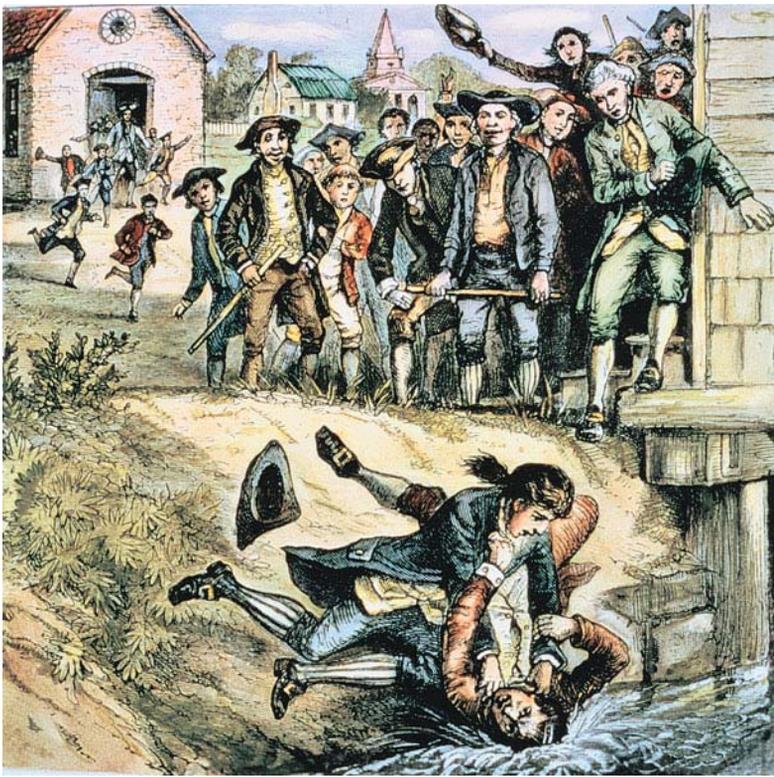
elite saw its power shrink. The same change occurred in other states as power shifted from a handful of wealthy individuals to a more broad-based group (see Figure 2.2). Democracy was taking hold everywhere.

The structure of government in the states also became more responsive to the people. State constitutions concentrated power in the legislatures because most people considered legislators to be closer to the voters than governors or judges. Legislatures often selected the governors and kept them on a short leash, with brief tenures and limited veto and appointment powers. Legislatures also overruled court decisions and criticized judges for unpopular decisions.

The idea of equality, at least among white males, was driving change throughout the nation. Although the Revolutionary War itself did not transform American society, it unleashed the egalitarian tendencies in American life. Americans were in the process of becoming “the most liberal, the most democratic, the most commercially minded, and the most modern people in the world.”⁸ Members of the old colonial elite found this turn of affairs quite troublesome because it challenged their hold on power.

□ Economic Turmoil

Economic issues were at the top of the political agenda. A postwar depression had left many small farmers unable to pay their debts and threatened them with mortgage foreclosures. Now under control of people more sympathetic to debtors, the state legislatures listened to the demands of small farmers. A few states, notably Rhode Island, demonstrated their support of debtors, passing policies favoring them



Shays' Rebellion

A series of attacks on courthouses by a small band of farmers led by Revolutionary War Captain Daniel Shays to block foreclosure proceedings.

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Shays' Rebellion, in which farmers physically prevented judges from foreclosing on farms, helped spur the birth of the Constitution. News of the small rebellion spread quickly around the country, and some of the Philadelphia delegates thought a full-fledged revolution would result. The event reaffirmed the Framers' belief that the new federal government needed to be a strong one.

over creditors. Some printed tons of paper money and passed “force acts” requiring reluctant creditors to accept the almost worthless money. Debtors could thus pay big debts with cheap currency.

Policies favoring debtors over creditors did not please the economic elite, who had once controlled nearly all the state legislatures. They were further shaken when, in 1786, a small band of farmers in western Massachusetts rebelled at losing their land to creditors. Led by Revolutionary War captain Daniel Shays, this rebellion, called **Shays' Rebellion**, was a series of armed attacks on courthouses to prevent judges from foreclosing on farms. Farmers in other states were also unruly—although never in large numbers. The economic elite were scared at the thought that people had taken the law into their own hands and violated the property rights of others. Neither Congress nor the state was able to raise a militia to stop Shays and his followers, so elites assembled a privately paid force to do the job. This necessity further fueled dissatisfaction with the weakness of the Articles of Confederation system.

□ The Aborted Annapolis Meeting

In September 1786, a handful of leaders assembled in Annapolis, Maryland, to consider commercial conflicts that had arisen among the states under the Articles of Confederation. Only five states—New York, New Jersey, Delaware, Pennsylvania, and Virginia—were represented at the meeting. The delegates decided that a larger meeting and a broader proposal were needed. They therefore issued a call for a full-scale meeting of the states in Philadelphia the following May—in retrospect, a rather bold move by so small a group. The Continental Congress granted their request, however, and called for a meeting of all the states. In May 1787, what we now term the Constitutional Convention got down to business in Philadelphia.

U.S. Constitution

The document written in 1787 and ratified in 1788 that sets forth the institutional structure of U.S. government and the tasks these institutions perform. It replaced the Articles of Confederation.

Making a Constitution: The Philadelphia Convention

2.3 Describe the delegates to the Constitutional Convention and the core ideas they shared.

Representatives from 12 states came to Philadelphia to heed the Continental Congress's call to "take into consideration the situation in the United States." Only Rhode Island, a stronghold of paper-money interests and thus skeptical of reforms favoring creditors, refused to send delegates. Virginia's Patrick Henry (the colonial firebrand who had declared, "Give me liberty or give me death!") feared a centralization of power and also did not attend.

The delegates were ordered to meet "for the sole and express purpose of revising the Articles of Confederation." The Philadelphia delegates did not pay much attention to this order, however, because amending the Articles required the unanimous consent of the states, which they knew would be impossible. Thus, the 55 delegates ignored their instructions and began writing what was to become the **U.S. Constitution**.

□ Gentlemen in Philadelphia

Who were these 55 men? They may not have been "demigods," as Jefferson, perhaps sarcastically, called them, but they were certainly an elite group of economic and political notables. They were mostly wealthy planters, successful (or once-successful) lawyers and merchants, and men of independent wealth. Many were college graduates, and most had practical political experience. Most were coastal residents rather than residents of the expanding western frontiers, and a significant number were urbanites rather than part of the primarily rural American population.

□ Philosophy into Action

The delegates in Philadelphia were an uncommon combination of philosophers and shrewd political architects. The debates moved from high principles on the big issues to self-interest on the small ones.⁹ The delegates devoted the first two weeks mainly to general debates about the nature of republican government (government in which ultimate power rests with the voters). After that, practical and divisive issues sometimes threatened to dissolve the meeting.

Obviously, these 55 men did not share the same political philosophy. For example, democratic Benjamin Franklin held very different views from a number of delegates who were wary of democracy. Yet at the core of their ideas existed a common center. The group agreed on questions of (1) human nature, (2) the causes of political conflict, (3) the objects of government, and (4) the nature of a republican government.

HUMAN NATURE In his famous work titled *Leviathan*, written in 1651, Thomas Hobbes argued that man's natural state was war and that a strong absolute ruler was necessary to restrain man's bestial tendencies. Without a strong government, Hobbes wrote, life would be "solitary, poor, nasty, brutish, and short." The delegates agreed that people were naturally self-interested and that government should play a key role in containing these impulses. However, the Founders opposed Hobbes's powerful monarch, siding with Locke's argument that government should be limited.¹⁰

POLITICAL CONFLICT Of all the words written by and about the delegates, none have been more widely quoted than these by James Madison from Federalist 10: "The most common and durable source of factions has been the various and unequal distribution of property." In other words, *the distribution of wealth* (land was the main form of

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wealth in those days) *is the source of political conflict*. “Those who hold and those who are without property,” Madison went on, “have ever formed distinct interests in society.” Other sources of conflict included religion, views of governing, and attachment to various leaders.¹¹

Arising from these sources of conflict are **factions**, which we might call parties or interest groups. A majority faction might well be composed of the many who have little or no property; the minority faction, of those with property. If unchecked, the delegates thought, one of these factions would eventually tyrannize the other. The majority would try to seize the government to reduce the wealth of the minority; the minority would try to seize the government to secure its own gains. Governments run by factions, the Founders (also called the Framers) believed, are prone to instability, tyranny, and even violence. The Founders intended to check the effects of factions.

PURPOSE OF GOVERNMENT To Gouverneur Morris of Pennsylvania, the preservation of property was the “principal object of government.” Morris was outspoken and plainly overlooked some other purposes of government, including security from invasion, domestic peace, and promotion of the public’s health and welfare. However, Morris’s remark typifies the philosophy of many of the delegates. As property holders themselves, these delegates could not imagine a government that did not make its principal objective an economic one: the preservation of individual rights to acquire and hold wealth. A few (like Morris) were intent on shutting out the propertyless altogether. “Give the votes to people who have no property,” Morris claimed, “and they will sell them to the rich who will be able to buy them.”

NATURE OF GOVERNMENT Given their beliefs about human nature, the causes of political conflict, the need to protect property, and the threat of tyranny by a faction, what sort of government did the delegates believe would work? They answered in different ways, but the message was always the same. Power should be set against power so that no one faction would overwhelm the others. The secret of good government is “balanced” government. They were influenced in their thinking by the writings of a French aristocrat, Baron Montesquieu, who advocated separate branches of government with distinct powers and the ability to check the other branches. The Founders agreed, concluding that a limited government would have to contain checks on its own power. So long as no faction could seize the whole of government at once, tyranny could be avoided. A balanced government required a complex network of checks, balances, and separation of powers.

factions

Groups such as parties or interest groups, which according to James Madison arose from the unequal distribution of property or wealth and had the potential to cause instability in government.

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Critical Issues at the Convention

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Categorize the issues at the Constitutional Convention and outline the resolutions reached on each type of issue.

The delegates in Philadelphia could not merely construct a government from ideas. They wanted to design a government that was consistent with their political philosophy, but they also had to confront some of the thorniest issues facing the fledgling nation at the time—issues of equality, the economy, and individual rights.

□ The Equality Issues

The Declaration of Independence states that all men are created equal; the Constitution, however, is silent on equality. Nevertheless, some of the most important issues on the policy agenda in Philadelphia concerned equality. Three issues occupied more attention than almost any others: whether the states were to be equally represented, what to do about slavery, and whether to ensure equality in voting.

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New Jersey Plan

The proposal at the Constitutional Convention that called for equal representation of each state in Congress regardless of the state's population.

Virginia Plan

The proposal at the Constitutional Convention that called for representation of each state in Congress in proportion to that state's share of the U.S. population.

Connecticut Compromise

The compromise reached at the Constitutional Convention that established two houses of Congress: the House of Representatives, in which representation is based on a state's share of the U.S. population; and the Senate, in which each state has two representatives.

EQUALITY AND REPRESENTATION OF THE STATES One crucial policy issue was how to constitute the new Congress. The **New Jersey Plan**, proposed by William Paterson of New Jersey, called for each state to be equally represented in the new Congress. The opposing strategy, suggested by Edmund Randolph of Virginia, is usually termed the **Virginia Plan**. It called for giving each state representation in Congress based on the state's share of the American population.

The delegates resolved this conflict with a compromise devised by Roger Sherman and William Johnson of Connecticut. The solution proposed by this **Connecticut Compromise** was to create two houses in Congress. One body, the Senate, would have two members from each state (the New Jersey Plan), and the second body, the House of Representatives, would have representation based on population (the Virginia Plan). The U.S. Congress is still organized in exactly this way. Each state has two senators, and a state's population determines its representation in the House.

Although the Connecticut Compromise was intended to maximize equality among the states, it actually gives more power to people who live in states with small populations than to those who live in more heavily populated states. Every state has two senators and at least one member of the House, no matter how small its population. To take the most extreme case, Wyoming and California have the same number of votes in the Senate (two), although Wyoming has less than 2 percent of California's population. Thus, a citizen of Wyoming has about *70 times* the representation in the Senate as does a citizen of California.¹²

Because it is the Senate, not the House, that ratifies treaties, confirms presidential nominations, and hears trials of impeachment, citizens in less populated states have a greater say in these key tasks. In addition, in presidential elections the electoral college (the body that actually elects the president) gives small states greater weight. And if no presidential candidate receives a majority in the electoral college, the House of Representatives makes the final decision—with each state having one vote. In such a case (which has not occurred since 1824), the votes of citizens of Wyoming would again carry about 70 times as much weight as those of Californians.

Whether representation in the Senate is “fair” is a matter of debate. What is not open to question is that the delegates to the 1787 convention had to accommodate various interests and viewpoints in order to convince all the states to join an untested union.

Why It Matters to You

Representation in the Senate

The Senate both creates a check on the House and overrepresents states with small populations. If there were only one house of Congress, governance would be more efficient. If representation were based solely on population, interests centered in states with small populations would lose an advantage and there might be a closer correspondence between public opinion and public policy. At the same time, there would be one fewer important check on government action. Which do you prefer?

SLAVERY The second equality issue was slavery. The contradictions between slavery and the sentiments of the Declaration of Independence are obvious, but in 1787 slavery was legal in every state except Massachusetts. It was concentrated in the South, however, where slave labor was commonplace in agriculture. Some delegates, like Gouverneur Morris, denounced slavery in no uncertain terms. But the Convention could not accept Morris's position in the face of powerful Southern opposition led by Charles C. Pinckney of South Carolina. The delegates did agree that Congress could limit *future importing* of slaves (they allowed it to be outlawed after 1808), but they did not forbid slavery itself. The Constitution, in fact, inclines toward recognizing slavery; it states that persons legally “held to service or labour” (referring to slaves) who escaped to free states had to be returned to their owners.

Point to Ponder

The Framers could not reach agreement regarding slavery. As a result, it persisted for several generations until the Civil War resolved the issue. Yet one could argue that leaving difficult decisions to future generations is a primary reason for the survival of the nation.

What do you think—were the Framers copping out, or smartly trying not to take on too much conflict at once and leaving flexibility for future generations?

DOONESBURY

Garry Trudeau



Another difficult question about slavery arose at the Convention. How should slaves be counted in determining representation in Congress (and thus also electoral votes)? Southerners were happy to see slaves counted toward determining their representation in the House of Representatives (though reluctant to count them for apportionment of taxation). Here the result was the famous *three-fifths compromise*. Representation and taxation were to be based on the “number of free persons,” plus three-fifths of the number of “all other persons.” Everyone, of course, knew who those other persons were.

EQUALITY IN VOTING The delegates dodged one other issue on equality. A handful of delegates, led by Franklin, suggested that national elections should require universal manhood suffrage (that is, a vote for all free adult males). This still would have left a majority of the population disenfranchised, but for those still smarting from Shays’ Rebellion and the fear of mob rule, the suggestion was too democratic. Many delegates wanted to include property ownership as a qualification for voting. Ultimately, they decided to leave the issue to the states. People qualified to vote in state elections could also vote in national elections. Table 2.3 summarizes how the Founders dealt with the three issues of equality.

□ The Economic Issues

The Philadelphia delegates were deeply concerned about the state of the American economy. Economic issues were high on the Constitution writers’ policy agenda. People disagreed (in fact, historians still disagree) as to whether the postcolonial economy was in a shambles.¹³ The writers of the Constitution, already committed to a strong national government, charged that the economy was indeed in disarray and that they needed to address the following problems:

- The states had erected tariffs against products from other states.
- Paper money was virtually worthless in some states; however, many state governments, which were controlled by debtor classes, forced it on creditors anyway.
- Congress was having trouble raising money because the economy was in a recession.

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TABLE 2.3 HOW THE CONSTITUTION RESOLVED THREE ISSUES OF EQUALITY

Problem	Solution
<p>Equality of the States</p> <p>Should states be represented equally (the New Jersey Plan) or in proportion to their population (the Virginia Plan)?</p>	Both, according to the Connecticut Compromise. States have equal representation in the Senate, but representation in the House is proportionate to population.
<p>Slavery</p> <p>What should be done about slavery?</p> <p>How should slaves be counted for representation in the House of Representatives?</p>	<p>Although Congress was permitted to stop the importing of slaves after 1808 and states were required to return runaway slaves from other states, the Constitution is mostly silent on the issue of slavery.</p> <p>Give states credit for three-fifths of slaves in determining population for representation.</p>
<p>Equality in Voting</p> <p>Should the right to vote be based on universal manhood suffrage, or should it be very restricted?</p>	Finesse the issue. Let the states decide qualifications for voting.

Understanding something about the delegates and their economic interests gives us insight into their views on the role of government in the economy. They were, by all accounts, the nation's postcolonial economic elite. Some were budding capitalists. Others were creditors whose loans were being wiped out by cheap paper money. Many were merchants who could not even carry on trade with a neighboring state. Virtually all of them thought a strong national government was needed to bring economic stability to the chaotic union of states that existed under the Articles of Confederation.¹⁴

It is not surprising, then, that the Framers of the Constitution would seek to strengthen the economic powers (and thus the scope) of the new national government. One famous historian, Charles A. Beard, claimed that their principal motivation for doing so was to increase their personal wealth. The Framers, he said, not only were propertied, upper-class men protecting their interests but also held bonds and investments whose value would increase if the Constitution were adopted. The best evidence, however, indicates that although they were concerned about protecting property rights, the Founders' motivations related to the broad goal of building a strong economy rather than to the narrow one of increasing their personal wealth.¹⁵

The delegates made sure that the Constitution clearly spelled out the economic powers of Congress (see Table 2.4). Consistent with the general allocation of power in the Constitution, Congress was to be the chief economic policymaker. It could obtain revenues through taxing and borrowing. These tools, along with the power to appropriate funds, became crucial instruments for influencing the economy. By maintaining sound money and guaranteeing payment for the national debt, Congress was to encourage economic enterprise and investment in the United States. The Constitution also allocates to Congress power to build the nation's infrastructure by constructing post offices and roads and to establish standard weights and measures. To protect property rights, Congress was charged with punishing counterfeiters and pirates, ensuring patents and copyrights, and legislating rules for bankruptcy. Equally important (and now a key congressional power, with a wide range of implications for the economy) was Congress's new ability to regulate interstate and foreign commerce. In sum, the Constitution granted Congress the power to create the conditions within which markets could flourish.

In addition, the Framers prohibited practices in the states that they viewed as inhibiting economic development, such as maintaining individual state monetary systems, placing duties on imports from other states, and interfering with lawfully contracted debts. Moreover, the states were to respect civil judgments and contracts made in other states, and they were to return runaway slaves to their owners. To help the states, the national government guaranteed them "a republican form of government" to prevent a recurrence of Shays' Rebellion, in which some people used violence instead of legislation and the courts to resolve commercial disputes.

TABLE 2.4 ECONOMICS IN THE CONSTITUTION

writ of habeas corpus

A court order requiring jailers to explain to a judge why they are holding a prisoner in custody.

Powers of Congress

- | | |
|--|--|
| 1. Levy taxes. | 7. Punish piracy. |
| 2. Pay debts. | 8. Punish counterfeiting. |
| 3. Borrow money. | 9. Create standard weights and measures. |
| 4. Coin money and regulate its value. | 10. Establish post offices and post roads. |
| 5. Regulate interstate and foreign commerce. | 11. Protect copyrights and patents. |
| 6. Establish uniform laws of bankruptcy. | |

Prohibitions on and Obligations of the States

States could not ...	States were to ...
1. Coin money or issue paper money.	1. Respect civil court judgments and contracts made in other states.
2. Tax imports or exports from abroad or from other states.	2. Return runaway slaves from other states.
3. Pass laws impairing the obligations of contract.	
4. Require payment of debts in paper money.	

Other Key Provisions

1. The new government assumed the national debt contracted under the Articles of Confederation.
2. A republican form of government was guaranteed.

The Constitution also obligated the new government to repay all the public debts incurred under the Continental Congress and the Articles of Confederation—debts that totaled \$54 million. Paying off the debts would ensure from the outset that money would flow into the American economy and would also restore the confidence of investors in the young nation.

□ The Individual Rights Issues

Another major item on the Constitutional Convention agenda for the delegates was designing a system that would preserve individual rights. There was no dispute about the importance of safeguarding individualism, and the Founders believed that this would be relatively easy. After all, they were constructing a limited government that, by design, could not threaten personal freedoms. In addition, they dispersed power among the branches of the national government and between the national and state governments so that each branch or level could restrain the other. Also, most of the delegates believed that the various states were already doing a sufficient job of protecting individual rights.

As a result, the Constitution says little about personal freedoms. The protections it does offer are the following:

- It prohibits suspension of the **writ of habeas corpus** (except during invasion or rebellion). Such a court order enables persons detained by authorities to secure an immediate inquiry into the causes of their detention. If no proper explanation is offered, a judge may order their release. (Article I, Section 9)
- It prohibits Congress or the states from passing bills of attainder (which punish people without a judicial trial). (Article I, Section 9)
- It prohibits Congress or the states from passing *ex post facto* laws (which punish people or increase the penalties for acts that were not illegal or not as punishable when the act was committed). (Article I, Section 9)
- It prohibits the imposition of religious qualifications for holding office in the national government. (Article VI)

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- It narrowly defines and outlines strict rules of evidence for conviction of treason. To be convicted, a person must levy war against the United States or adhere to and aid its enemies during war. Conviction requires confession in open court or the testimony of *two* witnesses to the *same* overt act. The Framers of the Constitution would have been executed as traitors if the Revolution had failed, and they were therefore sensitive to treason laws. (Article III, Section 3)
- It upholds the right to trial by jury in criminal cases. (Article III, Section 2)

The delegates were content with their document. When it came time to ratify the Constitution, however, there was widespread criticism of the absence of specific protections of individual rights, such as free expression and various rights of the accused.

The Madisonian System

2.5

Analyze how the components of the Madisonian system addressed the dilemma of reconciling majority rule with the protection of minority interests.

The Framers believed that human nature was self-interested and that inequalities of wealth were the principal source of political conflict. Regardless, they had no desire to remove the divisions in society by converting private property to common ownership; they also believed that protecting private property was a key purpose of government. Their experience with state governments under the Articles of Confederation reinforced their view that democracy was a threat to property. Many of them felt that the nonwealthy majority—an unruly mob—would tyrannize the wealthy minority if given political power. Thus, the delegates to the Constitutional Convention faced the dilemma of reconciling economic inequality with political freedom. How could they devise a government that was responsive to the majority while protecting private property?

□ Thwarting Tyranny of the Majority

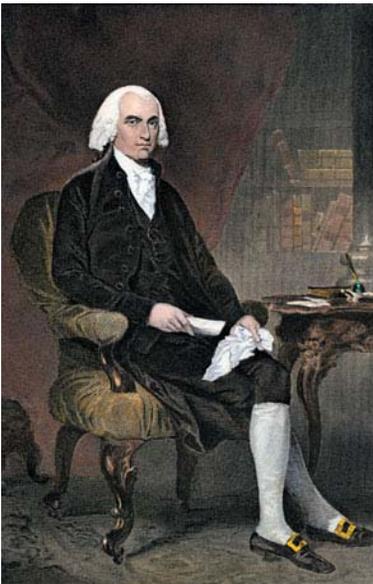
James Madison was neither wealthy nor a great orator. He was, however, a careful student of politics and government and became the principal architect of the government's final structure, which we sometimes refer to as the *Madisonian system*.¹⁶ He and his colleagues feared both majority and minority factions. Either could take control of the government and use it to their own advantage. Factions of the minority, however, were easy to handle; the majority could simply outvote them. Factions of the majority were harder to handle. If the majority united around some policy issue, such as the redistribution of wealth, they could oppress the minority, violating the latter's basic rights.¹⁷

As Madison would later explain in Federalist 51:

∴ Ambition must be made to counteract ambition. . . . If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and then in the next place oblige it to control itself.¹⁸

To prevent the possibility of a tyranny of the majority, Madison proposed the following:

1. Place as much of the government as possible beyond the direct control of the majority.
2. Separate the powers of different institutions.
3. Construct a system of checks and balances.



James Madison was the key figure in writing the Constitution. His views on checking power remain at the core of the structure of American government.

LIMITING MAJORITY CONTROL Madison believed that to thwart tyranny by the majority, it was essential to keep most of the government beyond their power. His plan, as shown in Figure 2.3, placed only one element of government, the House of Representatives, within direct control of the votes of the majority. In contrast, state legislatures were to elect senators and special electors were to choose the president; in other words, a small minority, not the people themselves, would elect most government officials. The president was to nominate judges. Even if the majority seized control of the House of Representatives, they still could not enact policies without the agreement of the Senate and the president. To further insulate governmental officials from public opinion, the Constitution gave judges lifetime tenure and senators terms of six years, with only one-third elected every two years, compared with the two-year election intervals of all members of the House of Representatives.

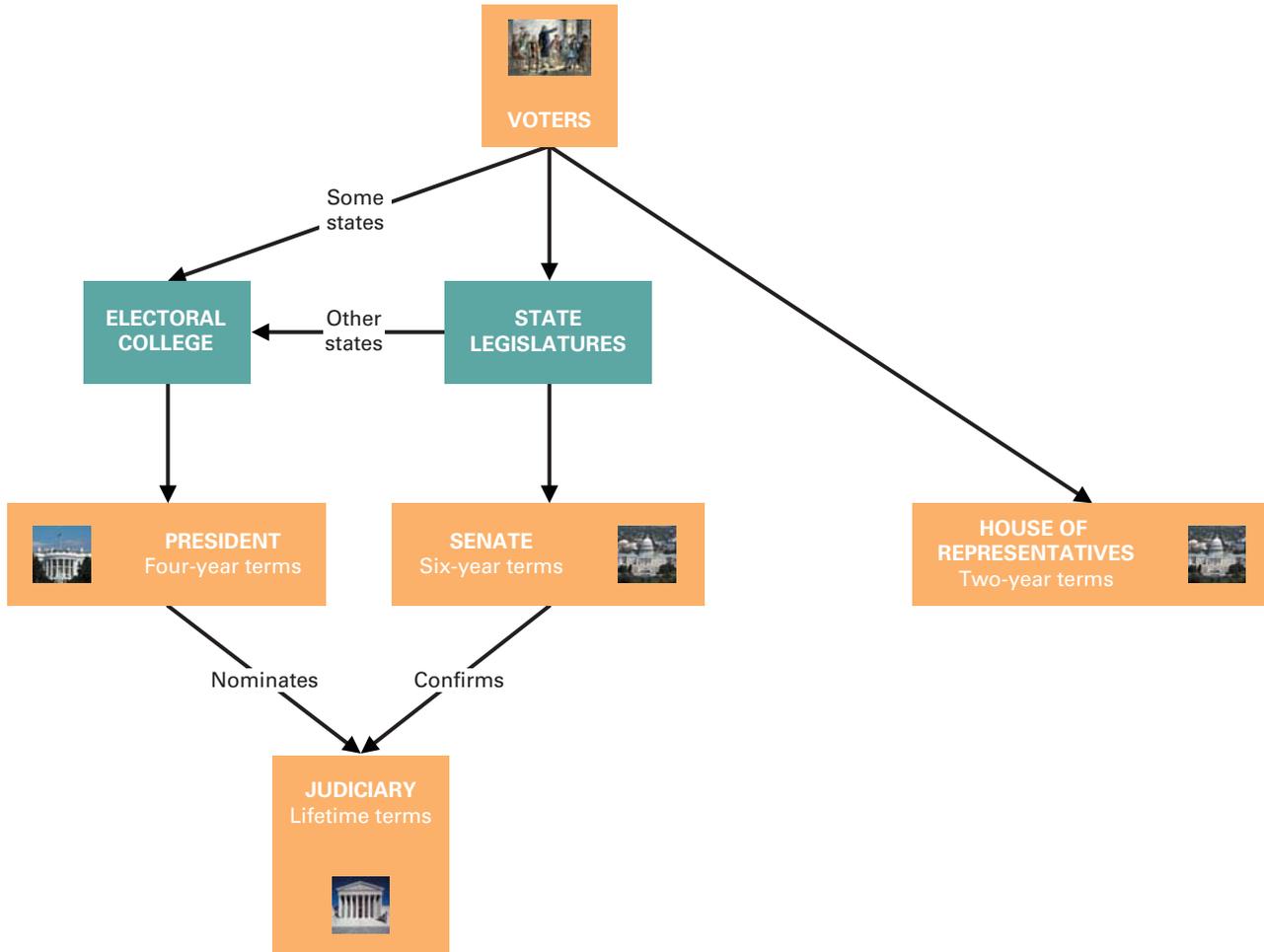
SEPARATING POWERS The Madisonian scheme also provided for a **separation of powers**. Each of the three branches of government—executive (the president), legislative (Congress), and judicial (the courts)—would be relatively independent of one another so that no single branch could control the others. The Founders gave the

separation of powers

A feature of the Constitution that requires each of the three branches of government—executive, legislative, and judicial—to be relatively independent of the others so that one cannot control the others. Power is shared among these three institutions.

FIGURE 2.3 THE CONSTITUTION AND THE ELECTORAL PROCESS: THE ORIGINAL PLAN

Under Madison’s plan, which was incorporated in the Constitution, voters’ electoral influence was limited. Voters directly elected only the House of Representatives. Senators and presidents were indirectly elected—senators by state legislatures, and presidents by the electoral college, whose members, depending on the state, were chosen by state legislatures or by voters; the president nominated judges. Over the years, Madison’s original model has been substantially democratized. The Seventeenth Amendment (1913) established direct election of senators by popular majorities. Today, the electoral college has become largely a rubber stamp, voting the way the popular majority in each state votes.



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checks and balances

Features of the Constitution that limit government's power by requiring each branch to obtain the consent of the others for its actions, limiting and balancing power among the branches.

republic

A form of government in which the people select representatives to govern them and make laws.

president, Congress, and the courts independent elements of power. The Constitution does not divide power absolutely, however. Instead, it *shares* it among the three institutions.

CREATING CHECKS AND BALANCES Because powers were not completely separate, each branch required the consent of the others for many of its actions. This created a system of **checks and balances** that reflected Madison's goal of setting power against power to constrain government actions. He reasoned that if a faction seized one institution, it still could not damage the whole system. The system of checks and balances was an elaborate and delicate creation. The president checks Congress by holding veto power; Congress, in turn, holds the purse strings of government and must approve presidential nominations.

The courts also figured into the system of checks and balances. Presidents could nominate judges, but their confirmation by the Senate was required. The Supreme Court itself, in *Marbury v. Madison* (1803), asserted its power to check the other branches through judicial review: the right to hold actions of the other two branches unconstitutional. This right, which is not specifically outlined in the Constitution, considerably strengthened the Court's ability to restrain the other branches of government. For a summary of separation of powers and the checks and balances system, see Figure 2.4.

Why It Matters to You

Checks and Balances

People often complain about gridlock in government, but gridlock is a product of checks and balances. Making it difficult for either a minority or a majority to dominate easily also makes it difficult to pass legislation over which there is disagreement.

ESTABLISHING A FEDERAL SYSTEM The Founders also established a federal system of government that divided the power of government between a national government and the individual states. Most government activity at the time occurred in the states. The Founders thus saw the federal system as an additional check on the national government.

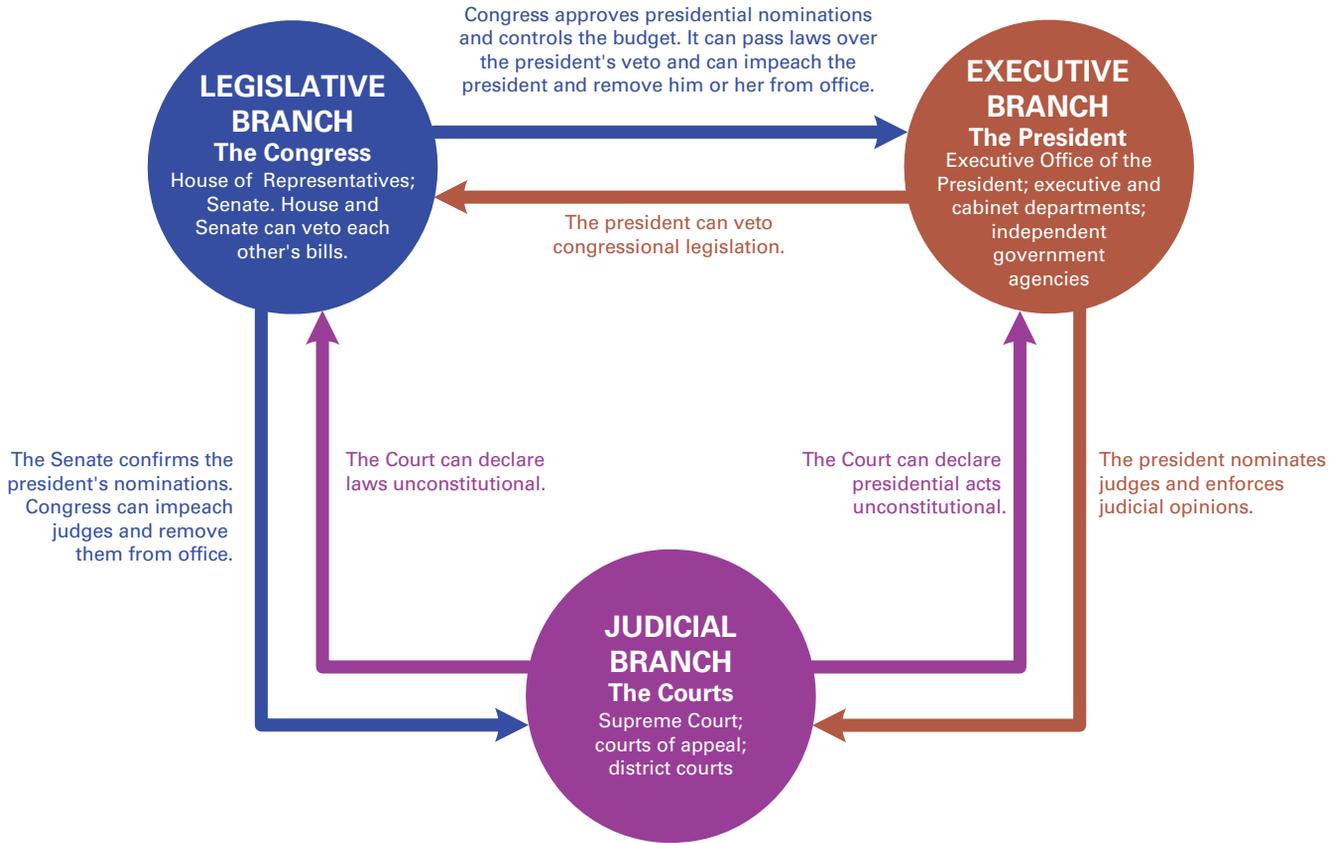
□ The Constitutional Republic

When asked what kind of government the delegates had produced, Benjamin Franklin is said to have replied, "A republic ... if you can keep it." Because the Founders did not wish to have the people directly make all decisions (as in a town meeting where everyone has one vote), and because even then the country was far too large for such a proposal to be feasible, they did not choose to create a direct democracy. Their solution was to establish a **republic**: a system based on the consent of the governed in which representatives of the public exercise power. This deliberative democracy required and encouraged reflection and refinement of the public's views through an elaborate decision-making process.

The system of checks and balances and separation of powers favors the status quo. Those opposed to change need only win at one point in the policymaking process—say in obtaining a presidential veto—whereas those who favor change must win *every* battle along the way. To win all these battles usually requires the support of a sizable majority of the country, not just a simple majority of 51 percent. Change usually comes slowly, if at all. As a result, the Madisonian system encourages moderation

FIGURE 2.4 SEPARATION OF POWERS AND CHECKS AND BALANCES IN THE CONSTITUTION

The doctrine of separation of powers allows the three branches of government to check and balance one another. Judicial review—the power of courts to hold executive and congressional policies unconstitutional—was not explicit in the Constitution but was soon asserted by the Supreme Court in *Marbury v. Madison*.



and compromise and slows change. It is difficult for either a minority or a majority to tyrannize, and both property rights and personal freedoms (with only occasional lapses) have survived.

Franklin was correct that such a system is not easy to maintain. It requires careful nurturing and balancing of diverse interests. Some critics argue that the policymaking process lacks efficiency, preventing effective responses to pressing matters. We will examine this issue closely throughout *Government in America*.

□ The End of the Beginning

On the 109th day of the meetings, in stifling heat made worse because the windows of the Pennsylvania statehouse were closed to ensure secrecy, the final version of the Constitution was read aloud. Then Benjamin Franklin rose with a speech he had written; however, he was so enfeebled that he had to ask James Wilson to deliver it. Franklin noted, “There are several parts of this Constitution of which I do not at present approve, but I am not sure that I shall never approve them,” and then asked for a vote. Ten states voted yes, and none voted no, although South Carolina’s delegates were divided. After all but three of the delegates who had remained at the convention signed the document (Elbridge Gerry of Massachusetts and Edmund Randolph and George Mason of Virginia refused to sign), they adjourned to a tavern. The experience of the last few hours, when conflict intermingled with consensus, reminded them that implementing this new document would be no small feat.

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Federalists

Supporters of the U.S. Constitution at the time the states were contemplating its adoption.

Anti-Federalists

Opponents of the U.S. Constitution at the time when the states were contemplating its adoption.

Federalist Papers

A collection of 85 articles written by Alexander Hamilton, John Jay, and James Madison under the name “Publius” to defend the Constitution in detail.



George Washington presides over the signing of the Constitution. “The business being closed,” he wrote, “the members adjourned to the City Tavern, dined together and took cordial leave of each other.”

Ratifying the Constitution

2.6 Compare and contrast the Federalists and Anti-Federalists in terms of their background and their positions regarding government.

 Explore on MyPoliSciLab
Simulation: You Are a Founder

The Constitution did not go into effect once the Constitutional Convention in Philadelphia was over. The states had to ratify it. Our awe of the Founders sometimes blinds us to the bitter politics of the day. There is no way of determining precisely the public’s feelings about the new document, but as John Marshall (who later became chief justice) suggested, “It is scarcely to be doubted that *in some of the adopting states, a majority of the people were in opposition*” (emphasis added).¹⁹ The Constitution itself required that only 9 of the 13 states approve the document before it could be implemented, ignoring the requirement that the Articles of Confederation be amended only by unanimous consent.

□ Federalists and Anti-Federalists

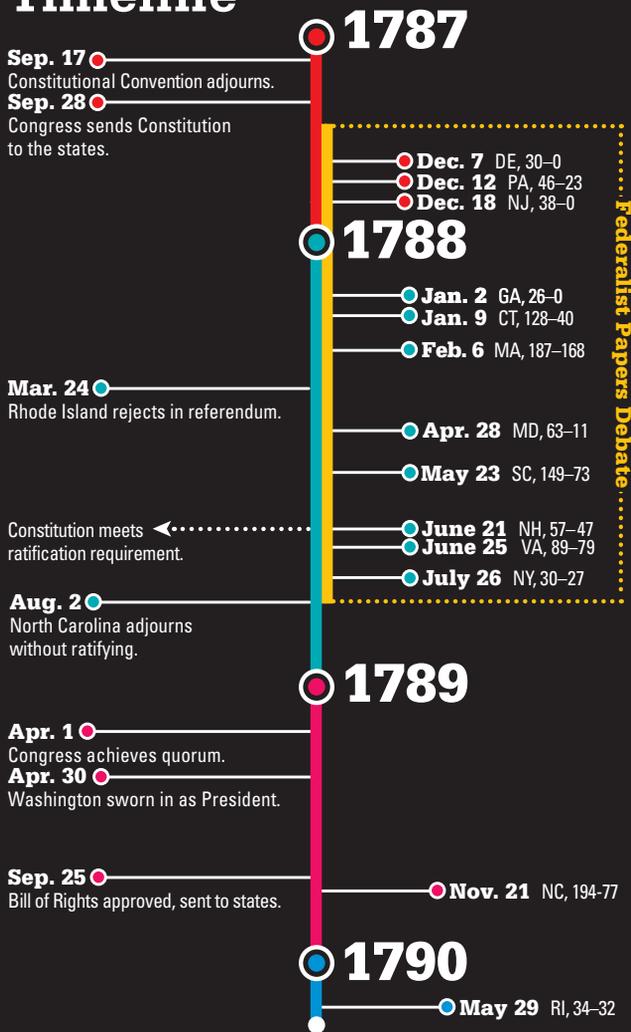
Throughout the states, a fierce battle erupted between the **Federalists**, who supported the Constitution, and the **Anti-Federalists**, who opposed it. Newspapers were filled with letters and articles, many written under pseudonyms, praising or condemning the document. In praise of the Constitution, three men—James Madison, Alexander Hamilton, and John Jay—wrote a series of articles under the name Publius. These articles, known as the **Federalist Papers**, are second only to the Constitution itself in reflecting the thinking of the Framers.

On October 27, 1787, barely a month after the Convention ended, the first of the 85 Federalist Papers appeared in New York newspapers as part of the ratification debate in New York. They not only defended the Constitution detail by detail but also represented an important statement of political philosophy. (The essays influenced few of the New York delegates, however, who voted to ratify the Constitution only after New York City threatened to secede from the state if they did not.)

How Long Did It Take to Ratify the Constitution?

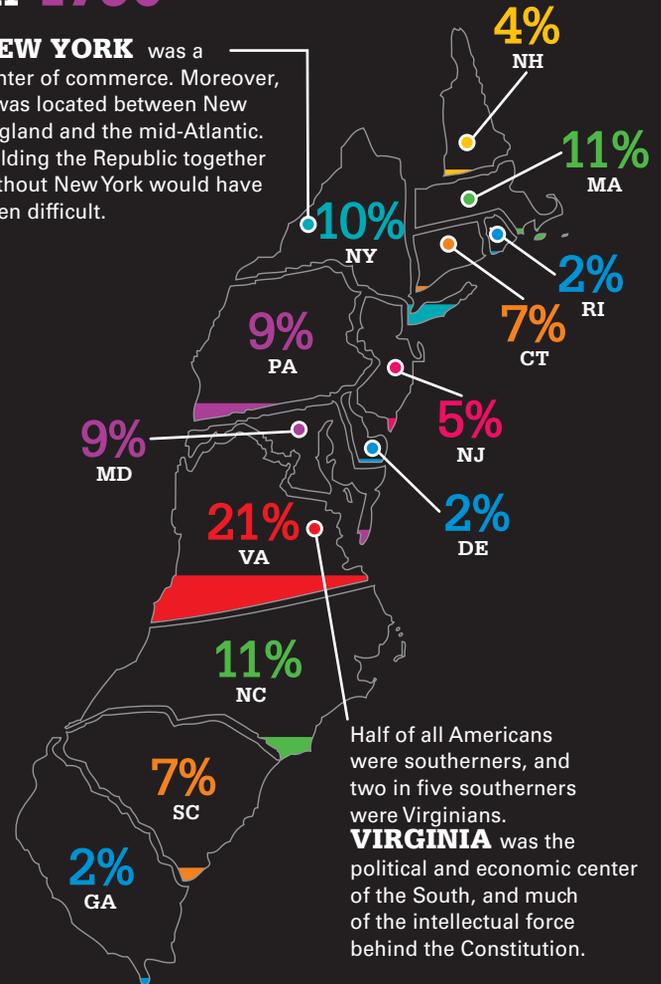
It may be hard for Americans today to imagine, in view of our overwhelming support for the principles of the Constitution—but after the Framers adjourned on September 17, 1787, nearly three years passed before all thirteen states approved the document. The battle over ratification was an inherently political game of multiple moves, in which the Constitution was kept alive by relatively narrow majorities, particularly in two key states.

Ratification Timeline



The United States in 1790*

NEW YORK was a center of commerce. Moreover, it was located between New England and the mid-Atlantic. Holding the Republic together without New York would have been difficult.



* Percents indicate each state's percentage population of the national population.

Investigate Further

Concept Why did it take almost three years for all the states to ratify the Constitution? The first states to ratify the Constitution did so with the support of strong majorities. 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.

Bill of Rights

The first 10 amendments to the U.S. Constitution, drafted in response to some of the Anti-Federalist concerns. These amendments define such basic liberties as freedom of religion, speech, and press and guarantee defendants' rights.

TABLE 2.5 FEDERALISTS AND ANTI-FEDERALISTS COMPARED

Anti-Federalists	Federalists
Backgrounds	
Small farmers, shopkeepers, laborers	Large landowners, wealthy merchants, professionals
Government Preferred	
Strong state government	Weaker state governments
Weak national government	Strong national government
Direct election of officials	Indirect election of officials
Shorter terms	Longer terms
Rule by the common man	Government by the elite
Strengthened protections for individual liberties	Expected few violations of individual liberties

Far from being unpatriotic or un-American, the Anti-Federalists sincerely believed that the new government was an enemy of freedom, the very freedom they had just fought a war to ensure. They launched bitter, biting, even brilliant attacks on the work of delegates such as Washington, Madison, Franklin, and Hamilton, and frankly questioned the motives of the Constitution's authors.

One objection was that the new Constitution was a class-based document, intended to ensure that a particular economic elite controlled the public policies of the national government.²⁰ Another fear of the Anti-Federalists was that the new government would erode fundamental liberties. Why, they asked, was there no list of rights in the Constitution? You can compare the views of the Federalists and Anti-Federalists in Table 2.5.

To allay fears that the Constitution would restrict personal freedoms, the Federalists promised to add amendments to the document specifically protecting individual liberties. They kept their word; James Madison introduced 12 constitutional amendments during the First Congress in 1789. Ten were ratified by the states and took effect in 1791. These first 10 amendments to the Constitution, which restrain the national government from limiting personal freedoms, have come to be known as the **Bill of Rights** (see Table 2.6). Another of Madison's original 12 amendments, one dealing with congressional salaries, was ratified 201 years later as the Twenty-seventh Amendment.

Opponents also feared that the Constitution would weaken the power of the states (which it did). Patrick Henry railed against strengthening the federal government at the expense of the states. "We are come hither," he told his fellow delegates to the Virginia ratifying convention, "to preserve the poor commonwealth of Virginia."²¹ Many state political leaders feared that the Constitution would diminish their own power as well.

Finally, not everyone wanted the economy placed on a more sound foundation. Creditors opposed the issuance of paper money because it would produce inflation and make the money they received as payment on their loans decline in value. Debtors favored paper money, however. Their debts (such as the mortgages on their farms) would remain constant, but if money became more plentiful, it would be easier for them to pay off their debts.

□ Ratification

Federalists may not have had the support of the majority, but they made up for it in shrewd politicking. They knew that many members of the legislatures of some states were skeptical of the Constitution and that state legislatures were filled with political leaders who would lose power under the Constitution. Thus, the Federalists specified that the Constitution be ratified by special conventions in each of the states—not by state legislatures.

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TABLE 2.6 THE BILL OF RIGHTS (ARRANGED BY FUNCTION)

Protection of Free Expression	
Amendment 1:	Freedom of speech, press, and assembly Freedom to petition government
Protection of Personal Beliefs	
Amendment 1:	No government establishment of religion Freedom to exercise religion
Protection of Privacy	
Amendment 3:	No forced quartering of troops in homes during peacetime
Amendment 4:	No unreasonable searches and seizures
Protection of Defendants' Rights	
Amendment 5:	Grand jury indictment required for prosecution of serious crime No second prosecution for the same offense No compulsion to testify against oneself No loss of life, liberty, or property without due process of law
Amendment 6:	Right to a speedy and public trial by a local, impartial jury Right to be informed of charges against oneself Right to legal counsel Right to compel the attendance of favorable witnesses Right to cross-examine witnesses
Amendment 7:	Right to jury trial in civil suit where the value of controversy exceeds \$20
Amendment 8:	No excessive bail or fines No cruel and unusual punishments
Protection of Other Rights	
Amendment 2:	Right to bear arms
Amendment 5:	No taking of private property for public use without just compensation
Amendment 9:	Unlisted rights are not necessarily denied
Amendment 10:	Powers not delegated to the national government or denied to the states are reserved for the states or the people

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Delaware was the first to approve, on December 7, 1787. Only six months passed before New Hampshire’s approval (the ninth) made the Constitution official. Virginia and New York then voted to join the new union. Two states were holdouts: North Carolina and Rhode Island made the promise of the Bill of Rights their price for joining the other states.

With the Constitution ratified, it was time to select officeholders. The Framers of the Constitution assumed that George Washington would be elected the first president of the new government—even giving him the Convention’s papers for safekeeping—and they were right. The general was the unanimous choice of the electoral college. He took office on April 30, 1789, in New York City, the first national capital. New Englander John Adams became the vice president—or, as Franklin called him, “His Superfluous Excellence.”

Changing the Constitution

2.7

Explain how the Constitution can be formally amended and how it changes informally.

“T

he Constitution,” said Jefferson, “belongs to the living and not to the dead.” The U.S. Constitution is frequently—and rightly—referred to as a living document. It is constantly being tested and altered.

Constitutional changes are made either by formal amendments or by a number of informal processes. Formal amendments change the letter of the Constitution. Informal processes, by changing an unwritten body of tradition,

practice, and procedure related to the Constitution, may change the way the constitutional system functions.

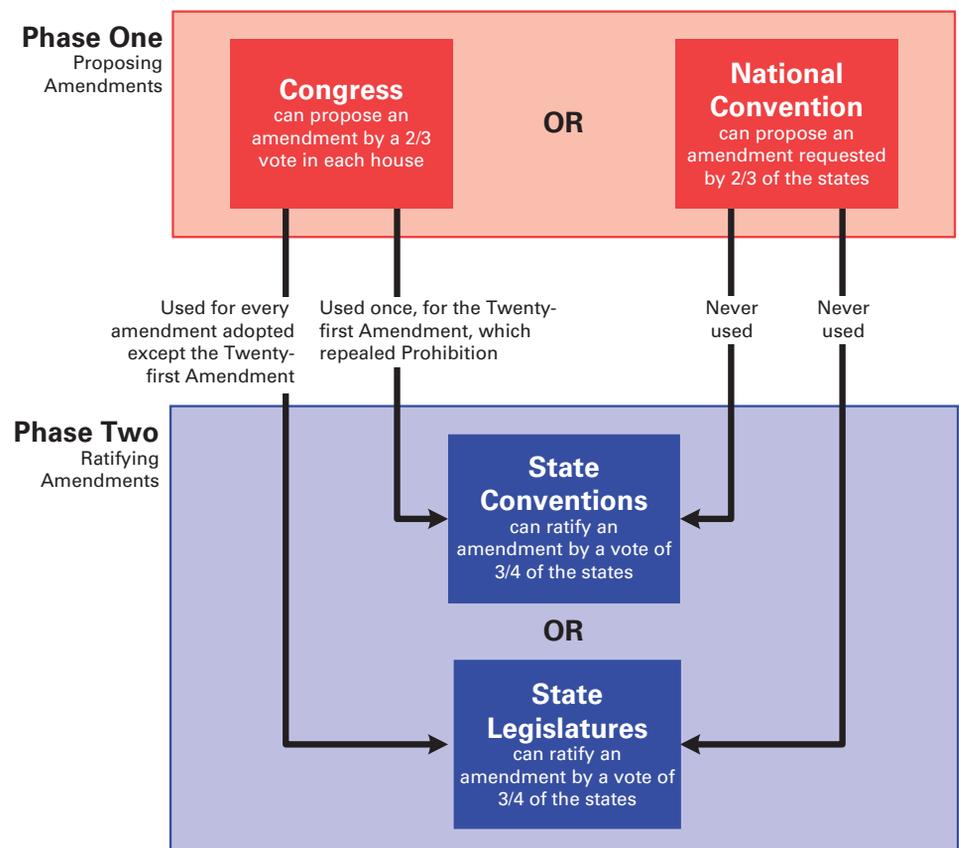
□ The Formal Amending Process

The most explicit means of changing the Constitution is through the formal process of amendment. Article V of the Constitution outlines procedures for formal amendment. There are two stages to the amendment process—proposal and ratification—and each stage has two possible avenues (see Figure 2.5). An amendment may be proposed either by a two-thirds vote in each house of Congress or by a national convention called by Congress at the request of two-thirds of the state legislatures. An amendment may be ratified either by the legislatures of three-fourths of the states or by special state conventions called in three-fourths of the states. The president has no formal role in amending the Constitution, although the chief executive may influence the success of proposed amendments. In general, it is difficult to formally amend the Constitution (see “America in Perspective: The Unusual Rigidity of the U.S. Constitution”).

All but one of the successful amendments to the Constitution have been proposed by Congress and ratified by the state legislatures. The exception was the Twenty-first Amendment, which repealed the short-lived Eighteenth Amendment—the prohibition amendment that outlawed the sale and consumption of alcohol. The amendment was ratified by special state conventions rather than by state legislatures. Because proponents of repeal doubted that they could win in conservative legislatures, they persuaded Congress to require that state conventions be called when it proposed the amendment.

FIGURE 2.5 HOW THE CONSTITUTION CAN BE AMENDED

The Constitution sets up two alternative routes for proposing amendments and two for ratifying them. One of the four combinations has been used in every case but one.



Overall, the most important effect of the amendments has been to make the Constitution more democratic and egalitarian, expanding liberty and equality in the United States. Amendments that emphasize equality and increase the ability of a popular majority to affect government now provide a balance to the emphasis on economic issues in the original document. The Bill of Rights, discussed in detail in the civil liberties chapter, heads the amendments (see Table 2.6). Later amendments, including the Thirteenth Amendment abolishing slavery, forbid various political and social inequalities based on race, gender, and age. Yet other amendments, discussed later in this chapter, have democratized the political system, making it easier for voters to influence the government. Only one existing amendment specifically addresses the economy—the Sixteenth, or “income tax,” Amendment.

Some amendments have been proposed by Congress but not been ratified by the states. The best known of these is the **Equal Rights Amendment (ERA)**. The ERA stated simply, “Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.” This seemingly benign amendment sailed through Congress and the first few state legislatures.²² Despite clear public support,²³ it failed, in part because many conservative Southern states

Equal Rights Amendment

A constitutional amendment passed by Congress in 1972 stating that “equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.” The amendment failed to acquire the necessary support from three-fourths of the state legislatures.

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America in Perspective

The Unusual Rigidity of the U.S. Constitution

In the Federalist 43, James Madison wrote that the Founders designed a process for adopting amendments to the U.S. Constitution that “guards equally against that extreme facility, which would render the Constitution too mutable; and that extreme difficulty, which might perpetuate its discovered faults.” In other words, Madison felt that the American Constitution was rigid enough to provide stability in government yet also flexible enough to allow adaptation over time.

Most other democracies have a procedure for adopting constitutional amendments, but few of the world’s established democracies have made it as difficult as it is in the United States. We can measure constitutional rigidity based on the percentage vote required at the most demanding stage of the amending process.

In the United States, this would be 75 percent because at least three-quarters of the state legislatures or of conventions in the states must approve constitutional amendments. As you can see in the following table, only 4 of 22 other established democracies require a majority of greater than two-thirds to amend their national constitution. In this regard, then, the U.S. Constitution is unusually rigid.

CRITICAL THINKING QUESTIONS

1. Would it be better if it were easier to change the U.S. Constitution?
2. Does the difficulty of changing the Constitution make it too rigid?

Requirements for Constitutional Amendments in Developed Democracies, 2012

Simple Majority (50% Plus 1)	Between a Simple Majority and Two-Thirds Majority	Two-Thirds Majority	Supermajority (Greater Than Two-Thirds)
Great Britain	Denmark	Austria	Australia
Iceland	France	Belgium	Canada
Israel	Greece	Finland	Japan
New Zealand	Ireland	Germany	Switzerland
	Italy	Netherlands	United States
	Sweden	Norway	
		Portugal	
		Spain	

opposed it, so that it fell a few states short of the three-fourths of states required. In response to this failure, more than 20 states have amended their own constitutions by adding versions of the ERA.

Proponents of other constitutional amendments have been active in recent years. You can consider the issue of the frequency of amending the Constitution in “You Are the Policymaker: How Frequently Should We Amend the Constitution?”

□ The Informal Processes of Constitutional Change

Think for a moment about all the changes in American government that have taken place without a word or a letter of the written document having been changed. For example, there is nothing in the Constitution related to any of the following developments:

- The United States has a two-party system (the oldest in the world).
- Abortions through the second trimester of pregnancy (when the fetus cannot live outside the mother’s womb) are legal in the United States.
- Members of the electoral college almost always follow the preference of their state’s electorate.
- Television influences our political agenda and guides our assessments of candidates and issues.
- The president has become the driving force in national policymaking.

None of these things is “unconstitutional.” The parties emerged, first technology and then the law permitted abortions, parties named as electors loyalists who would

You Are the Policymaker

How Frequently Should We Amend the Constitution?

Since the ratification of the Bill of Rights in 1791, there have been only 17 amendments to the Constitution—an average of 1 amendment every 13 years. It is now common, however, for political activists—and even political party platforms—to call for amendments. Some recent examples include prohibiting gay marriage, the burning of the American flag, and abortion; permitting prayer in public schools; requiring a balanced national budget; limiting the number of congressional terms; guaranteeing women’s rights (the ERA); and protecting victims’ rights.

Conservatives have been in the forefront of most recent calls for amendments (the ERA being an exception); many of the proposals for constitutional change are designed to overcome liberal Supreme Court decisions. Liberals, quite naturally, have opposed these amendments. There is a larger question here than just the particular changes that advocates of amending the Constitution support, however. The central question is “How frequently should we change the fundamental law of the land?”

Those who support amending the Constitution argue that it should reflect the will of the people. If the overwhelming majority of the public wants to prohibit burning the American flag, for example, why shouldn’t

the Constitution reflect its preference? There is little possibility that a minority or even a narrow majority will be able to impose its will on the people, they argue, because the Constitution requires an extraordinary majority to ratify an amendment. So why should we be reluctant to test the waters of change?

Opponents of more frequent changes to the Constitution have their own arguments. It is ironic, they say, that conservatives, who typically wish to preserve the status quo, should be in the forefront of fundamental change. They argue that the Constitution has served the United States very well for more than two centuries with few changes. Why should we risk altering the fundamentals of the political system? And if we do, will we be setting a dangerous precedent that will encourage yet more change in the future? Will such changes undermine the very nature of a constitution that is designed to set the basic rules of the game and be above the political fray?

What do you think? Are the arguments simply a reflection of ideologies? Should the Constitution reflect the current sentiment of the public and be changed when public opinion changes? Or should we show more caution in amending the Constitution no matter how we feel about a specific amendment?

support their candidates if they won the popular vote, television came to prominence in American life—and none of this required any tinkering with the Founders’ handiwork. These developments could occur because the Constitution changes *informally* as well as formally. There are several ways in which the Constitution changes informally: through judicial interpretation, through political practice, and as a result of changes in technology and changes in the demands on policymakers.

JUDICIAL INTERPRETATION Disputes often arise about the meaning of the Constitution. If it is the “supreme law of the land,” then someone has to decide how to interpret the Constitution when disputes arise. In 1803, in the famous case of *Marbury v. Madison*, the Supreme Court decided it would be the one to resolve differences of opinion. It claimed for itself the power of **judicial review**. Implied but never explicitly stated in the Constitution,²⁴ this power gives courts the right to decide whether the actions of the legislative and executive branches of state and national governments are in accord with the Constitution.

Judicial interpretation can profoundly affect how the Constitution is understood. For example, in 1896, the Supreme Court decided that the Constitution allowed racial discrimination despite the presence of the Fourteenth Amendment. Fifty-eight years later, it overruled itself and concluded that segregation by law violated the Constitution. In 1973, the Supreme Court decided that the Constitution protected a woman’s right to an abortion during the first two trimesters of pregnancy when the fetus is not viable outside the womb—an issue the Founders never imagined.

CHANGING POLITICAL PRACTICE Current political practices also change the Constitution—stretching it, shaping it, and giving it new meaning. Probably no changes are more important to American politics than those related to parties and presidential elections.

Marbury v. Madison

The 1803 case in which the Supreme Court asserted its right to determine the meaning of the U.S. Constitution. The decision established the Court’s power of judicial review over acts of Congress.

judicial review

The power of the courts to determine whether acts of Congress and, by implication, the executive are in accord with the U.S. Constitution. Judicial review was established by *Marbury v. Madison*.

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Amending the Constitution to give women the right to vote was an important step in the women’s rights movement. Here suffragettes march for the right to vote, in New York City in 1913.

Political parties as we know them did not exist when the Constitution was written. In fact, its authors would have disliked the idea of parties, which are a type of faction. Regardless, by 1800 a party system had developed, and it plays a key role in making policy today. American government would be radically different if there were no political parties, even though the Constitution is silent about them.

Changing political practice has also changed the role of the electoral college in selecting the president. The writers of the Constitution intended that there be no popular vote for the president; instead, state legislatures or the voters (depending on the state) would select wise electors who would then choose a “distinguished character of continental reputation” (as the Federalist Papers put it) to be president. These electors formed the electoral college.

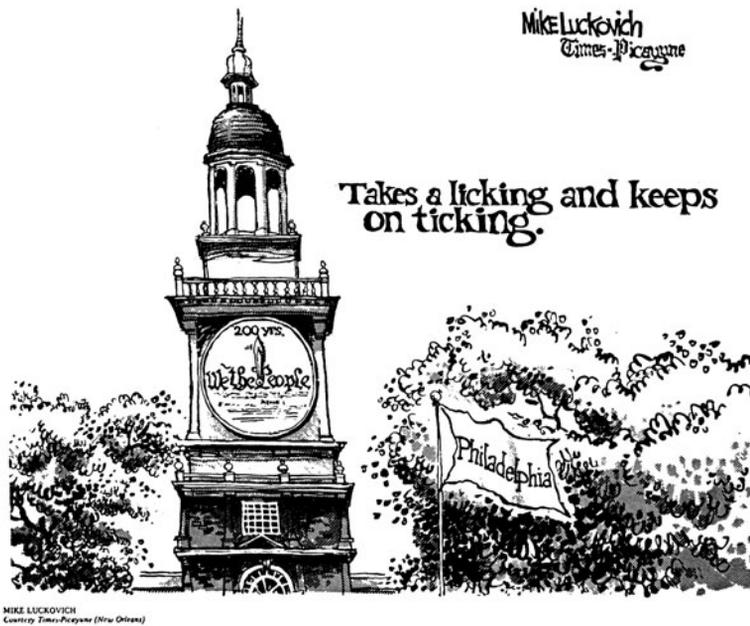
In 1796, the first election in which George Washington was not a candidate, electors scattered their votes among 13 candidates. By the election of 1800, domestic and foreign policy issues had divided the country into two political parties. To increase their chances of achieving a majority of the electoral vote, the parties required electors to pledge in advance to vote for the candidate who won their state’s popular vote, leaving electors with a largely clerical role. Nothing in the Constitution prohibits an elector from voting for any candidate (which occasionally happens). Nevertheless, the idea of electors exercising independent judgments is a constitutional anachronism, changed not by formal amendment but by political practice.

TECHNOLOGY Technology has also greatly changed the Constitution. The media have always played an important role in politics—questioning governmental policies, supporting candidates, and helping shape citizens’ opinions. Modern technology, however, spurred the development of a *mass* media that can rapidly reach huge audiences, something unimaginable in the eighteenth century, and, more recently, gave rise to the Internet. These media developments have fundamentally changed the way in which we select elected officials. The government bureaucracy has grown in importance with the development of computers, which create new potential for bureaucrats to serve the public (such as writing over 55 million Social Security checks each month)—and, at times, create mischief. Electronic communications and the development of atomic weapons have given the president’s role as commander in chief added significance, increasing the power of the president in the constitutional system.

INCREASED DEMANDS FOR NEW POLICIES The significance of the presidency has also grown as a result of increased demands for new policies. The evolution of the United States in the realm of international affairs—from an insignificant country that kept to itself to a superpower with an extraordinary range of international obligations—has concentrated additional power in the hands of the chief executive, whom the Constitution designates to take the lead in foreign affairs. Similarly, the increased demands of domestic policy have positioned the president in a more prominent role in preparing the federal budget and a legislative program.

Consider, as an example, the war on terrorism. Wars increase presidential power because they place additional demands on the commander in chief. Congress of necessity delegates to the president the authority to prosecute a war, which involves a multitude of decisions, ranging from military strategy to logistics. The war on terrorism has taken delegation of authority one step further, however. Because the enemy may be not a country but, rather, an amorphous group of people who employ the weapons of terrorism as political instruments, it is more difficult for Congress to specify the president’s authority.

Thus, following the attacks of September 2001, Congress passed a broad resolution authorizing the president to use force against those nations, organizations, or persons that he alone determined were involved in the attacks. This resolution served as the legal basis for the war in Afghanistan that began that year. In addition, several weeks



The Constitution is a short document that has survived for more than 200 years, in large part because of its adaptability to the needs of new generations.

after the attacks, Congress passed the USA Patriot Act, giving the executive branch broad new powers for the wiretapping, surveillance, and investigation of terrorism suspects. The invasion of Iraq in March 2003, similarly, followed a congressional resolution authorizing the president to use “all means necessary and appropriate,” including the use of military force, to defend the United States against Iraq—a broad grant of power delegating to the president the right to determine if and when the United States would go to war.

□ The Importance of Flexibility

The Constitution, even with all 27 amendments, is a short document containing fewer than 8,000 words. It does not prescribe in detail the structure and functioning of the national government. Regarding the judiciary, the Constitution simply tells Congress to create a court system as it sees fit. The Supreme Court is the only court required by the Constitution, and even here the Constitution leaves the number of justices and their qualifications up to Congress. Similarly, many of the governing units we have today—such as the executive departments, the various offices in the White House, the independent regulatory commissions, and the committees of Congress, to name only a few examples—are not mentioned at all in the Constitution.

It is easy to see that the document the Framers produced over 200 years ago was not meant to be static, written in stone. Instead, the Constitution’s authors created a flexible system of government, one that could adapt to the needs of the times without sacrificing personal freedom. The Framers allowed future generations to determine their own needs. (The constitutions of the various states tend to be much longer and much more detailed.) As muscle grows on the constitutional skeleton, it inevitably gives new shape and purpose to the government. This flexibility has helped ensure the Constitution’s—and the nation’s—survival. Although the United States is young compared to most other Western nations, it has the oldest functioning constitution. France, which experienced a revolution in 1789, the same year the Constitution took effect, has had 12 constitutions over the past 2 centuries. Despite the great diversity of the American population, the enormous size of the country, and the extraordinary changes that have taken place over the nation’s history, the U.S. Constitution is still going strong.

Understanding the Constitution

2.8 Assess whether the Constitution establishes a majoritarian democracy and how it limits the scope of government.



he Constitution sets the broad rules for government and politics in America. As we will see, *these rules are never neutral*. Instead, they give some participants and some policy options advantages over others in the policymaking process.

□ The Constitution and Democracy

Although the United States is often said to be one of the most democratic societies in the world, few would describe the original Constitution as democratic. This paradox is hardly surprising, considering the political philosophies of the men who wrote it. Members of eighteenth-century upper-class society generally despised democratic government. If democracy was a way of permitting the majority's preference to become policy, the Constitution's authors wanted no part of it. The American government was to be a government of the "rich, well-born, and able," as Hamilton said, a government in which John Jay's wish that "the people who own the country ought to govern it" would be a reality. Few people today would consider these thoughts democratic.

The Constitution did not, however, create a monarchy or a feudal aristocracy. It created a republic, a representative form of democracy modeled after the Lockean tradition of limited government. Thus, the undemocratic—even antidemocratic—Constitution established a government that permitted substantial movement toward democracy.

One of the central themes of American history is the gradual democratization of the Constitution. What began as a document characterized by numerous restrictions on direct voter participation has slowly become much more democratic. Today, few people share the Founders' fear of democracy. The expansion of voting rights has moved the American political system away from the elitist model of democracy and toward the pluralist model.

The Constitution itself offered no guidelines on voter eligibility, leaving it to each state to decide. As a result, only a small percentage of adults could vote; states excluded women and slaves entirely. Of the 17 constitutional amendments passed since the Bill of Rights, 5 focused on the expansion of the electorate. The Fifteenth Amendment (1870) prohibited discrimination on the basis of race in determining voter eligibility (although it took the Voting Rights Act of 1965 to make the amendment effective). The Nineteenth Amendment (1920) gave women the right to vote (although some states had already done so). The Twenty-third Amendment (1961) accorded the residents of Washington, D.C., the right to vote in presidential elections. Three years later, the Twenty-fourth Amendment prohibited poll taxes (which discriminated against the poor). Finally, the Twenty-sixth Amendment (1971) lowered the voter eligibility age to 18 (see "Young People and Politics: Lowering the Voting Age").

Not only are more people eligible to vote, but voters now have more officials to elect. The Seventeenth Amendment (1913) provided for direct election of senators. The development of political parties has fundamentally altered presidential elections. By placing the same candidate on the ballot in all the states and requiring members of the electoral college to support the candidate who receives the most votes, parties have increased the probability that the candidate for whom most Americans vote will also receive a majority of the electoral college vote. Nevertheless, it is possible for the candidate who receives the most popular votes to lose the election, as occurred in 1824, 1876, 1888, and 2000.

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Young People & Politics

Lowering the Voting Age

The 1960s were a tumultuous era, and massive protests by students and other young people regarding the war in Vietnam were common in the last half of the decade. Many young people felt that protesting was the best they could do because the voting age was 21 in most states—even though 18-year-olds were old enough to marry, work, and pay taxes as other adults did. In the Vietnam War, the average age of U.S. soldiers was 19, and young citizens often asserted, “If we’re old enough to fight, we’re old enough to vote.” (Imagine the response today if soldiers fighting overseas could not vote.)

Agreeing that the voting age was unfair, Congress passed the Voting Rights Act of 1970, which lowered the voting age to 18 in both federal and state elections. The Supreme Court, however, held that Congress had exceeded its authority and could set voting ages only in national elections. Changing the voting age in state elections would require a constitutional amendment.

In 1971, Senator Jennings Randolph, a Democrat from West Virginia, proposed an amendment to lower the voting age to 18 years: “The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.” Randolph was a warrior for peace and had great faith in young people, arguing, “They possess a great social conscience, are

perplexed by the injustices in the world, and are anxious to rectify those ills.”

Aided by appreciation of the sacrifices of young soldiers in Vietnam, the amendment passed the Senate unanimously and the House of Representatives by a vote of 400 to 19. It was then sent to the states for ratification. No state wanted to maintain two sets of voter registration books and go to the expense of running separate election systems for federal elections and for all other elections. Thus, the states were receptive to the proposed amendment, and in just 100 days three-fourths of the states ratified it.

On July 5, the Twenty-sixth Amendment was formally adopted into the Constitution, adding 11 million potential voters to the electorate. Half of these young voters cast their ballots in the 1972 presidential election.

CRITICAL THINKING QUESTIONS

1. There are proposals in some states to lower the voting age below 18. What is the appropriate age for voting?
2. Would it be appropriate for different states to have different ages for voting in either national or state and local elections?

Technology has also diminished the separation of the people from those who exercise power. Officeholders communicate directly with the public through television, radio, and targeted mailings. Air travel makes it easy for members of Congress to commute regularly between Washington and their districts. Similarly, public opinion polls, the telephone, e-mail, and the Internet enable officials to stay apprised of citizens’ opinions on important issues. Even though the American population has grown from fewer than 4 million to more than 310 million people since the first census was taken in 1790, the national government has never been closer to those it serves.

□ The Constitution and the Scope of Government

The Constitution created the U.S. system of government—its political institutions and the rules for politics and policymaking. Many of these rules limit government action, protecting liberty and opening the system to a broad range of participants. This limiting function is what the Bill of Rights and related provisions in the Constitution are all about. Thus, for example, it would be unconstitutional for the government to establish a state-supported church.



Because the Constitution decentralizes power, officials usually must negotiate to pass legislation. Here Democrat President Barack Obama meets the Republican Speaker of the House, John Boehner.

Even with these limits, the potential range of action for the government is quite wide. Thus, it would be constitutionally permissible, although highly unlikely, for the national government to, say, abolish Social Security payments to the elderly or take over ownership of the oil industry or the nation's airlines.

Nonetheless, the separation of powers and checks and balances—crucial aspects of the system of government created by the Constitution—have profound implications for what the government does and does not do.

On one hand, the system of separation of powers and checks and balances allows almost all groups some place in the political system where their demands for public policy can be heard. Because many institutions share power, groups can usually find at least one sympathetic ear in government. Even if the president opposes the policies a particular group favors, Congress, the courts, or some other institution can help the group achieve its policy goals. In the early days of the civil rights movement, for example, African Americans found Congress and the president unsympathetic, so they turned to the Supreme Court. Getting their interests on the political agenda would have been much more difficult if the Court had not had important constitutional power.

On the other hand, the system encourages stalemate. By providing effective access for so many interests, the Founders created a system of policymaking in which it is difficult for the government to act. The separation of powers and the system of checks and balances promote the politics of bargaining, compromise, and playing one institution against another. The system of checks and balances implies that one institution is checking another.

Some scholars suggest that so much checking was built into the American political system that effective government is almost impossible.²⁵ If the president, Congress, and the courts all pull in different directions on policy, the result may be either no policy at all (gridlock) or an inadequate, makeshift policy. The outcome may be nondecisions when the country requires that difficult decisions be made. If government cannot respond effectively because its policymaking processes are too fragmented, then its performance will be inadequate. Perhaps the Constitution limits the ability of government to reach effective policy decisions, thus in effect reducing the scope of government. Certainly, radical departures from the status quo are atypical in American politics.

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Review the Chapter



Listen to **Chapter 2** on **MyPoliSciLab**

The Origins of the Constitution

2.1 Describe the ideas behind the American Revolution and their role in shaping the Constitution, p. 35.

The American Revolution was built on the foundation of belief in natural rights, consent of the governed, limited government, the responsibility of government to protect private property, and the equality of citizens. The Constitution would reflect all these ideas.

The Government That Failed: 1776–1787

2.2 Analyze how the weaknesses of the Articles of Confederation led to its failure, p. 40.

The Articles of Confederation established a government dominated by the states, without a permanent executive or national judiciary. A weak central government could not raise sufficient funds to support a national defense, regulate commerce to encourage trade, protect property rights, or take action without the unanimous consent of the states.

Making a Constitution: The Philadelphia Convention

2.3 Describe the delegates to the Constitutional Convention and the core ideas they shared, p. 44.

The Framers of the Constitution were more educated, wealthy, and urban than most Americans. They shared some core ideas, including that people were self-interested, that the distribution of wealth was the principal source of political conflict, that the main object of government was protecting private property, and that power should be set against power to balance government.

Critical Issues at the Convention

2.4 Categorize the issues at the Constitutional Convention and outline the resolutions reached on each type of issue, p. 45.

Conflicts over equality led to the Connecticut Compromise, the three-fifths compromise on slavery, and the decision to leave the issue of voting rights to the states. The greatest inequality of all—that of slavery—was so contentious an issue that the Framers simply avoided addressing it.

The Framers, many of whom belonged to the economic elite, believed that the American economy was in shambles and intended to make the national government an economic

stabilizer. They also knew that a strong national government would be better able to ensure the nation's security. The specificity of the powers assigned to Congress left no doubt that Congress was to forge national economic policy.

Because they believed that the limited government they had constructed would protect freedom, the Framers said little about individual rights in the Constitution. They did, however, take a number of specific steps, including substantially limiting the suspension of the writ of habeas corpus.

The Madisonian System

2.5 Analyze how the components of the Madisonian system addressed the dilemma of reconciling majority rule with the protection of minority interests, p. 50.

The Founders reconciled majority rule with minority interests by constraining both the majority and the minority. The Madisonian system did this primarily by dispersing power among separate branches of government, each with a somewhat different constituency, and giving them shared powers so that each branch had a check on the others.

Ratifying the Constitution

2.6 Compare and contrast the Federalists and Anti-Federalists in terms of their background and their positions regarding government, p. 54.

Ratification of the Constitution was not a foregone conclusion. The Federalists, who were largely from the economic elite, supported a strong national government and preferred to insulate public officials from public opinion. Anti-Federalists, largely from the middle class, supported a weaker national government and direct forms of democracy, and they wanted stronger protection of individual liberties than the original Constitution offered. As a result, the Federalists promised to propose what became the Bill of Rights.

Changing the Constitution

2.7 Explain how the Constitution can be formally amended and how it changes informally, p. 57.

Constitutional change—both formal and informal—continues to shape and alter the letter and the spirit of the Madisonian system. The formal amendment process, requiring supermajorities in both houses of Congress and among the states, poses difficult hurdles to overcome. However, judicial interpretation, changing political practices, technology, and the increasing demands on policymakers have also changed the constitutional system in fundamental ways, providing a valuable flexibility.

Understanding the Constitution

2.8

Assess whether the Constitution establishes a majoritarian democracy and how it limits the scope of government, p. 64.

The Constitution did not create a majoritarian democracy. Majorities do not always rule in America. Nevertheless, there has been a gradual democratization of the Constitution as the right to vote has expanded, direct election of senators has

been instituted, electors have become agents of political parties, and technology has facilitated direct, two-way communication between office holders and the public.

By protecting individual rights, and thus limiting the ability of officials to restrict them, the Constitution limits the scope of government. By dispersing power among institutions, it increases the access of interests to government but also allows these interests to check each other and produce a stalemate.

Learn the Terms



Study and Review the Flashcards

constitution, p. 35
Declaration of Independence, p. 36
natural rights, p. 38
consent of the governed, p. 38
limited government, p. 38
Articles of Confederation, p. 40
Shays' Rebellion, p. 43
U.S. Constitution, p. 44

factions, p. 45
New Jersey Plan, p. 46
Virginia Plan, p. 46
Connecticut Compromise, p. 46
writ of habeas corpus, p. 49
separation of powers, p. 51
checks and balances, p. 52
republic, p. 52

Federalists, p. 54
Anti-Federalists, p. 54
Federalist Papers, p. 54
Bill of Rights, p. 56
Equal Rights Amendment, p. 59
Marbury v. Madison, p. 61
judicial review, p. 61

Test Yourself



Study and Review the Practice Tests

1. The notion that the people must agree on who their rulers will be is referred to as

- sanctity of property rights.
- natural rights.
- consent of the governed.
- limited government.
- direct democracy.

2. What were John Locke's views of the purpose of and limits on government?

3. Why is the American Revolution called a "conservative" revolution? Do you agree with this interpretation? Why or why not?

4. The primary result of Shays' Rebellion was to

- spread similar, unruly behavior to ever larger and more effective groups.
- force states to pass "force acts" and print money.
- calm the elite's fears about the economic climate.
- serve as a factor motivating the American Revolution.
- precipitate a review of the Articles of Confederation in Annapolis.

5. The Articles of Confederation established a strong central government to respond to issues of economic and national crisis.

True _____ False _____

6. Explain how the Articles of Confederation failed but still provided a positive influence on the subsequent Constitution.

7. According to James Madison, which of the following is the primary source of political conflict?

- differing political ideologies
- different religious views
- the distribution of wealth
- self-interested human nature
- the lack of education

8. The delegates at the Philadelphia convention believed that humans were primarily self-interested.

True _____ False _____

9. What were the four core ideas on which the delegates at the Philadelphia convention agreed? Briefly explain each.

10. The Connecticut Compromise did which of the following?

- It guaranteed that slaves would count as three-fifths of a person in calculating a state's representation in Congress.
- It ensured that states would continue to influence the national government through a federalist system.
- It created two houses of Congress with different bases for determining congressional representation.

- d. It established that a state's representation in Congress would be based solely on the state's population of free citizens.
- e. It ensured that citizens of larger states would have more power than citizens of smaller states.
- 11.** Which of the following economic powers are given to Congress in the U.S. Constitution?
- the power to tax and borrow money
 - the power to regulate interstate and foreign commerce
 - the power to broadly protect property rights
 - the power to print and coin money
 - all of the above
- 12.** The U.S. Constitution in its original form, prior to amendment,
- dealt more thoroughly with economic issues than with issues of equality.
 - dealt more thoroughly with issues of equality than with economic issues.
 - emphasized both economic and equality issues to a large degree.
 - mentioned both economic and equality issues only in passing.
 - dealt with neither economic nor equality issues.
- 13.** The original Constitution provided for universal suffrage for males.
- True _____ False _____
- 14.** The system of governance set up in the U.S. constitutional republic tends to
- favor the status quo and limit political change.
 - be relatively efficient in producing political results.
 - encourage direct democracy.
 - centralize power.
 - do all of the above.
- 15.** The Framers believed that, like the separation of powers and checks and balances, federalism would act as a check on the national government.
- True _____ False _____
- 16.** What provisions did Madison write into the Constitution in his attempt to limit the possibility of a "tyranny of the majority"?
- 17.** Historian and political scientist James McGregor Burns has argued that the extensive system of checks and balances in the Constitution has made effective government almost impossible. Do you agree or disagree with him, and why? Explain, using concrete examples.
- 18.** The Bill of Rights was adopted primarily to
- allay fears that the Constitution would restrict freedom.
 - ensure that the Constitution had the support of the Federalists.
 - protect the states against the potential for abuses by the national government.
- d. guarantee that Congress had sufficient authority to address national economic crises.
- e. satisfy Madison's concerns about factions and to check their effects.
- 19.** The Constitution went into effect once the delegates in Philadelphia had voted to approve the document.
- True _____ False _____
- 20.** What were three issues the Federalists and Anti-Federalists disagreed on, and what positions did they take on these issues?
- 21.** Why did the Federalists support amending the Constitution with a Bill of Rights even though the original (unamended) Constitution contained several protections for individuals?
- 22.** Which of the following means of amending the Constitution has never been used to date?
- proposal by two-thirds support in both houses of Congress
 - ratification by three-fourths of state legislatures
 - ratification by three-fourths of state conventions
 - proposal through a national convention called by Congress
 - Each of the above has been used at least once.
- 23.** The Equal Rights Amendment is an example of a constitutional amendment that failed to be ratified.
- True _____ False _____
- 24.** How is the formal amendment process, consistent with our Madisonian system of government, designed to thwart tyranny of the majority?
- 25.** Using examples of informal changes in the functioning of the constitutional system, assess whether they have effectively adapted the Constitution to the twenty-first century.
- 26.** Which statement is correct?
- Members of the eighteenth-century upper class generally supported democracy.
 - The Constitution has gradually been democratized over time.
 - A republic is a form of democracy in which voters directly control government.
 - As the country has grown, elected officials are less close to those they represent.
 - The Constitution encourages efficiency in policymaking.
- 27.** How has the expansion of voting rights moved the American political system away from the elitist model of democracy and toward more of a pluralist model?
- 28.** Is it fair for minorities to thwart the will of the majority? Explain, giving examples.

Explore Further

WEB SITES

<http://www.earlyamerica.com/earlyamerica/milestones/commonsense/>

Thomas Paine's *Common Sense*

<http://www.usconstitution.net/articles.html>

The Articles of Confederation

<http://thomas.loc.gov/home/histdox/fedpapers.html>

Federalist Papers in support of the ratification of the Constitution

<http://www.wepin.com/articles/afp/index.htm>

Anti-Federalist writings opposing the ratification of the Constitution

<http://www.usconstitution.net/constframedata.html>

Background of the Framers

FURTHER READING

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Hamilton, Alexander, James Madison, and John Jay. *The Federalist Papers*. 2nd ed. Edited by Roy P. Fairfield. Baltimore: Johns Hopkins University Press, 1981. Key tracts in the campaign for the Constitution and cornerstones of American political thought.

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3

Federalism

Politics in Action: Conflict Between Levels of Government



The Controlled Substances Act of 1970 prohibits the possession, use, or sale of marijuana. In 1996, California voters passed the Compassionate Use Act, legalizing the medical use of marijuana with a doctor's prescription. Since 1996 more than 750,000 Californians have obtained a physician's recommendation for marijuana. Seventeen other states and Washington, D.C., have followed California's lead in legalizing medical marijuana. National and state laws are clearly in conflict.

In California there emerged a thriving industry of marijuana growers and storefront dispensaries that paid substantial sums in state and local taxes but that national drug officials saw as largely illegal. Operating under the principle that national law preempts state law, the Drug Enforcement Agency routinely arrested medical marijuana patients and seized the business assets of growers and dispensaries. The Internal Revenue Service also began a crackdown, denying some sellers the right to deduct marijuana-related business expenses.

Medical marijuana users argued the national law exceeded the power granted to Congress by the Constitution to regulate interstate commerce, because the marijuana they used was grown, transported, and consumed entirely within the state in which they lived and thus did not implicate interstate commerce. In *Gonzales v. Raich* (2005), however, the U.S. Supreme Court disagreed. It ruled that under the Constitution's commerce clause, Congress may criminalize the production and use of marijuana even if these occur within states that have approved its use for medicinal purposes. Marijuana grown for medical purposes is indistinguishable from illicit marijuana, the Court reasoned, and local use affected supply and demand in the national marijuana market, making the regulation of within-state use essential to regulating the drug's national market.

National prosecutors and drug agents say that hiding behind the mask of meeting medical needs, much of California's burgeoning marijuana industry is engaged in large-scale illegal sales. Although the Department of Justice has issued guidelines making it a low priority to prosecute patients with serious illnesses or their caregivers who are complying with state laws on medical

3.1

Define federalism and contrast it with alternative ways of organizing a nation, p. 75.

3.2

Outline the constitutional basis for the division of power between national and state governments, the establishment of national supremacy, and states' obligations to each other, p. 77.

3.3

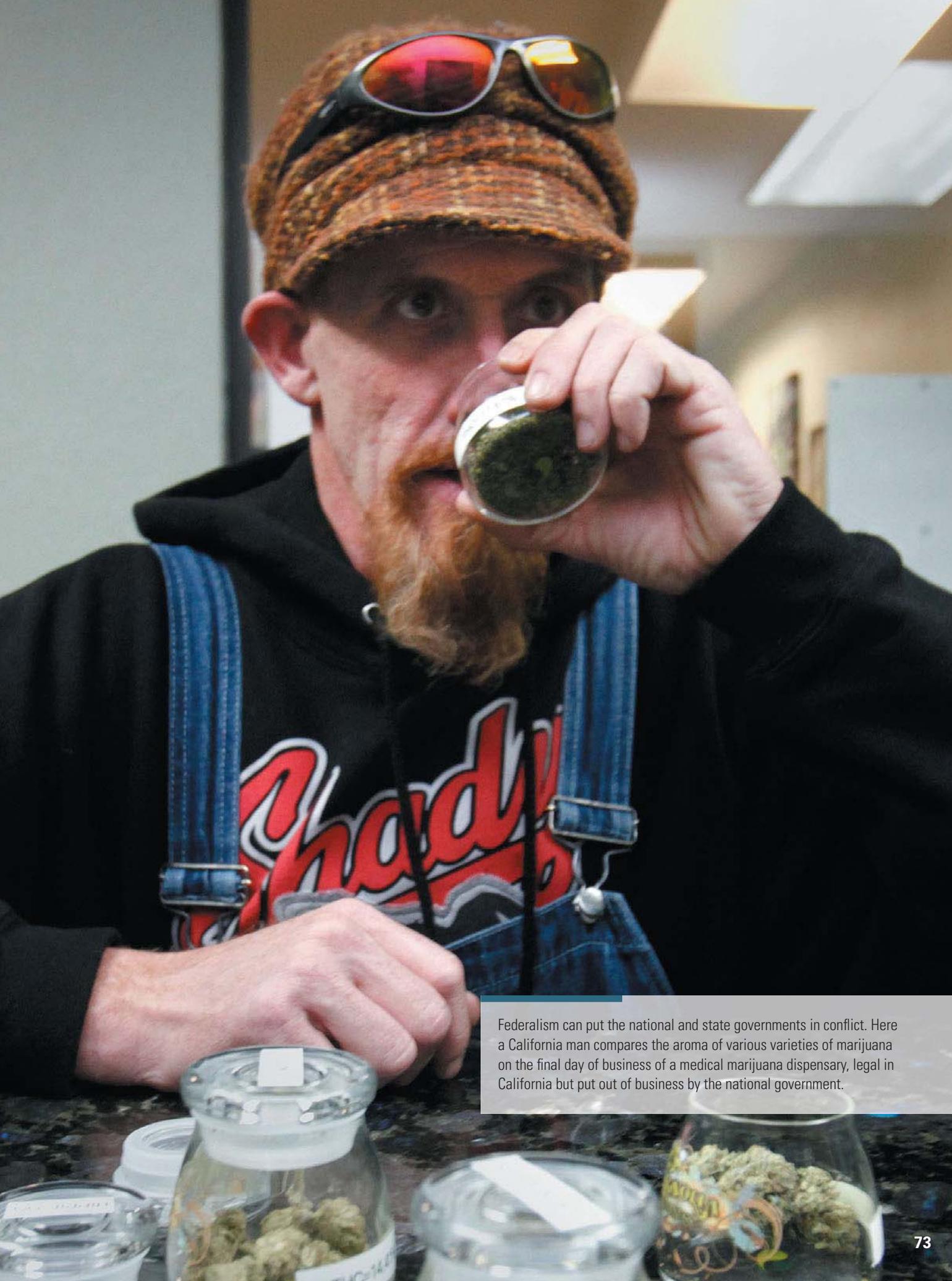
Characterize the shift from dual to cooperative federalism and the role of fiscal federalism in intergovernmental relations today, p. 84.

3.4

Explain the consequences of federalism for diversity in public policies among the states, p. 94.

3.5

Assess the impact of federalism on democratic government and the scope of government, p. 95.



Federalism can put the national and state governments in conflict. Here a California man compares the aroma of various varieties of marijuana on the final day of business of a medical marijuana dispensary, legal in California but put out of business by the national government.



1

The Big Picture Decide how much influence you think the federal government should have. Author George C. Edwards III demonstrates how the power of the federal government has grown considerably since the United States was founded, and he explains why that growth has created a lot of tension between the federal government and the states.



The Basics Are you a states-right advocate? This video will help you understand how powers and responsibilities are divided between the national and state governments. You'll also discover how the powers of the national government have expanded and consider whether this is in the best interests of the people.



2

Should the national government have so much power?



3

In Context What is the primary mechanism for federalism in the United States? In this video, Barnard College political scientist Scott L. Minkoff explains how the national government tries to force state governments to adopt its policies and how state governments respond.



Thinking Like a Political Scientist Find answers to the most current questions that scholars of federalism are raising in the areas of welfare reform and state rights. Barnard College political scientist Scott L. Minkoff explores the challenges faced by state-rights advocates once they are elected to Congress.



4



5

In the Real World Should the federal government be allowed to mandate health care reform or should that power belong to the states? Hear supporters and detractors of Obamacare explain their opinions, and learn about the recent Supreme Court decision that handed this power to the federal government.



So What? If a gay couple gets married in one state, and then moves to a state that does not recognize gay marriage, are they still married? In this video, author George C. Edwards III explains how federalism can help us understand questions like this, and why they are going to be increasingly important in the future.



6



marijuana, it is nonetheless cracking down on growers and on dispensaries and their landlords. State and national laws remain in conflict, creating ongoing issues and illustrating the importance of understanding American federalism, the complex relationships between different levels of government in the United States.

In exploring American federalism, we will be especially attentive to our themes of democracy and the scope of government. Does federalism, the vertical division of power, enhance democracy in the United States? Does the additional layer of policymakers at the state level make government more responsive to public opinion or merely more complicated? Does it enhance the prospects that a majority of Americans will have their way in public policy? And what are the implications of federalism for the scope of the national government’s activities? Why has the national government grown so much relative to state governments, and has this growth been at the expense of the states?

federalism

A way of organizing a nation so that two or more levels of government have formal authority over the same land and people. It is a system of shared power between units of government.

unitary governments

A way of organizing a nation so that all power resides in the central government. Most national governments today are unitary governments.

- 3.1
- 3.2
- 3.3
- 3.4
- 3.5

Defining Federalism

3.1 Define federalism and contrast it with alternative ways of organizing a nation.

Federalism is a way of organizing a nation so that two or more levels of government have formal authority over the same area and people. It is a system of shared power between units of government. For example, the state of California has formal authority over its inhabitants, but the national government (often referred to as the *federal* government) can also pass laws and establish policies that affect Californians. We are subject to the formal authority of both state and national governments.

Although federalism is not unique to the United States, it is not a common method of governing. Only 11 of the 190 or so nations of the world have federal systems, and these countries—including, for example, Germany, Mexico, Argentina, Canada, Australia, and India—share little else as a group (see “America in Perspective: Why Federalism?”).

Most nations instead have **unitary governments**, in which all power resides in the central government. If the French Assembly, for instance, wants to redraw the boundaries of local governments or change their forms of government, it can (and has). In contrast, if the U.S. Congress wants to, say, abolish Alabama or redraw its boundary with Georgia, it cannot.

American states are unitary governments with respect to their local governments. That is, local governments receive their authority from the states, which can create or abolish local governments and can make rules for them, telling them what their speed limits will be, how they will be organized, how they can tax people, on what they can spend money, and so forth. States, in contrast, receive their authority not from the national government but *directly* from the Constitution.

There is a third form of governmental structure, a *confederation*. The United States began as a confederation under the Articles of Confederation. In a confederation, the national government is weak, and most or all power is in the hands of the country’s components—for example, the individual states. Today, confederations are rare and mainly take the form of international organizations such as the United Nations. Table 3.1 summarizes the authority relations in the three systems of government.

TABLE 3.1 AUTHORITY RELATIONS IN THREE SYSTEMS OF GOVERNMENT

	Unitary	Confederate	Federal
Central government	Holds primary authority Regulates activities of states	Limited powers to coordinate state activities	Shares power with states
State government	Few or no powers Duties regulated by central government	Sovereign Allocates some duties to central government	Shares power with central government
Citizens	Vote for central government officials	Vote for state government officials	Vote for both state and central government officials

intergovernmental relations

The workings of the federal system—the entire set of interactions among national, state, and local governments, including regulations, transfers of funds, and the sharing of information.

The workings of the federal system are sometimes called **intergovernmental relations**. This term refers to the entire set of interactions among national, state, and local governments, including regulations, the transfers of funds, and the sharing of information.

America in Perspective

Why Federalism?

Only 11 countries, shown in the following table, have federal systems. All three North American nations have federal systems, but the trend does not continue in South America, where only two nations have federal systems.

Countries large in size—such as Canada and Australia—or large in both size and population—such as India, the United States, Brazil, and Mexico—tend to have federal systems, which decentralize the administration of governmental services. Nevertheless, China and Indonesia—two large and populous countries—have unitary governments, and tiny Malaysia and Switzerland have federal systems.

A nation's diversity may also play a role in the development of a federal system. Brazil, Canada, India, Malaysia, Switzerland, and the United States have large minority ethnic groups, often distinct in language and religion. Many nations with unitary systems, however, ranging from Belgium to most African countries, are also replete with ethnic diversity.

Most federal systems are democracies, although most democracies are not federal systems. Authoritarian regimes generally do not wish to disperse power away from the central government. However, both the former Soviet Union and the former Yugoslavia, perhaps reflecting the extraordinary diversity of their populations, had federal systems—of a sort: in both countries, the central government retained ultimate power. As democracy swept through these countries, their national governments dissolved, and multiple smaller nations were formed.

CRITICAL THINKING QUESTIONS

1. Why might a federal system be useful for a country with a large area or population or for a country with large ethnic minority groups?
2. How might the United States be different if it had a unitary system rather than a federal system?

Nation	Population	Area (Thousands Square Miles)	Diversity (Ethnic, Linguistic, and Religious)
Argentina	42,192,494	1,068	Low
Australia	22,015,576	2,968	Low
Austria	8,219,743	32	Low
Brazil	205,716,890	3,286	Medium
Canada	34,300,083	3,852	High
Germany	81,305,856	138	Low
India	1,205,073,612	1,269	High
Malaysia	29,179,952	127	High
Mexico	114,975,406	762	Low
Switzerland	7,655,628	16	Medium
United States	313,847,465	3,718	Medium

SOURCE: Central Intelligence Agency, *The World Factbook*, 2012.

The Constitutional Basis of Federalism

3.2

Outline the constitutional basis for the division of power between national and state governments, the establishment of national supremacy, and states' obligations to each other.



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Simulation: You Are a Federal Judge



The word *federalism* does not occur in the Constitution, and not much was said about federalism at the Constitutional Convention. Eighteenth-century Americans had little experience in thinking of themselves as Americans first and state citizens second. In fact, loyalty to state governments was so strong that the Constitution would have been resoundingly defeated had it tried to abolish them. In addition, a central government, working alone, would have had difficulty trying to govern eighteenth-century Americans. The people were too widely dispersed and the country's transportation and communication systems too primitive to allow governing from a central location. There was no other practical choice in 1787 but to create a federal system of government.

□ The Division of Power

Although they favored a stronger national government, the Framers still made states vital components in the machinery of government. Indeed, as a result of the necessity of relying on the states, the Constitution does not carefully define the powers of state governments. In general, states have responsibility for a wide range of policies and may largely organize themselves and their local governments as they wish. In addition, the Constitution made states responsible for both state and national elections—an important power—and it also gave the states the power to ratify constitutional amendments.

The Constitution guaranteed states equal representation in the Senate (and even made this provision unamendable, in Article V). Furthermore, the Constitution virtually guaranteed the continuation of each state; Congress is forbidden to create new states by chopping up old ones, unless a state's legislature approves (an unlikely event). Congress is also forbidden to tax articles exported from one state to another.

The Constitution also created obligations of the national government toward the states. For example, the national government is to protect states against violence and invasion.

The Constitution is more specific about the powers states do *not* have than about those they possess. As you can see in Table 3.2, limits on the states focus on foreign policy, economic matters, and basic rights, including voting rights. The limitations related to basic rights are the results of constitutional amendments and also restrict the national government.

TABLE 3.2 SOME POWERS DENIED STATES BY THE CONSTITUTION

Economic	Individual Rights	Foreign Affairs
Tax imports or exports	Grant titles of nobility	Enter into treaties
Coin money or issue paper money	Pass bills of attainder	Declare war
Impair obligations of contract	Pass ex post facto laws	
	Permit slavery	
	Abridge citizens' privileges or immunities	
	Deny due process of law	
	Raise or maintain military forces	
	Deny equal protection of law	
	Impose poll taxes	
	Deny right to vote because of race, gender, or age	

supremacy clause

The clause in Article VI of the Constitution that makes the Constitution, national laws, and treaties supreme over state laws as long as the national government is acting within its constitutional limits.

Why It Matters to You

Protecting Rights

State constitutions guarantee many basic rights. However, few Americans would feel comfortable with only state protections for their liberties. The Bill of Rights in the U.S. Constitution is the ultimate legal defense of freedom.

The states and the national government have overlapping responsibilities for important matters, such as establishing courts, maintaining law and order, protecting citizens' health and safety, and regulating financial institutions. Both levels of government can raise revenues through taxes, borrow money, and spend for the general welfare of their citizens. They may even take private property for public purposes, with just compensation to the owners.

□ National Supremacy

Divided government power and responsibilities and overlapping powers inevitably lead to disputes between levels of government. In the past, people debated whether the states or the national government should regulate the railroads, pass child labor laws, or adopt minimum-wage legislation. Today, people debate whether the states or the national government should regulate abortions, set standards for public schools, determine speed limits on highways, protect the environment, or provide health care for the poor. Many of our policy debates are debates about federalism.

When the national government places prohibitions or requirements on the states—whether through acts of Congress or agency regulations—inevitably issues arise for the courts to decide. In a dispute between the states and the national government, which prevails? The second paragraph of Article VI of the Constitution, often referred to as the **supremacy clause**, provides the answer. It states that the following three items are the supreme law of the land:

1. The Constitution
2. Laws of the national government (when consistent with the Constitution)
3. Treaties (which can be made only by the national government)

Judges in every state are specifically directed to obey the Constitution, even if their state constitutions or state laws directly contradict it. All state executives, legislators, and judges are bound by oath to support the Constitution.

Occasionally, issues arise in which states challenge the authority of the national government. Several states have challenged federal education regulations resulting from the 2002 No Child Left Behind Act. Some states began a challenge of the requirement that every American purchase health insurance even before the 2010 health care reform bill passed Congress. In such cases, the federal government usually wins.

Over the years, the federal government has gained power relative to the states. The Civil War and the struggle for racial equality were key events in settling the issue of how national and state powers are related. Equally important were the Supreme Court's interpretation of the Tenth and Eleventh Amendments, implied powers, and the commerce clause.

THE CIVIL WAR We typically think of the Civil War (1861–1865) as mainly a struggle over slavery, but it was also a struggle between states and the national government. (In fact, Abraham Lincoln announced in his 1861 inaugural address that he would support a constitutional amendment guaranteeing slavery if it would save the

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In 1963, Alabama Governor George Wallace made a dramatic stand at the University of Alabama to resist integration of the all-white school. Federal marshals won this confrontation, and since then the federal government in general has been able to impose national standards of equal opportunity on the states.

Union.) As a result of this struggle, the national government asserted its power over the Southern states' claim of sovereignty.

THE STRUGGLE FOR RACIAL EQUALITY A century later, conflict between the states and the national government again erupted over states' rights and national power. In 1954, in *Brown v. Board of Education*, the Supreme Court held that school segregation was unconstitutional. Southern politicians responded with what they called "massive resistance" to the decision. When a federal judge ordered the admission of two African American students to the University of Alabama in 1963, Governor George Wallace literally blocked the school entrance to prevent federal marshals and the students from entering the admissions office; the students were nonetheless admitted. And throughout the 1960s the federal government enacted laws and policies to end segregation in schools, housing, public accommodations, voting, and jobs. The conflict between states and the national government over equality issues was decided in favor of the national government. National standards of racial equality prevailed.

THE TENTH AMENDMENT Although supreme, the national government can operate only within its appropriate sphere. It cannot usurp the states' powers. But what are the boundaries of the national government's powers?

According to some commentators, the **Tenth Amendment** provides part of the answer. It states that the "powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." To those advocating *states' rights*, the amendment clearly means that the national government has only those powers that the Constitution specifically assigned to it. The states or people have supreme power over any activity not mentioned there. Despite this interpretation, in 1941 the Supreme Court (in *United States v. Darby*) called the Tenth Amendment a constitutional truism—that is, a mere assertion that the states have independent powers of their own, and not a declaration that state powers are superior to those of the national government.

The Court seemed to backtrack on this ruling in a 1976 case, *National League of Cities v. Usery*, in which it held that extending national minimum-wage and maximum-hours standards to employees of state and local governments was an unconstitutional intrusion of the national government into the domain of the states. In 1985, however, in *Garcia v. San Antonio Metro*, the Court overturned the *National League of Cities* decision. The Court held, in essence, that it was up to Congress to decide which actions of the states should be regulated by the national government. Thus, once again, the Court ruled that the Tenth Amendment did not give states

Tenth Amendment

The constitutional amendment stating, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people."

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McCulloch v. Maryland

An 1819 Supreme Court decision that established the supremacy of the national government over state governments. The Court, led by Chief Justice John Marshall, held that Congress had certain implied powers in addition to the powers enumerated in the Constitution.

power superior to that of the national government for activities not mentioned in the Constitution. Nevertheless, in *Bond v. United States* (2011), the Court held that a person indicted under a federal statute may challenge the statute on the Tenth Amendment grounds that, in enacting the statute, the federal government invaded state powers under the Constitution.

THE ELEVENTH AMENDMENT A far more specific constraint on the power of the national government over the states is that established by the Eleventh Amendment. Federal courts can order states to obey the Constitution or federal laws and treaties.¹ However, in deference to the states, the Eleventh Amendment prohibits federal courts, state courts,² or federal administrative agencies from hearing cases in which a private party names a state as a defendant or seeks monetary relief from a state officer in his or her official capacity (such as a suit against a police officer for violating one's rights) unless the state gives its consent. For example, the Supreme Court voided a provision of the Americans with Disabilities Act that allowed citizens to sue states for damages because it violated state immunity as established by the Eleventh Amendment.³

However, there are limits to state immunity. Federal courts have the jurisdiction to hear cases in which a private party names a state officer in his or her official capacity as a defendant and may grant injunctive relief (that is, to require the officer to do or refrain from doing certain acts). Courts permit such cases to protect the supremacy of the Constitution in protecting basic rights. Cases arising under the Fourteenth Amendment (usually cases regarding racial discrimination) are also an exception to state immunity,⁴ and Congress may deny state immunity from suits regarding bankruptcy cases.⁵ Moreover, in contrast to private parties, the federal government and other states may bring suits against a state in federal court. In 2011, the Court held that it was permissible for an independent state agency to sue that state in federal court to enforce federal law.⁶

The Supreme Court has also made it easier for citizens to control the behavior of local officials. The Court ruled that a federal law passed in 1871 to protect newly freed slaves permits individuals to sue local governments for damages or seek injunctions against any local official acting in an official capacity who they believe has deprived them of any right secured by the Constitution or by federal law.⁷ Such suits are now common in the federal courts.

IMPLIED POWERS As early as 1819, the issue of state versus national power came before the Supreme Court. The case that landed it there was *McCulloch v. Maryland*, involving the Second Bank of the United States.

The new American government had moved quickly on many economic policies. In 1791, it had created a national bank, a government agency empowered to print money, make loans, and engage in many other banking tasks. A darling of Alexander Hamilton and his allies, the bank had numerous opponents—including Thomas Jefferson, farmers, and state legislatures—who were against strengthening the national government's control of the economy and who saw the bank as an instrument of the elite. Congress allowed the First Bank of the United States to expire. However, during James Madison's presidency it created the Second Bank, refueling a great national debate.

Railing against the "Monster Bank," the state of Maryland passed a law in 1818 taxing the national bank's Baltimore branch \$15,000 a year. The Baltimore branch refused to pay, whereupon the state of Maryland sued the cashier, James McCulloch, for payment. When the state courts upheld Maryland's law and its tax, the bank appealed to the U.S. Supreme Court. John Marshall was chief justice, and two of the country's most capable lawyers argued the case before the Court. Daniel Webster, widely regarded as one of the greatest senators in U.S. history, argued for the national bank, and Luther Martin, a delegate to the Constitutional Convention, argued for Maryland.

Martin maintained that the Constitution was very clear about the powers of Congress (outlined in its Article I). The power to create a national bank was not among them. Thus, Martin concluded, Congress had exceeded its powers, and Maryland had

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a right to tax the bank. On behalf of the bank, Webster argued for a broader interpretation of the powers of the national government. The Constitution was not meant to stifle congressional powers, he said, but rather to permit Congress to use all means “necessary and proper” to fulfill its responsibilities.

In their decision, Marshall and his colleagues set forth two great constitutional principles. The first was the *supremacy of the national government over the states*. Marshall wrote, “the government of the United States, though limited in its power, is supreme within its sphere of action.” As long as the national government behaved in accordance with the Constitution, its policies took precedence over state policies, as the Constitution’s supremacy clause said. Because of this principle, federal laws or regulations—civil rights acts, rules regulating hazardous substances, water quality, and clean-air standards, and so on—*preempt* state or local laws or regulations and thus preclude their enforcement.

For example, in *Arizona et al. v. United States* (2012) the Court held that federal law preempted the state of Arizona from making it a crime for immigrants to fail to register under a federal law, or for illegal immigrants to work or to try find work, and preempted it from allowing police to arrest people without warrants if they had probable cause to believe that they had done things that would make them deportable under federal law. However, the Court did uphold the state requirement that state law enforcement officials determine the immigration status of anyone they stop or arrest if there is reason to suspect that the individual might be an illegal immigrant.

The other key principle of *McCulloch* was that *the national government has certain implied powers that go beyond its enumerated powers*. The Court held that Congress was behaving consistently with the Constitution when it created the national bank. Congress had certain **enumerated powers**, powers *specifically* listed in Article I, Section 8, of the Constitution. These included coining money and regulating its value, imposing taxes, and so forth. The Constitution did not enumerate creating a bank, but Article I, Section 8, concluded by stating that Congress has the power to “make all laws necessary and proper for carrying into execution the foregoing powers.” That, said Marshall, gave Congress certain **implied powers**. It could make economic policy consistent with the Constitution, including establishing a national bank.

Commentators often refer to the “necessary and proper” clause of the Constitution as the **elastic clause**. Hundreds of congressional policies, especially in the economic

enumerated powers

Powers of the federal government that are specifically addressed in the Constitution; for Congress, including the powers listed in Article I, Section 8, for example, to coin money and regulate its value and impose taxes.

implied powers

Powers of the federal government that go beyond those enumerated in the Constitution, in accordance with the statement in the Constitution that Congress has the power to “make all laws necessary and proper for carrying into execution” the powers enumerated in Article I.

elastic clause

The final paragraph of Article I, Section 8, of the Constitution, which authorizes Congress to pass all laws “necessary and proper” to carry out the enumerated powers.

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The supremacy clause allows the national government to preempt state laws if it is acting within its legal sphere. Immigration policy is one example. Here, undocumented immigrants are being repatriated to their home country.

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Gibbons v. Ogden

A landmark case decided in 1824 in which the Supreme Court interpreted very broadly the clause in Article I, Section 8, of the Constitution giving Congress the power to regulate interstate commerce as encompassing virtually every form of commercial activity.

domain, involve powers not specifically mentioned in the Constitution. Federal policies to regulate food and drugs, build interstate highways, protect consumers, clean up dirty air and water, and do many other things are all justified as implied powers of Congress.

COMMERCE POWER The Constitution gives Congress the power to regulate interstate and international commerce. American courts have spent many years trying to define “commerce.” In 1824, the Supreme Court, in deciding the case of *Gibbons v. Ogden*, defined commerce very broadly to encompass virtually every form of commercial activity. Today, commerce covers not only the movement of goods, but also radio signals, electricity, telephone messages, the Internet, insurance transactions, and much more.

The Supreme Court’s decisions establishing the national government’s implied powers (*McCulloch v. Maryland*) and a broad definition of interstate commerce (*Gibbons v. Ogden*) established the power of Congress to *promote economic development* through subsidies and services for business interests. In the latter part of the nineteenth century, however, Congress sought in addition to use its interstate commerce power to *regulate the economy*, for example, by requiring safer working conditions for laborers or protecting children from working long hours. The Court then ruled that the interstate commerce power did not give Congress the right to regulate local commercial activities.

The Great Depression placed new demands on the national government, and beginning in 1933, the New Deal of President Franklin D. Roosevelt produced an avalanche of regulatory and social welfare legislation. Although initially the Supreme Court voided much of this legislation, after 1937 the Court began to loosen restrictions on the national government’s regulation of commerce. In 1964, when Congress prohibited racial discrimination in places of public accommodation such as restaurants, hotels, and movie theaters, it did so on the basis of its power to regulate interstate commerce. Thus, regulating commerce became one of the national government’s most important sources of power.

Why It Matters to You

Commerce Power

The power to regulate interstate commerce is a critical one. Without it, Congress could not pass policies ranging from protecting the environment and civil rights to providing health care for the elderly and less fortunate.

In recent years, the Supreme Court has scrutinized some uses of the commerce power with a skeptical eye, however. In 1995, the Court held in *United States v. Lopez* that the federal Gun-Free School Zones Act of 1990, which forbade the possession of firearms in public schools, exceeded Congress’s constitutional authority to regulate commerce. Guns in a school zone, the majority said, have nothing to do with commerce. Similarly, in 2000, the Court ruled in *United States v. Morrison* that the power to regulate interstate commerce did not give Congress the authority to enact the 1994 Violence Against Women Act, which provided a federal civil remedy for the victims of gender-motivated violence. Gender-motivated crimes of violence are not, the Court said, in any sense economic activity.

Several other recent cases have had important implications for federalism. In *Printz v. United States* (1997) and *Mack v. United States* (1997), the Supreme Court voided the congressional mandate in the Brady Handgun Violence Prevention Act that the chief law enforcement officer in each local community conduct background checks on prospective gun purchasers. According to the Court, “The federal government may neither issue directives requiring the states to address particular problems, nor commend the states’ officers, or those of their political subdivision, to administer or enforce a federal regulatory program.”

In 2012, the Supreme Court heard challenges to the health care reform act that Congress passed in 2010. Critics contended that the mandate that everyone purchase health insurance exceeded the reach of the commerce clause and was thus unconstitutional. The Supreme Court held that the mandate exceeded Congress's power under the commerce clause but nevertheless upheld the mandate on the basis of the tax power.⁸

▣ States' Obligations to Each Other

Federalism involves more than relationships between the national government and state and local governments. The states must deal with each other as well, and the Constitution outlines certain obligations that each state has to every other state.

FULL FAITH AND CREDIT Suppose that, like millions of other Americans, a person divorces and then remarries. This person purchases a marriage license, which registers the marriage with a state. On the honeymoon, the person travels across the country. Is this person married in each state he or she passes through, even though the marriage license is with only one state? Can the person be arrested for bigamy because the divorce occurred in only one state?

The answer, of course, is that a marriage license and a divorce, like a driver's license and a birth certificate, are valid in all states. Article IV of the Constitution requires that states give **full faith and credit** to the public acts, records, and civil judicial proceedings of every other state. This reciprocity is essential to the functioning of society and the economy. Without the full faith and credit clause, people could avoid their obligations, say, to make payments on automobile loans simply by crossing a state boundary. In addition, because courts can enforce contracts between business firms across state boundaries, firms incorporated in one state can do business in another.

Usually, the full faith and credit provision in the Constitution poses little controversy. An exception occurred in 1996, when courts in Hawaii recognized same-sex marriages. What would happen in other states that did not recognize Hawaiian marriages between same-sex partners? Congress answered with the Defense of Marriage Act, which permits states to disregard gay marriages, even if they are legal elsewhere in the United States. Hawaii has since overturned recognition of gay marriage. However, several states have legalized same-sex marriages, while others recognize same-sex "civil unions" or provide domestic partnership benefits to same-sex couples. It remains to be seen whether courts will uphold Congress's power to make exceptions to the full faith and credit clause, but opponents of gay marriage, concerned they might not, have focused on amending the Constitution to allow states not to recognize same-sex marriages.

EXTRADITION What about criminal penalties? Almost all criminal law is state law. If someone robs a store, steals a car, or commits a murder, the chances are that this person is breaking a state, not a federal, law. The Constitution says that states are required to return a person charged with a crime in another state to that state for trial or imprisonment, a practice called **extradition**. Although there is no way to force states to comply, they usually are happy to do so, not wishing to harbor criminals and hoping that other states will reciprocate. Thus, a lawbreaker cannot avoid punishment by simply escaping to another state.

PRIVILEGES AND IMMUNITIES The most complicated obligation among the states is the requirement that citizens of each state receive all the **privileges and immunities** of any other state in which they happen to be. The goal of this constitutional provision is to prohibit states from discriminating against citizens of other states. If, for example, a Texan visits California, the Texan will pay the same sales tax and receive the same police protection as residents of California.

There are many exceptions to the privileges and immunities clause, however. Many of you attend public universities. If you reside in the state in which your university is

full faith and credit

A clause in Article IV of the Constitution requiring each state to recognize the public acts, records, and judicial proceedings of all other states.

extradition

A legal process whereby a state surrenders a person charged with a crime to the state in which the crime is alleged to have been committed.

privileges and immunities

The provision of the Constitution according citizens of each state the privileges of citizens of other states.

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Because of the full faith and credit clause of the Constitution, marriage certificates issued by one state are valid in every state. People are also entitled to most of the benefits—and subject to most of the obligations—of citizenship in any state they visit, thanks to the privileges and immunities clause. Gay marriage is straining these principles, however, as most states refuse to recognize marriages between same-sex partners.

located, you generally pay a tuition substantially lower than that paid by your fellow students from out of state. Similarly, only residents of a state can vote in state elections. States often attempt to pass some of the burdens of financing the state government to those outside the state, for example, through taxes on minerals mined in the state but consumed elsewhere or special taxes on hotel rooms rented by tourists.

The Supreme Court has never clarified just which privileges a state must make available to all Americans and which privileges can be limited to its own citizens. In general, the more fundamental the right—such as owning property or receiving police protection—the less likely it is that a state can discriminate against citizens of another state. Relying on the privileges and immunities clause of the Fourteenth Amendment (which prohibits states from denying the privileges and immunities of citizens of the United States), in 1999 the Supreme Court held in *Saenz v. Roe* that California could not require a new resident to wait a year before becoming eligible for welfare benefits that exceeded those available in the state from which the new resident came.

Intergovernmental Relations

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Characterize the shift from dual to cooperative federalism and the role of fiscal federalism in intergovernmental relations today.

Intergovernmental relations today reflect two major changes in American federalism, both related to the shift toward national dominance discussed earlier. The first major change has been a gradual shift in the nature of power sharing between two levels of government.⁹ The second has been the rise of *fiscal federalism*, an elaborate assortment of federal grants-in-aid to the states and localities.

□ From Dual to Cooperative Federalism

One way to understand the changes in American federalism is to contrast two types of federalism. Dual and cooperative federalism are two different ways of dividing power and responsibility.

In **dual federalism**, the national government and the states remain supreme within their own spheres. The national government is responsible for some policies, the states for others. For example, the national government has exclusive control over foreign and military policy, the postal system, and monetary policy. States have exclusive control over schools, law enforcement, and road building. In dual federalism, then, the powers and policy assignments of the two layers of government are distinct, as in a layer cake. Proponents of dual federalism generally believe that the powers of the national government should be interpreted narrowly.

In **cooperative federalism**, the national government and the states share powers and policy assignments.¹⁰ Instead of a layer cake, this type of federalism is more like a marble cake, with mingled responsibilities and blurred distinctions between the levels of government. Thus, for example, after the terrorist attacks on September 11, 2001, the national government asked state and local governments to investigate suspected terrorists, and both national and state public health officials dealt with the threat caused by anthrax in the mail in Florida, New York, and Washington, D.C.

Initially, before the national government began to assert its dominance, the American federal system leaned toward dual federalism. However, most politicians and political scientists today would be more likely to describe the current system as one of cooperative federalism.

Although American federalism has moved from dual to cooperative federalism, even in the beginning it was not characterized by a neat separation into purely state and purely national responsibilities. A look at the area of education, which is usually thought of as being mainly a state and local responsibility, illustrates this point and also shows the movement toward cooperative federalism.

Even under the Articles of Confederation, Congress set aside land in the Northwest Territory to be used for schools. During the Civil War, the national government adopted a policy to create land grant colleges. Important American universities such as Wisconsin, Texas A&M, Illinois, Ohio State, North Carolina State, and Iowa State owe their origins to this national policy. (To learn more about how federalism affects college education, see “Young People and Politics: Federal Support for Colleges and Universities.”)

In the 1950s and 1960s, the national government began supporting public elementary and secondary education. In 1958, Congress passed the National Defense Education Act, largely in response to Soviet success in the space race. The act provided federal grants and loans for college students as well as financial support for elementary and secondary education in science and foreign languages. In 1965, Congress passed the Elementary and Secondary Education Act, which provided federal aid to numerous schools. Although these policies expanded the national government’s role in education, they were not a sharp break with the past.

Today, the federal government’s presence is felt in every schoolhouse. Almost all school districts receive some federal assistance. To do so, they must comply with federal rules and regulations; for example, they must maintain desegregated and nondiscriminatory programs. The No Child Left Behind Act established standards of performance along with sanctions, including loss of federal aid, for failing to meet the standards. In addition, federal courts have ordered local schools to implement elaborate desegregation plans and have placed constraints on school prayers.

Highways are another example of the movement toward cooperative federalism. In an earlier era, states and cities were largely responsible for building roads, although the Constitution does authorize Congress to construct “post roads.” In 1956, Congress initiated the building of the interstate highway system, a joint federal–state project, and specified the cost and sharing of funds. In this and many other areas, the federal system has promoted a partnership between the national and state governments.

dual federalism

A system of government in which both the states and the national government remain supreme within their own spheres, each responsible for some policies.

cooperative federalism

A system of government in which powers and policy assignments are shared between states and the national government.

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Young People & Politics

Federal Support for Colleges and Universities

Because most colleges and universities are public institutions created by state and local governments, federalism has direct consequences for the students who attend them. State and local governments provide most of the funding for public colleges and universities, but almost everyone agrees that this funding is inadequate. In response to this problem, the national government has stepped in to support postsecondary education programs.

One could argue that the federal government makes it possible for many students to attend college at all because it is the primary source of financial aid. The federal government provides about \$155 billion in financial assistance (including grants, loans, and work-study assistance) to about 36 million postsecondary students each year. Nearly two-thirds of all full-time undergraduates receive some form of financial aid from the federal government.

The federal government also provides several billion dollars of direct grants to colleges and universities across the nation. Billions more in federal funds support research and training in certain areas, especially science and engineering—which receive about \$30 billion a year. The library,

laboratories, and the buildings in most colleges and universities have received funds from the federal government.

Each year the federal government provides about 16 percent of the revenue for public universities and 30 percent for private, not-for-profit colleges and universities. Few colleges and universities could withstand a 16 or 30 percent budget cut and the loss of most of the financial assistance for their students. Federalism, then, matters quite a lot to college students.

CRITICAL THINKING QUESTIONS

1. Why do state institutions of higher education require aid from the federal government? Why don't the states provide adequate funds to run their own colleges and universities?
2. The federal government is experiencing huge budget deficits. Would it be better to rely completely on state support?

SOURCE: U.S. Department of Education, National Center for Education Statistics, *Digest of Education Statistics*, 2010, Tables 349, 363, 366, 367; U.S. Department of Commerce, *Statistical Abstract of the United States, 2012* (Washington, DC: U.S. Government Printing Office, 2012), Table 291.

The principal basis for cooperative federalism is shared programs such as education and transportation that are mainly state responsibilities. For hundreds of programs, cooperative federalism involves the following:

- **Shared costs.** Cities and states can receive federal money for airport construction, sewage treatment plants, youth programs, and many other programs, but only if they pay part of the bill.
- **Federal guidelines.** Most federal grants to states and cities come with strings attached. For example, Congress spends billions of dollars to support state highway construction, but to get their share, states must adopt and enforce limits on the legal drinking age.
- **Shared administration.** State and local officials implement federal policies, but they have administrative powers of their own. The U.S. Department of Labor, for example, gives billions of dollars to states for implementing job training, but states administer the money and have considerable latitude in spending it.

The cooperation between the national government and state governments is such an established feature of American federalism that it persists even when the two levels of government are in conflict on certain matters. For example, officials in a number of states challenged in court the health care bill Congress passed in 2010. Nevertheless, they typically implemented the act and have cooperated well with Washington on other policies.

States are responsible for most public policies dealing with social, family, and moral issues. The Constitution does not give the national government the power to pass laws that *directly* regulate drinking ages, marriage and divorce, or speed limits.



devolution

Transferring responsibility for policies from the federal government to state and local governments.

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Cooperative federalism began during the Great Depression of the 1930s and continues into the twenty-first century. The federal government provides much of the funding for interstate highways, for example, but also attaches requirements that states must meet.

These policy prerogatives belong to the states. They become national issues, however, when aggrieved or angry groups take their cases to Congress or the federal courts in an attempt to use the power of the national government to *influence* states or to convince federal courts to find a state's policy unconstitutional.

A good example of this process is the federal requirement that states raise their drinking age to 21 in order to receive highway funds. Candy Lightner, a Californian whose 13-year-old daughter was killed by a drunk driver, formed Mothers Against Drunk Driving (MADD) in 1980. After an intense lobbying campaign by MADD, Congress passed a law withholding federal highway funds from any state that did not raise its drinking age to 21. Today, 21 is the legal drinking age in every state.

□ Devolution?

The shift toward greater power and responsibility for the national government has not gone unchallenged. Party goals have played a role in the debate.

For most of the twentieth century, Democrats supported increasing the power of the federal government in order to advance national policies ranging from child labor laws and education to Social Security and health care. Republicans, in contrast, generally opposed these policies and favored states taking responsibility for such issues. They often articulated their opposition to increased federal power in terms of a defense of state authority in a federal system. However, when Republican Ronald Reagan tried to reduce the national government's role in domestic programs and return responsibility to the states, few officials at either the state or national levels agreed with him. Despite their objections, Reagan's opposition to the national government's spending on domestic policies, together with the huge federal deficits of the 1980s, forced a reduction in federal funds for state and local governments.

In the 1994 elections, Republicans captured Congress, the first time in 40 years that they had majorities in both houses. Their rhetoric centered on **devolution**, the transferring of responsibility for policies from the federal government to state and local

fiscal federalism

The pattern of spending, taxing, and providing grants in the federal system; it is the cornerstone of the national government's relations with state and local governments.

categorical grants

Federal grants that can be used only for specific purposes, or "categories," of state and local spending. They come with strings attached, such as nondiscrimination provisions.

governments. They followed this rhetoric with action, for example, repealing federal speed limits, allowing states more latitude in dealing with welfare policy, and making it more difficult for state prisoners to seek relief in federal courts.

Soon, however, Republicans became less concerned with abstract principles and more with adopting a pragmatic approach to federalism to accomplish their goals. They found turning to the federal government—and *restricting* state power—the most effective way to achieve a wide range of policy objectives, including loosening economic and environmental regulations, controlling immigration, setting health insurance standards, restricting the expansion of government health care coverage, stiffening penalties for criminals, extending federal criminal penalties, and tracking child-support violators.¹¹

Continuing this more practical approach, during the presidency of George W. Bush, Republicans passed a law removing most class-action lawsuits from state courts. Most significantly, they passed the No Child Left Behind Act, the largest expansion of the federal role in education since Lyndon Johnson's Great Society and a policy that has allowed more federal intrusion into a state domain than almost any other in U.S. history. Many states have complained loudly about the problems and the cost of implementing the legislation.

In this decade, some political leaders, especially those associated with the Tea Party movement, have called not only for a smaller national government in general but also for devolving the principal responsibility for policies such as health care and income security to the states. Most Americans, however, embrace a pragmatic view of governmental responsibilities, seeing the national government as more capable of—and thus responsible for—handling some issues (such as managing the economy, ensuring access to health care and the safety of food and drugs, preserving the environment, and providing income security for the elderly), and state and local governments as better at handling others (such as crime and education).¹² Nevertheless, both levels of government are, of necessity, involved in most policy areas.

□ Fiscal Federalism

As you have already seen, shared program costs are a key element of cooperative federalism. Indeed, the second major change in American federalism has been the rise of **fiscal federalism**, in which *grants-in-aid*, federal funds appropriated by Congress for distribution to state and local governments, serve as an instrument through which the national government both aids and influences states and localities.

Why It Matters to You

Grants-in-Aid

The federal system of grants-in-aid sends revenues from federal taxes to state and local governments. This spending transfers the burden of paying for services from those who pay state and local taxes, such as taxes on sales and property, to those who pay national taxes, especially the federal income tax.

The amount of money spent on federal grants has grown rapidly from the 1960s and especially since the 1990s, as you can see in Figure 3.1. For 2013, federal grants-in-aid (including loan subsidies, such as cases in which the federal government pays the interest on student loans until a student graduates) totals more than \$600 billion. Federal aid, covering a wide range of policy areas, accounts for about one-fourth of all the funds spent by state and local governments and for about 17 percent of all federal government expenditures.¹³

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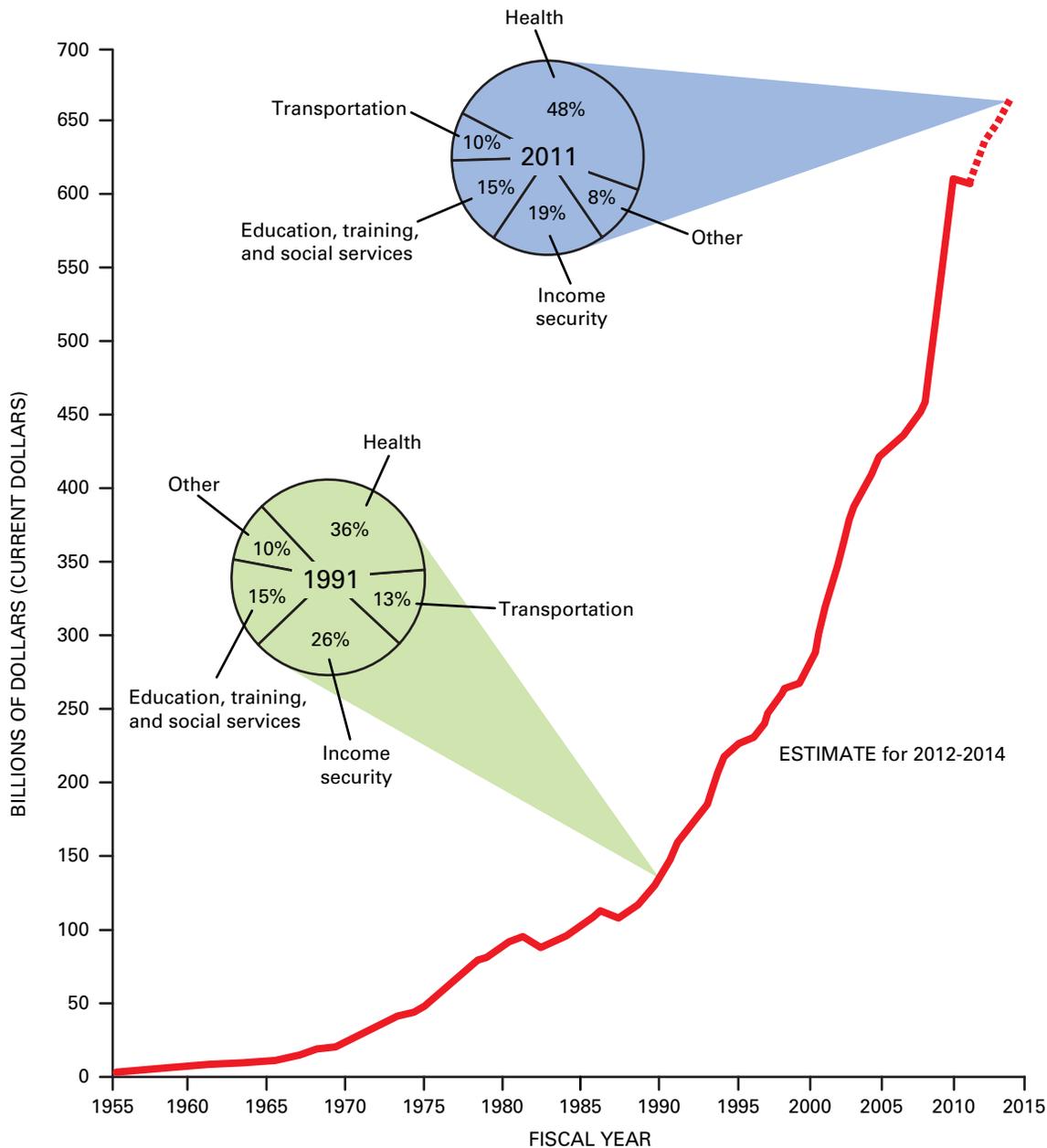
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FIGURE 3.1 FISCAL FEDERALISM: FEDERAL GRANTS TO STATE AND LOCAL GOVERNMENTS

Federal grants to state and local governments have grown rapidly in recent decades and now amount to more than \$600 billion per year. The sharp increase in grants for 2010 and 2011 was the result of the stimulus package designed to counter the country's financial crisis. The distribution of grants is not static. The percentage of grants devoted to health care, especially Medicaid, has increased substantially, mostly at the expense of income security programs.



SOURCE: Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2013: Historical Tables* (Washington, DC: U.S. Government Printing Office, 2012), Tables 12.1 and 12.2.

THE GRANT SYSTEM There are two major types of federal grants-in-aid for states and localities: *categorical grants* and *block grants*. **Categorical grants** are the main source of federal aid to state and local governments. These grants can be used only for specific purposes, or categories, of state and local spending.

Because direct orders from the federal government to the states are rare (an exception is the Equal Opportunity Act of 1982, which bars job discrimination by state and local governments), most federal regulation is accomplished in a more indirect manner: as you have already seen, Congress attaches conditions to the grants that states receive. Such restrictions on grants have been especially common since the 1970s.

project grants

Federal **categorical grant** given for specific purposes and awarded on the basis of the merits of applications.

formula grants

Federal **categorical grants** distributed according to a formula specified in legislation or in administrative regulations.

block grants

Federal grants given more or less automatically to states or communities to support broad programs in areas such as community development and social services.

One string commonly attached to categorical and other federal grants is a nondiscrimination provision, stating that aid may not be used for purposes that discriminate against minorities, women, or other groups. Another string, a favorite of labor unions, is that federal funds may not support construction projects that pay below the local union wage. Other restrictions may require an environmental impact statement for a federally supported construction project or provisions for community involvement in the planning of the project.

The federal government may also employ *crossover sanctions*—using federal dollars in one program to influence state and local policy in another. Crossover sanctions are being applied when, for example, funds for highway construction are withheld unless states raise the drinking age to 21 or establish highway beautification programs.

Crosscutting requirements occur when a condition on one federal grant is extended to all activities supported by federal funds, regardless of their source. The grandfather of these requirements is Title VI of the 1964 Civil Rights Act, which bars discrimination in the use of federal funds because of race, color, national origin, gender, or physical disability. For example, if a university discriminates illegally in one program—such as athletics—it may lose the federal aid it receives for all its programs. There are also crosscutting requirements dealing with environmental protection, historic preservation, contract wage rates, access to government information, the care of experimental animals, the treatment of human subjects in research projects, and a host of other policies.

Categorical grants are of two types:

- **Project grants**, the more common type, are awarded on the basis of competitive applications. National Science Foundation grants obtained by university professors are an example.
- **Formula grants**, as their name implies, are distributed according to a formula. These formulas vary from grant to grant and may be computed on the basis of population, per capita income, percentage of rural population, or some other factor. A state or local government does not apply for a formula grant; the grant's formula determines how much money the particular government will receive. Vigorous political battles are fought in Congress over the formulas. The most common formula grants are those for Medicaid, child nutrition programs, sewage treatment plant construction, public housing, community development programs, and training and employment programs.

Complaints about the cumbersome paperwork and the many strings attached to categorical grants led to the adoption of the second major type of federal aid, **block grants**. These grants are given more or less automatically to states or communities, which then have discretion within broad areas in deciding how to spend the money. First adopted in 1966, block grants support programs in areas like community development that can be used for policies such as housing and expanding employment opportunities for persons with lower incomes.

THE SCRAMBLE FOR FEDERAL DOLLARS With \$600 billion in federal grants at stake, most states and many cities have established full-time staffs in Washington.¹⁴ Their task is to keep track of what money is available and to help their state or city get some of it. There are many Washington organizations of governments—the U.S. Conference of Mayors and the National League of Cities, for example—that act like other interest groups in lobbying Congress. Senators and representatives regularly go to the voters with stories of their influence in securing federal funds for their constituencies. They need continued support at the polls, they say, so that they will rise in seniority and get key posts to help “bring home the bacon.”

Despite some variations, on the whole federal grant distribution follows the principle of *universalism*: something for everybody. The vigilance of senators and representatives keeps federal aid reasonably well spread among the states. This equality makes good politics, but it also may undermine public policy. Chapter I of the 1965 Elementary and Secondary Education Act is the federal government's principal

endeavor to assist public schools. The primary intent of Chapter I was to give extra help to poor children. Yet the funds are allocated to 95 percent of all the school districts in the country. President Clinton's proposal to concentrate Chapter I funds on the poorest students failed when it ran into predictable opposition in Congress.

THE MANDATE BLUES States and localities are usually pleased to receive aid from the national government, but there are times when they would just as soon not have it. For example, say Congress decides to expand a program administered by the states and funded, in part, by the national government. It passes a law requiring the states to expand the program if they want to keep receiving aid, which most states do. Requirements that direct states or local governments to provide additional services under threat of penalties or as a condition of receipt of a federal grant are a type of *mandate*. Congress usually appropriates some funds to help pay for the new policy, but whether it does or does not, the states suddenly have to budget more funds for the program just to receive federal grant money.

Medicaid, which provides health care for poor people, is a prime example of a federal grant program that puts states in a difficult situation. Administered by the states, Medicaid receives wide support from both political parties. The national government pays the majority of the bill, and the states pick up the rest. In the past two decades, Congress has moved aggressively to expand Medicaid to specific populations, requiring the states to extend coverage to children, pregnant women, and elderly poor under certain income levels. Congress has also increased its funding for the program, but the new

Point to Ponder

States usually are pleased to accept federal funds, revenue they do not have to raise themselves. The states are not always happy with the strings that come attached with federal funds, however.

Would it be better if states raised their own funds rather than depending on federal aid? Are there obstacles to states raising their own revenues?

“In Two Words, Yes And No”



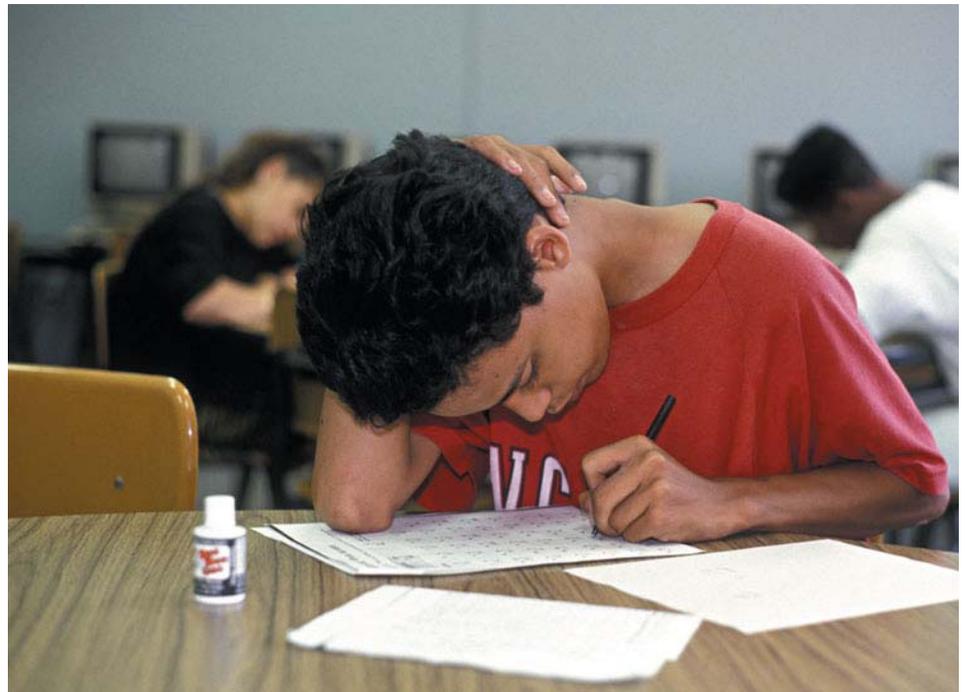
A 1949 Herbblock Cartoon, ©The Herb Block Foundation

requirements have meant huge new demands on state budgets. In effect, Congress has set priorities for the states. In 2012, the Supreme Court held that the Affordable Care Act of 2010 had gone too far. Congress can offer money to the states to expand Medicaid and can attach conditions to such grants, but it cannot penalize states that chose not to participate in that new program by taking away their existing Medicaid funding.¹⁵

A related problem arises when Congress passes a law creating financial obligations for the states but provides no funds to meet these obligations. For example, in 1990 Congress passed the Americans with Disabilities Act, requiring states to make facilities, such as state colleges and universities, accessible to individuals with disabilities, but did not allocate funds to implement this policy. Similarly, the Clean Air Act of 1970 established national air quality standards but required states to implement them and to appropriate funds for that purpose.

In an attempt to deal with this problem, in 1995, Congress passed a law requiring the Congressional Budget Office to estimate the costs of all bills that impose such mandates. This requirement does not apply to antidiscrimination legislation or to most legislation requiring state and local governments to take various actions in exchange for continued federal funding (such as grants for transportation). The bill also ordered federal agencies to design new processes to allow greater input by state and local officials into the development of regulations imposing mandates.

Mandates coupled with insufficient funds continue to pose problems for state and local governments. Such governments are the first responders in most emergencies: their police forces provide most of the nation's internal security, they maintain most of the country's transportation infrastructure, and they are responsible for protecting the public's health and providing emergency health care. The heightened concern for homeland security since September 11, 2001, led Congress to impose sizable new mandates on the states to increase their ability to deal with acts of terrorism, but Congress has not provided all the resources necessary to increase state and local capabilities. Similarly, as we saw, the No Child Left Behind Act, passed in 2002, threatens school systems with the loss of federal funds if their schools do not improve student performance, but the federal government has provided only a modest increase in funding to help the school systems bring about those improvements.



Policies of the federal government may have major impacts on core policies of state and local governments, like elementary and secondary education, and determine how much is spent on these policies.

Which States Win and Lose the Federal Aid Game?

The national government collects taxes in all states, but the amount of aid it provides to individual states doesn't correspond to the amount of taxes it collects in the state. A recipient state is one whose residents pay less in federal taxes than the state receives in federal aid; a donor state is one whose residents pay more in taxes than the state receives in aid. In 2007, there were 19 donor states and 31 recipient states.

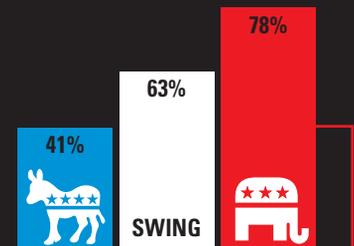
Who pays? **DELAWARE, MINNESOTA, NEW JERSEY, and CONNECTICUT**

all paid at least \$6,000 more in federal taxes per person than they received in federal aid. 15 other states were net donors.

Net Donor: Over \$5,000 Per Person	Connecticut	New Jersey	Minnesota	Delaware
	\$6,241	\$6,644	\$7,431	\$12,285
Net Donor: Between \$1 and \$5,000 Per Person	Ohio	North Carolina	Massachusetts	Rhode Island
	\$49	\$1,108	\$2,133	\$2,732
	Georgia	California	Colorado	Illinois
	\$434	\$1,466	\$2,176	\$3,640
	Washington	Nevada	Nebraska	New York
	\$773	\$1,616	\$2,850	\$4,502
Wisconsin	Arkansas	Texas		
\$1,000	\$1,723	\$2,243		

Which Are the Recipient States?

Recipient States by Party

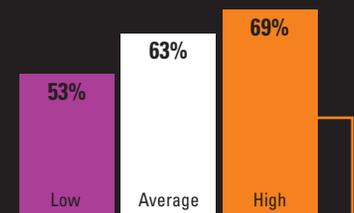


18 out of 23 Republican-leaning states (78%) are recipient states compared to 8 out of the 19 Democratic-leaning states (42%).

Who receives? **ALASKA** took in twice the federal money in 2007 that it paid in taxes. 31 states are recipient states. Of the top six recipient states, four are southern.

Net Recipient: Over \$5,000 Per Person	Alaska	New Mexico	Mississippi	Virginia	West Virginia	Alabama
	-\$7,448	-\$7,143	-\$6,765	-\$6,239	-\$5,820	-\$5,130
Net Recipient: Between \$1 and \$5,000 Per Person	Hawaii	South Carolina	Arizona	Utah	Pennsylvania	
	-\$4,983	-\$3,756	-\$1,976	-\$792	-\$385	
	North Dakota	Kentucky	Idaho	Indiana	Oklahoma	
	-\$4,856	-\$3,012	-\$1,281	-\$723	-\$376	
	South Dakota	Maryland	Wyoming	Tennessee	New Hampshire	
	-\$4,414	-\$3,010	-\$1,205	-\$603	-\$349	
	Maine	Vermont	Missouri	Florida	Michigan	
	-\$4,221	-\$2,854	-\$1,190	-\$581	-\$171	
	Montana	Louisiana	Iowa	Oregon	Kansas	
	-\$4,149	-\$2,180	-\$1,075	-\$474	-\$154	

Recipient States by Poverty Level



9 of 13 states with high poverty levels are recipient states (69%), while only 9 of 17 states with low poverty levels are recipient states (53%).

SOURCE: Data from United States Internal Revenue Service; *Statistical Abstract of the United States 2012*; and *U.S. Census of Population and Housing, 2010*.

Investigate Further

Concept How do we determine donor and recipient states? We subtract the federal aid dollars per person sent to a state from the federal tax dollars per person paid in a state. If the result is positive, a state is a donor state, otherwise it's a recipient state.

Connection Are there any correlations between politics and whether states are recipients or donors? Recipient states tend to lean Republican, donor states tend to lean Democratic in national politics. It is ironic that conservative Republican states are on average the biggest recipients of federal spending.

Cause Is there a policy explanation for which states are recipient states? In fighting poverty, the federal government redistributes money. Recipient states usually have higher poverty levels and lower average incomes.

Federal courts, too, create unfunded mandates for the states. In recent years, federal judges have issued states orders in areas such as prison construction and management, school desegregation, and facilities in mental health hospitals. These court orders often require states to spend funds to meet standards imposed by the judge.

A combination of federal regulations and inadequate resources may also put the states in a bind. The national government requires that a local housing authority build or acquire a new low-income housing facility for each one it demolishes. But for years Congress has provided little money for the construction of public housing. As a result, a provision intended to help the poor by ensuring a stable supply of housing actually hurts them because it discourages local governments from demolishing unsafe and inadequate housing. Similarly, a few states have recently rejected some short-term federal aid for unemployment benefits because they did not want to accept the requirements to maintain the benefits in the long term.

The federal government may also unintentionally create financial obligations for the states. California, New York, Texas, Florida, and other states have sued the federal government for reimbursement for the cost of health care, education, prisons, and other public services that the states provide to illegal residents. The states charged that the federal government's failure to control its borders was the source of huge new demands on their treasuries and that Washington, not the states, should pay for the problem. Although the states have not won their cases, their point is a valid one.

Diversity in Policy

3.4 Explain the consequences of federalism for diversity in public policies among the states.

As you have seen, the federal system assigns states important responsibilities for public policies. An important effect is diversity in policy among the states.

One implication is that it is possible for the diversity of opinion within the country to be reflected in different public policies among the states. If the citizens of Texas wish to have a death penalty, for example, they can vote for politicians who support it, even if other states move to abolish the death penalty (see “You Are the Policymaker: Should *Whether* You Live Depend on *Where* You Live?”).

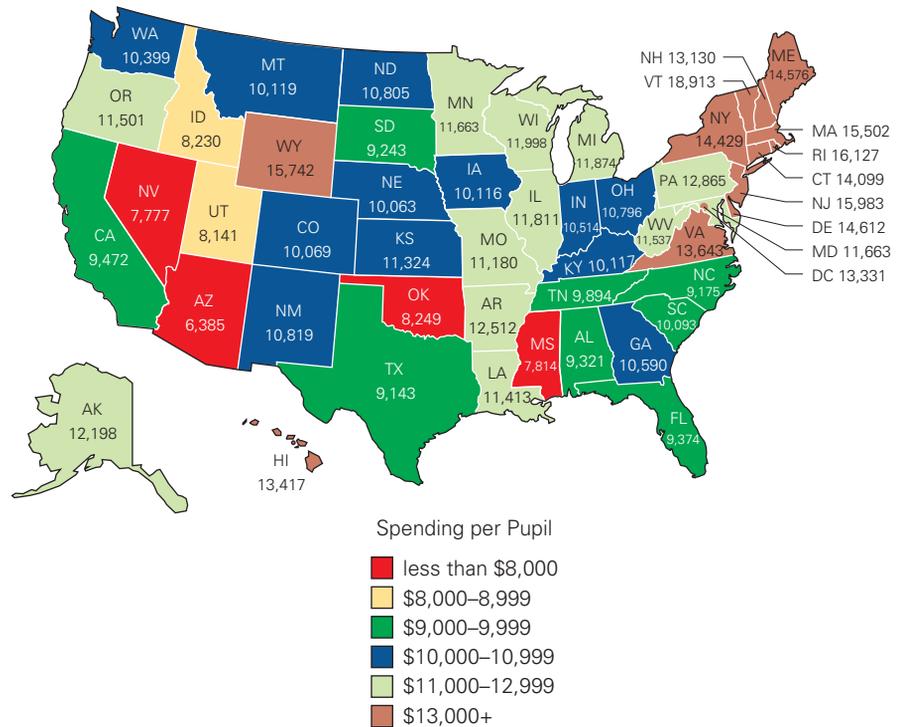
Another is that policy innovation is facilitated. In fact, the American states have always been policy innovators.¹⁶ They overflow with reforms, new ideas, and new policies. From clean-air legislation to health care, the states constitute a national laboratory to develop and test public policies, and they share the results with other states and the national government. Almost every policy that the national government has adopted had its beginnings in the states. One or more states pioneered child labor laws, minimum-wage legislation, unemployment compensation, antipollution legislation, civil rights protections, and the income tax. More recently, states have been active in reforming health care, education, and welfare—and the national government has been paying close attention to their efforts.

States may also take initiatives on what most people view as national policies when the federal government acts contrary to the views of people within those states. Many states raised the minimum wage when Congress did not. Some states funded stem cell research after George W. Bush severely restricted it on the federal level. Similarly, many states have taken the lead in raising the standards for environmental protection after they concluded the national government was too lenient. Other states have enacted strict immigration laws to deter illegal immigration.

Yet another implication of diversity is that states, responsible for supplying public services, differ in the resources they can or will devote to services like public

FIGURE 3.2 STATE AND LOCAL SPENDING ON PUBLIC EDUCATION

A downside of the public policy diversity fostered by federalism is that the resources for public services vary widely from state to state. This map shows the great variation among the states in the money spent on children in the public schools.



SOURCE: U.S. Department of Commerce, *Statistical Abstract of the United States, 2012* (Washington, DC: U.S. Government Printing Office, 2012), Table 253. The data are for 2009.

□ Federalism and Democracy

One of the reasons that the Founders established a federal system was to allay the fears of those who believed that a powerful and distant central government would tyrannize the states and limit their voice in government. By decentralizing the political system, federalism was designed to contribute to democracy—or at least to the limited form of democracy supported by the Founders.

Has the federal system in fact contributed to democracy? In many ways, the answer appears to be yes.

The federal system in America decentralizes our politics. Voters elect senators as representatives of individual states, not of the entire nation. Different interests are concentrated in different states: energy in Texas, citrus growing in Florida and California, and copper mining in Montana, for example. The federal system allows an interest concentrated in a state to exercise substantial influence in the election of that state's officials, both local and national. In turn, these officials promote policies advantageous to the interest in both the state capital and Washington. This is a pluralism of interests that James Madison, among others, valued within a large republic.

Moreover, by handling most disputes over policy at the state and local levels, federalism reduces decision making and conflict at the national level, making democracy more effective. If every issue had to be resolved in Washington, the national government would be overwhelmed.

We have also seen that, in allowing for decision making at the state level, federalism allows for a diversity of policy choices among the states. Thus, states can better reflect the preferences of majorities of their citizens.

In addition, the more levels of government, the more opportunities there are for participation in politics. State governments provide thousands of elected offices for which citizens may vote and/or run.

Additional levels of government also contribute to democracy by increasing access to government. Some citizens and interest groups are likely to have better access to state-level governments and others to the national government, so the two levels increase the opportunities for government to be responsive to demands for policies.¹⁸ For example, in the 1950s and 1960s, when advocates of civil rights found themselves stymied in Southern states, they turned to the national level for help in achieving racial equality. Business interests, on the other hand, have traditionally found state governments to be more responsive than the national government to their demands. Organized labor is not well established in some states, but it can usually depend on some sympathetic officials at the national level who will champion its proposals.

The existence of state and local levels has yet another advantage for democracy. Even if a party loses at the national level, it can rebuild in its areas of strength and develop leaders under its banner at the state and local levels. As a result, losing an election becomes more acceptable, and the peaceful transfer of power is more probable. This was especially important in the early years of the nation before our political norms had become firmly established.

Despite these advantages, sometimes decentralization of politics can be a detriment to democracy. Even the presidential election, choosing a leader for the national government, is actually 51 presidential elections, one in each state and one in Washington, D.C. It is possible—as happened in 2000—for a candidate who receives the most popular votes in the country to lose the election because of the way in which the Constitution distributes electoral votes by state. Such a result is a questionable contribution to democracy.¹⁹

Federalism may also have a negative effect on democracy insofar as local interests are able to thwart national majority support of certain policies. As we discussed earlier in this chapter, in the 1960s, the states—especially those in the South—became battlegrounds when the national government tried to enforce national civil rights laws and court decisions. Federalism complicated and delayed efforts to end racial discrimination because state and local governments were responsible for public education and voting eligibility, for example, and because they had passed most of the laws supporting racial segregation.

At last count there were an astonishing 89,527 American governments (see Table 3.3). The sheer number of governments in the United States is, at times, as much a burden as a boon to democracy. The relationships between governments at the

TABLE 3.3 THE NUMBER OF GOVERNMENTS IN AMERICA

Government Level	Number of Governments
U.S. government	1
States	50
Counties	3,033
Municipalities	19,492
Townships or towns	16,519
School districts	13,051
Special districts	37,381
Total	89,527

SOURCE: U.S. Department of Commerce, *Statistical Abstract of the United States, 2012* (Washington, DC: U.S. Government Printing Office, 2012), Table 428.

local, state, and national levels often confuse Americans. These confusions stem from the complexities of the relationships. Locally elected school boards run neighborhood schools, but the schools also receive state and national funds, and with those funds come state and national rules and regulations. Local airports, sewage systems, pollution control systems, and police departments also receive a mix of local, state, and national funds, so they operate under a complex web of rules and regulations imposed by each level of government.

Americans speak eloquently about their state and local governments as grassroots governments, close to the people. Yet having so many governments makes it difficult to know which governments are doing what. Exercising democratic control over them is even more difficult; voter turnout in local elections is often less than 20 percent.

□ Federalism and the Scope of the National Government

One of the most persistent questions in American politics has been the question of the appropriate scope of the national government relative to that of state governments. To address this question, we must first understand why the national government grew and then ask whether this growth was at the expense of the states or occurred because of the unique capabilities and responsibilities of the national government.

Consider first the economic domain, and a few examples of the national government's interventions to help American businesses. Ronald Reagan negotiated quotas on imports of Japanese cars in order to give advantages to the American auto industry. He placed quotas on the amount of steel that could be imported. After airplanes were grounded because of the terrorist attacks of September 11, 2001, Congress approved \$15 billion in subsidies and loan guarantees to the faltering airlines. In 2008, George W. Bush obtained extensive authority for the federal government to intervene in and subsidize financial institutions and automakers—policies Barack Obama continued.

In each of these cases and dozens of others, the national government has involved itself (some might say interfered) in the economic marketplace with quotas, subsidies, and regulations intended to help American businesses. From the very founding of the republic, the national government took a direct interest in economic affairs. As the United States industrialized, new problems arose and, with them, new demands for governmental action. The national government responded with a national banking system, subsidies for railroads and airlines, and a host of other policies that dramatically increased its role in the economy.

The industrialization of the country raised other issues as well. For example, with the formation of large corporations in the late nineteenth century came the potential for such abuses as monopoly pricing. If there is only one railroad in town, it can charge farmers inflated prices to ship their grain to market. If a single company distributes most of the gasoline in the country, it can set the price at which gasoline sells. Thus, many interests asked the national government to restrain monopolies and to encourage open competition.

There were additional demands on the national government for new public policies. Farmers sought services such as agricultural research, rural electrification, and price supports. Unions wanted the national government to protect their rights to organize and bargain collectively and to help provide safer working conditions, a minimum wage, and pension protection. Together with other groups, they pushed for a wide range of social welfare policies, from education to health care, that would benefit the average worker. And urbanization brought new problems in the areas of housing, welfare, the environment, and transportation. In each case, the relevant interests turned to the national government for help.

Why not turn to the state governments instead? The answer in most cases is simple: a problem or policy requires the authority and resources of the national government;

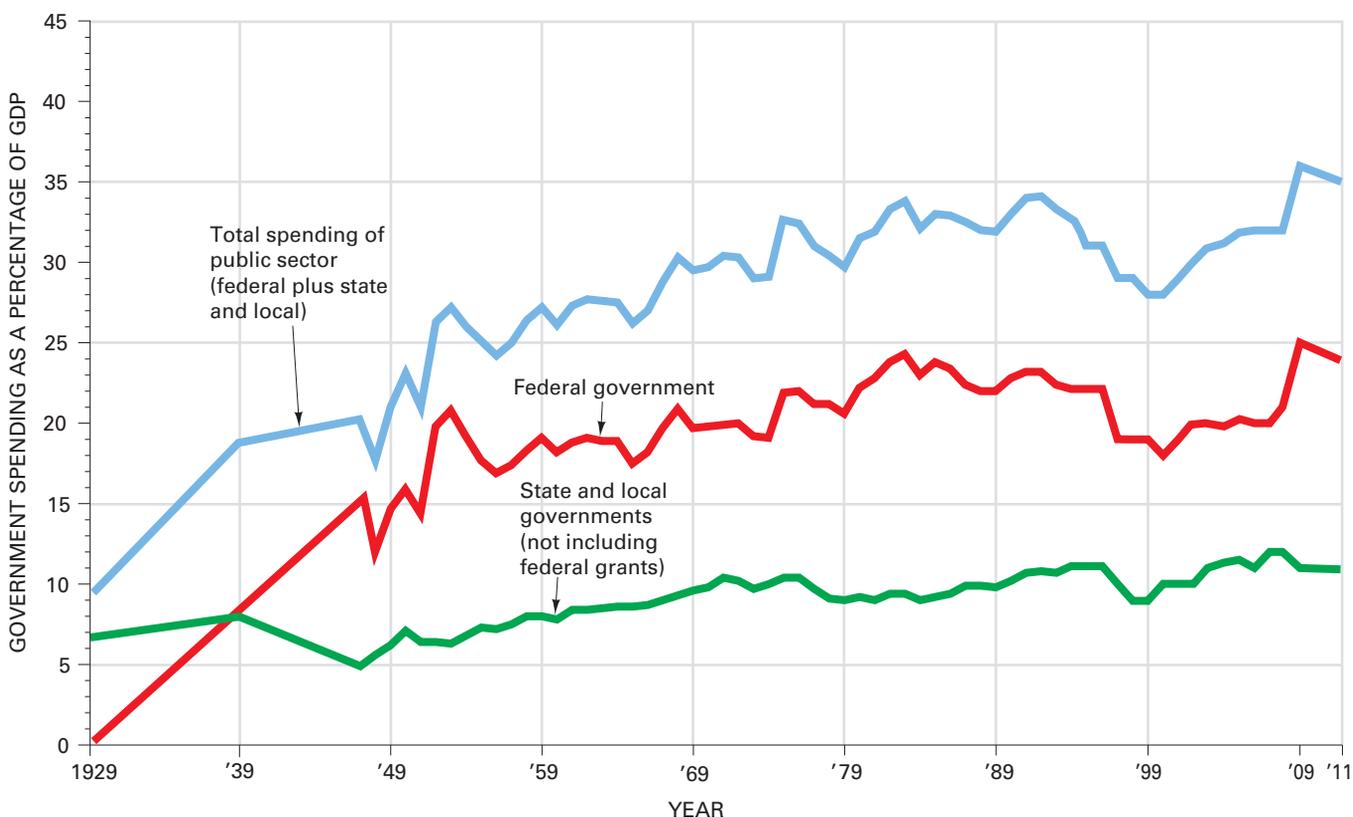
to deal with it otherwise would be at best inefficient. The Constitution forbids states from having independent defense policies, but even if it did not, how many states would want to take on a responsibility that represents more than half the federal workforce and about one-fifth of federal expenditures? A wide range of other issues would not be sensible for the states to handle. It makes little sense for Louisiana to pass strict controls on polluting the Mississippi River if most of the river's pollution occurs upstream, where Louisiana has no jurisdiction. Rhode Island has no incentive to create an energy policy because it has no natural energy reserves.

Similarly, how effectively can any state regulate an international conglomerate such as General Motors? How can each state, acting individually, manage the nation's money supply? Although states could in theory have their own space programs, combining efforts in one national program is much more efficient. The largest category of federal expenditures is that for economic security, including the Social Security program. If each state had its own retirement program, would retirees who moved to Florida or Arizona be paid by their new state or the state they moved from? A national program is the only feasible method of ensuring the incomes of the mobile elderly of today's society.

Figure 3.3 shows that the national government's share of American governmental expenditures has grown considerably since 1929. The period of rapid growth was the 1930s and 1940s, a period that included the Great Depression and World War II. Before that time, the national government spent an amount equal to only 2.5 percent of the size of the economy, the gross domestic product (GDP). Today, it spends nearly

FIGURE 3.3 FISCAL FEDERALISM: THE SIZE OF THE PUBLIC SECTOR

The federal government's spending as a percentage of GDP increased rapidly during the Great Depression and World War II. Recent decades have not seen much increase in spending as a percentage of GDP on the part of either the federal government or state governments. In 2009, however, federal spending increased substantially in response to the economic crisis.



SOURCE: Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2013: Historical Tables* (Washington, DC: U.S. Government Printing Office, 2012), Table 15.3.

a fourth of our GDP, if we include grants to states and localities. The proportion of our GDP spent by state and local governments has grown far less. States and localities spent 7.4 percent of our GDP in 1929; they spend about 11 percent today, not including federal grants.²⁰

To return to our initial question, Figure 3.3 strongly suggests that the federal government has not supplanted the states. The states carry out virtually all the functions they always have. What has occurred instead is that, with the support of the American people, the national government, possessing unique capacities, has taken on new responsibilities. In addition, the national government has added programs to help the states meet their own responsibilities.

Review the Chapter



Listen to **Chapter 3** on **MyPoliSciLab**

Defining Federalism

3.1 Define federalism and contrast it with alternative ways of organizing a nation, p. 75.

Federalism is a way of organizing a nation so that two or more levels of government have formal authority over the same area and people. Federal systems are more decentralized than unitary systems but less so than confederations.

The Constitutional Basis of Federalism

3.2 Outline the constitutional basis for the division of power between national and state governments, the establishment of national supremacy, and states' obligations to each other, p. 77.

The Constitution divides power between the national (federal) government and state governments and makes the national government supreme within its sphere. The national government has implied as well as enumerated powers, as *McCulloch v. Maryland* made clear. The Civil War also helped establish the preeminence of the national government, and over the years the Supreme Court has interpreted these powers—particularly Congress's interstate commerce power—broadly, as Washington has taken on more responsibilities to deal with matters such as the economy and civil rights. States have obligations to give full faith and credit to the public acts, records, and civil judicial proceedings of other states, return a person charged with a crime in another state to that state, and accord citizens of other states the privileges and immunities enjoyed by their own citizens.

Intergovernmental Relations

3.3 Characterize the shift from dual to cooperative federalism and the role of fiscal federalism in intergovernmental relations today, p. 84.

States no longer have exclusive responsibility for government functions within their sphere but instead share these responsibilities with the federal government. Through categorical

and block grants, the federal government provides state and local governments with substantial portions of their budgets, and it uses this leverage to influence policy by attaching conditions to receiving the grants. Sometimes Washington mandates state policy without providing the resources to implement the policy.

Diversity in Policy

3.4 Explain the consequences of federalism for diversity in public policies among the states, p. 94.

Federalism allows for considerable diversity among the states in their policies. This constitutional arrangement facilitates state innovations in policy, and it allows states to move beyond the limits of national policy. However, federalism also leaves states dependent upon the resources within their borders to finance public services, and it may discourage states from providing some services.

Understanding Federalism

3.5 Assess the impact of federalism on democratic government and the scope of government, p. 95.

On the positive side, federalism provides for effective representation of local interests, reduces conflict at the national level, encourages acceptance of losing elections, and increases the opportunities for citizens to participate in government and see their policy preferences reflected in law. On the negative side, federalism increases the opportunities for local interests to thwart national policy, can result in the election of a president not favored by a majority of the public, and complicates efforts to make government responsive.

The national government has grown in response to the demands of Americans for public services it can best provide, but it has not in any way supplanted the states.

Learn the Terms



Study and Review the **Flashcards**

federalism, p. 75
unitary governments, p. 75
intergovernmental relations, p. 76
supremacy clause, p. 78
Tenth Amendment, p. 79

McCulloch v. Maryland, p. 80
enumerated powers, p. 81
implied powers, p. 81
elastic clause, p. 81
Gibbons v. Ogden, p. 82

full faith and credit, p. 83
extradition, p. 83
privileges and immunities, p. 83
dual federalism, p. 85
cooperative federalism, p. 85

Test Yourself



Study and **Review** the **Practice Tests**

1. A country in which all power resides in a central government has

- a. a unitary government.
- b. a confederacy.
- c. an intergovernmental system.
- d. a federal system of government.
- e. an enumerated government.

2. Federalism is a system of government in which three or more levels of government (local, state, and federal) have formal authority over the same area and people.

True ____ False ____

3. *McCulloch v. Maryland* established the principle that

- a. as long as the national government does not violate the Constitution, its policies take precedence over state policies.
- b. the national government has certain implied powers beyond those specified in the Constitution.
- c. the Constitution permits Congress to use all means “necessary and proper” to fulfill its duties.
- d. acting within its sphere, the national government can preempt state policies.
- e. All of the above

4. The “full faith and credit” clause in Article IV of the Constitution is primarily designed to ensure _____ between states.

- a. communication
- b. reciprocity
- c. honesty
- d. commerce
- e. goodwill

5. According to the regulation of privileges and immunities between states, a citizen of Texas who buys a product while visiting a store in California

- a. pays the Texas sales tax.
- b. pays the California sales tax.
- c. pays both the California and the Texas sales tax.
- d. can choose whether he or she wants to pay the California or Texas sales tax.
- e. pays the California sales tax, but can ask to be reimbursed when returning to Texas.

6. When the Supreme Court interpreted the commerce clause broadly, it contributed to the expansion of national supremacy over the states.

True ____ False ____

7. Explain how a shift in the balance of power between states and the national government has shaped the history of federalism in the United States. In your answer, explain how different interpretations of the Tenth Amendment, including in several important Supreme Court decisions, relate to the debate regarding the boundaries of state and national power.

8. The shift from dual to cooperative federalism

- a. required an initial devolution in federal influence over states.
- b. involved a clear, discrete shift, related to implementation of the New Deal.
- c. involved gradual change in many policy areas, including education.
- d. involved a shift from presidential to congressional dominance over policy.
- e. resulted primarily from largely partisan efforts by Republicans in the 1950s.

9. Over the past generation, the percentage of federal grants devoted to income security has decreased in favor of grants devoted to health care.

True ____ False ____

10. The United States has undergone a gradual shift from dual to cooperative federalism. In your opinion, what are some of the factors that have explained this shift? What are some possible positive and negative consequences? Use specific examples to explain your answer.

11. Federalism allows states to differ in their policies and thus to reflect the opinions of their citizens but also leaves them reliant on their own resources. Is this an acceptable tradeoff? Should there be greater uniformity on policies such as education? Explain your answer.

12. Federalism

- a. stifles innovation at the state level.
- b. encourages uniform policies among the states.
- c. prohibits states from moving beyond national policy.
- d. leads to differences among states in levels of funding for policies.
- e. encourages states to increase levels of services benefiting the less well off.

13. An examination of the historical growth of federal responsibilities over policy reveals that

- a. the federal government can handle many policy areas more efficiently than can the states.
- b. the federal government responds to interest group demands to take a more active policy role.
- c. the federal government expanded its role over policy as the nation industrialized.
- d. the federal government's share of governmental expenditures has grown rapidly since the New Deal.
- e. all of the above are true.

14. Based on your understanding of the federalism and the framing of the Constitution, why did the Founders establish a federal system of government? In what ways does federalism contribute to and/or limit democracy? In your opinion, does federalism make government more or less democratic? Explain your answer.

15. How does federalism affect the scope of government? Did the national government grow at the expense of state power or did this growth occur because of the unique capabilities and responsibilities of the national government? What are some policies that support your answer?

Explore Further

WEB SITES

www.cfda.gov/index?cck=1&au=&ck=

The Catalog of Federal Domestic Assistance allows you to search through hundreds of federal grants.

www.ncsl.org/statefed/StateFederalCommittees/tabid/773/Default.aspx

Information and discussion of issues on federal–state relations from the National Conference of State Legislatures.

www.csg.org

Council of State Governments Web site offers information on states and state public policies.

usgovinfo.about.com/od/rightsandfreedom/a/federalism.htm

The powers of the national and state governments.

www.aei.org/outlook/11716

Original research on American federalism, sponsored by the American Enterprise Institute.

www.cas.umt.edu/polsci/faculty/greene/federalismhistory.htm

The history of U.S. federalism.

FURTHER READING

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New York: Cambridge University Press, 2009. Shows how complementary institutions maintain and adjust the distribution of authority between national and state governments.

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An excellent study of the philosophical bases of American federalism.

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Feeley, Malcolm, and Edward Rubin. *Federalism: Political Identity and Tragic Compromise.* Ann Arbor: University of Michigan Press, 2011. Overview of key aspects of federalism.

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Schapiro, Robert A. *Polyphonic Federalism: Toward the Protection of Fundamental Rights.* Chicago: University of Chicago Press, 2009. Argues that the multiple perspectives on policy provided by federalism are a great advantage for the United States.