

## CHAPTER 3

# THE U.S. CONSTITUTION

**T**he Constitution is the foundation on which U.S. government and society are based. It is a document that affects your life every day. It protects your freedom to write an article for the school newspaper. It also determines the scope of all laws in your community.

The Constitution has such far-reaching effects on society partly because it reflects certain basic principles of government. Two of these principles—limited and representative government—were discussed in Chapter 2. The framers of the Constitution incorporated these and other basic principles into the structures and responsibilities of the national government.

The framers also provided ways in which the Constitution could change with the times to help the country face new challenges. By doing these things, the framers not only designed a government that promotes the public good, they also crafted a system of government that has endured for more than two centuries.



### Government Notebook

In your Government Notebook, write a paragraph about why you think that the plan of government provided by the U.S. Constitution has been successful for more than 200 years.

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order to form a more perfect Union, establish Justice, and secure the Blessings of Liberty to ourselves and our Posterity.

United States, which shall consist of a Senate

and Year by the People of the several States and State Legislatures.

seven Years, and been seven Years a Citizen of

be included within this Union, according to the Constitution, and be bound to Service for a Term of Years, and elect seven Years after the first Meeting of the Congress of the United States. The Number of Representatives shall not exceed one for every thirty Thousand Persons, but the State of New Hampshire shall have three, Connecticut five, New York six, New Jersey four, and Georgia three.

thereof shall have the sole Power of Impeachment.

chosen by the Legislature thereof, for six

shall be divided as equally as may be into three Classes at the Expiration of the fourth Year, if Vacancies happen by Resignation, or otherwise, they shall fill the next Meeting of the Legislature, which

been nine Years a Citizen of the United States

Vote, unless they be equally divided.

of the Vice President, or when he shall cease

Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. The Senate shall provide: And no Person shall be convicted without the Concurrence of two thirds of the Members present. Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Execution of Law.

and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State until they may by Law make or alter such Regulations, except as to the Place of choosing Senators. The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless otherwise provided.

be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a quorum to do Business, and may be authorized to compel the Attendance of absent Members, in Person or by their legal Representatives, in all Cases, except when they shall be excused.

## SECTION 1

# BASIC PRINCIPLES

### Political Dictionary



popular sovereignty  
separation of powers  
checks and balances  
veto  
judicial review  
unconstitutional

### Objectives

- ★ What are the basic principles on which the U.S. Constitution is based?
- ★ How does the Constitution ensure the people's authority over government?
- ★ How does the Constitution provide for a system of balanced government?
- ★ In what way does the Constitution protect the rights of the states?

The Constitution sets forth the powers that the citizens of the United States grant to the federal government. This means that the Constitution establishes rules that the U.S. government must observe. Five main principles form the basis of these rules: popular sovereignty, limited government, separation of powers, checks and balances, and federalism. These principles reflect the framers' desire to establish a national government that serves the people, prevents the concentration and abuse of power, and respects the rights of the states.

## Popular Sovereignty

For a government truly to serve the people, it must be based on popular sovereignty. As noted in Chapter 1, sovereignty is the absolute authority that a government has over the citizens of that nation. **Popular sovereignty** means that the government's authority comes from the people. The principle of popular sovereignty can be found throughout the U.S. Constitution. For example, the

Preamble, or introduction, to the Constitution begins, "We the People of the United States . . . do ordain [order] and establish this Constitution for the United States of America." This passage points out that it is the people themselves who have given the Constitution its authority to create the U.S. government.

The Constitution further establishes the people's authority by setting rules for the election of government officials. No one reaches government office by virtue of his or her birth, as in a monarchy. Rather, the U.S. Constitution established a republic in which citizens elect others to represent them.

## Comparing

### Governments

### A New Constitution for South Africa

Perhaps the greatest sign that democracy was coming to apartheid-free South Africa appeared in 1995, when the government invited the people to help write a new constitution. Citizens were allowed to voice their opinions by calling a "constitutional talk-line." More than 1.7 million people called in, wrote letters, and sent messages over the Internet with their suggestions for the new constitution.

After months of debate over citizens' and lawmakers' ideas, the drafters of the constitution completed the document. The Constitutional Assembly ratified the new constitution with a 420-to-1 vote on May 8, 1996.

The constitution—described as the country's "birth certificate" by one government official—makes the Republic of South Africa a democratic nation with a federal system and a strong central government. A president holds executive power with two deputy presidents—one from the majority party and one from the largest opposition party. The new two-house Parliament features a Senate, whose 90 members are elected by the legislatures of the country's nine provinces, and a National Assembly, whose 400 members are elected by the voters.

## Limited Government

A government also cannot truly serve the people if it has unlimited power. Therefore, the Constitution established a limited government. As noted in Chapter 2, the English colonists brought the ideal of limited government to North America.

The Constitution limits government by establishing guidelines for how the government may act. Section 9 of Article I, for example, lists powers that the national government does not have, such as the power to grant titles of nobility. Other parts of the Constitution keep the government from violating citizens' individual liberties, such as the freedom of speech. Each of these restrictions upholds the principle of limited government.

## Separation of Powers

Although the framers wanted to give the national government the power it needed to govern, they also wanted to prevent the concentration and abuse of power. They designed the Constitution to divide the responsibilities of government among three branches. This **separation of powers** makes sure that no one branch has too much power. The framers listed the responsibilities and powers of the three branches in the first three articles of the Constitution.

Article I lists the responsibilities of the legislative branch. Congress, a bicameral legislature, makes the nation's laws. Although the House of Representatives and the Senate share responsibility for passing legislation, each chamber has its own special powers. For example, legislation to fund the government must begin in the House of Representatives. Only the Senate, however, can approve presidential appointments and treaties with foreign countries.

Article II establishes the duties of the executive branch, which is made up of the president, vice president, and various executive departments. The executive branch executes, or carries out, the laws established by the legislative branch. In addition, the president serves as the commander in chief of the nation's armed forces and has the power to direct U.S. relations with foreign countries.

Article III sets out the role of the judicial branch of government. The Constitution establishes a Supreme Court as the nation's highest court and gives Congress the authority to establish courts below the Supreme Court.

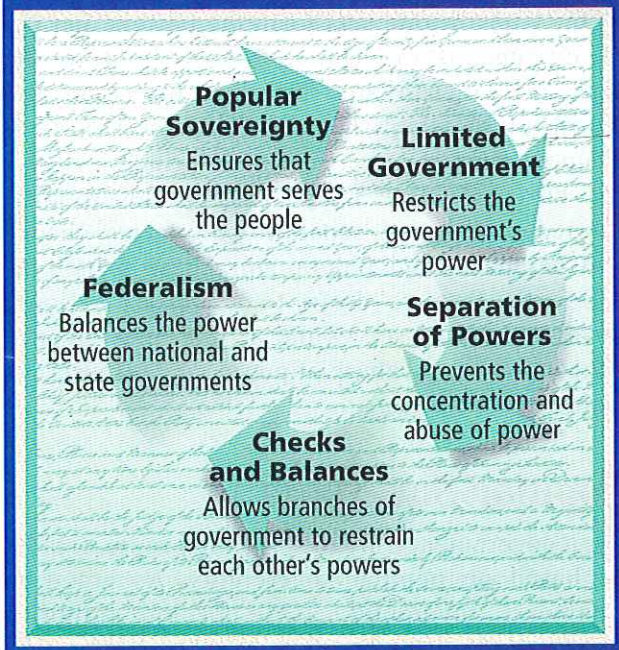
## Checks and Balances

The Constitution also prevents the concentration and abuse of power by giving each branch of government the authority to check, or restrain, the powers of the other two branches. This system of **checks and balances** divides power within the government. (See the chart on page 49.)

**Executive and Legislative Checks** The system of checks and balances forces each branch of government to consider the opinions and actions of the other branches. This is particularly true for the executive and legislative branches. For example, if Congress does not consider the wishes of the president when it writes legislation, the president may **veto**, or reject, that legislation. This veto power often encourages congressional leaders to meet with members of the executive branch to reach an agreement about controversial legislation before it is passed. For example, congressional leaders meet regularly with the president to discuss the federal budget. In some cases, however, the negotiations on legislation are difficult.

The president's power to affect legislation is limited, however. Congress is able to override a

### Principles of the Constitution



*The U.S. government must follow five basic principles established by the Constitution. Why are these principles important to a democratic system of government?*

## Checks and Balances in the Federal Government

### POWERS

### CHECKS ON POWERS

- Passes bills into law
- Can pass laws over the president's veto by a two-thirds vote of Congress
- Approves appointments to top government jobs
- Holds the "power of the purse"

#### LEGISLATIVE BRANCH

- President's power to veto legislation passed by Congress
- Supreme Court's power to rule that laws are unconstitutional

- Approves or vetoes laws
- Carries out laws
- Appoints federal court judges, ambassadors, and other high-level officials
- Negotiates treaties

#### EXECUTIVE BRANCH

- Congress's ability to override the president's veto by a two-thirds vote
- Congress's power to approve spending by the federal government
- Senate's power to approve presidential appointments to top government jobs
- Senate's authority to approve all treaties
- Congress's power to impeach the president

- Interprets the meaning of laws
- Rules on the constitutionality of laws passed by Congress and actions taken by the executive branch

#### JUDICIAL BRANCH

- Congress's (or the states') power to propose an amendment to the Constitution if the Supreme Court rules that a law is unconstitutional
- Senate's authority to refuse to approve the appointments to federal court
- Congress's power to impeach a federal judge

*Each branch of the federal government has its powers checked by the other branches.*

*What are the checks on the legislative branch?*

veto if at least two thirds of the members in both houses of Congress vote to do so. Congress also checks the executive branch through its "power of the purse," for only Congress can approve spending by the federal government. Congress can, for example, limit or refuse to approve money for programs that the president wants.

Congress also has checks on other presidential powers. The Senate, for example, can reject any presidential appointments to top government jobs. In addition, the Constitution states that international treaties negotiated by the president do not become law unless approved by a two-thirds vote in the Senate. These checks on executive power mean that the president must consider the wishes of Congress when proposing legislation, making appointments, and negotiating treaties.

**Judicial Review** The judicial branch also has an important role in the system of checks and balances. While federal judges are nominated by the president and must be approved by the Senate, federal courts can check the powers of the legislative and executive branches through judicial review. **Judicial review** is the power of the courts to decide if laws and other government actions are valid under the U.S. Constitution.

A law or government action that is found to violate any part of the Constitution is said to be **unconstitutional**. Because the Constitution is the nation's highest law, an unconstitutional law or act is illegal and cannot be enforced by the government. (Keep in mind, however, that laws are reviewed only if their constitutionality is in question.)

Judicial review is not specifically mentioned in the Constitution. Section 2 of Article III, however, implies that the courts have such power. The principle of judicial review was firmly established by the Supreme Court in the landmark case *Marbury v. Madison* in 1803.

In 1801 William Marbury and others were appointed to judicial posts by the outgoing president, John Adams. The commissions, or documents, that formally gave them their posts were not delivered before Adams left office, however. Thomas Jefferson, who had defeated Adams in the presidential election, ordered Secretary of State James Madison not to deliver the commissions. Without them, the appointees could not legally take their posts.

Marbury asked the Supreme Court to order Madison to deliver the commissions. Marbury based his case on the Federal Judiciary Act of 1789, part of which stated that cases like his must be taken directly before the Supreme Court. The Court ruled, however, that the Federal Judiciary Act violated the Constitution, which specifically listed the types of cases that the Court could consider without a lower court hearing them first.

Although the ruling meant that the Supreme Court could not force Madison to deliver the commissions, it established the broader power of the courts to decide the constitutionality of congressional actions. This power of judicial review allows the courts to check the power of other branches of government.

## Federalism

The Constitution is designed to protect the rights of the states by establishing a federal system of government. As noted in Chapter 1, a federal system is one in which powers are divided among national, state, and local governments. In the U.S. federalist system, some powers belong to the national government; others to state governments, and still others are shared by both. The way in which the federal system divides powers among the levels of government is more fully explained in Chapter 4.

Although the framers of the Constitution wanted to protect states' rights, they also wanted a national government that had sufficient powers to maintain order and keep the country united. They had learned that a weak government, like the one formed under the Articles of Confederation, could not force states to obey national laws.

Thus, the Constitution specifically prohibits states from exercising certain powers that belong to the national government, such as negotiating treaties, coining money, keeping troops or warships during peacetime, or engaging in war, unless the state is facing imminent danger or invasion. In addition, Article VI of the Constitution states that the power of the national government is superior to that of the state governments. This "supremacy clause" declares that the Constitution—together with U.S. laws passed under the Constitution and treaties made by the national government—is "the supreme law of the land."

### SECTION 1

## REVIEW

1. Define the following terms: popular sovereignty, separation of powers, checks and balances, veto, judicial review, unconstitutional.
2. Name the basic principles on which the U.S. Constitution is based.
3. How do elections ensure popular sovereignty?
4. How does the system of checks and balances limit the power of each branch of government?
5. How did the framers of the Constitution address their concerns about balancing the powers of the state and national governments?

### 6. Thinking and Writing Critically

How do you think the federal government would function if there were no power of judicial review? Do you think that each branch of government could ensure that the other branches always acted constitutionally?

### 7. Applying **PRINCIPLES OF DEMOCRACY**

Think about some of the leaders in your school—student-council officers, team captains, and club presidents. Do any of the principles noted in this chapter, such as popular sovereignty and limited government, apply to these positions? Explain your answer.

## SECTION 2

# AMENDING THE CONSTITUTION

### Political Dictionary



amendment  
repeal  
Bill of Rights

### Objectives

- ★ Why did the framers establish ways to amend the Constitution?
- ★ What are the methods for amending the Constitution?
- ★ What is the purpose of the Bill of Rights?

Imagine a house that was built 200 years ago. Since its construction, the house has been worked on several times. A second story, electricity, and indoor plumbing have been added. The exterior has been painted and repainted, and damaged boards have been replaced. The owners proudly say that they live in a “200-year-old house,” and despite all the changes that have been made to the house, they are right. That same house has provided shelter for 200 years for generations of people.

In many ways the Constitution is like that old house. It has provided shelter for the people of the United States for more than 200 years. Also like the old house, the Constitution has changed during that time.

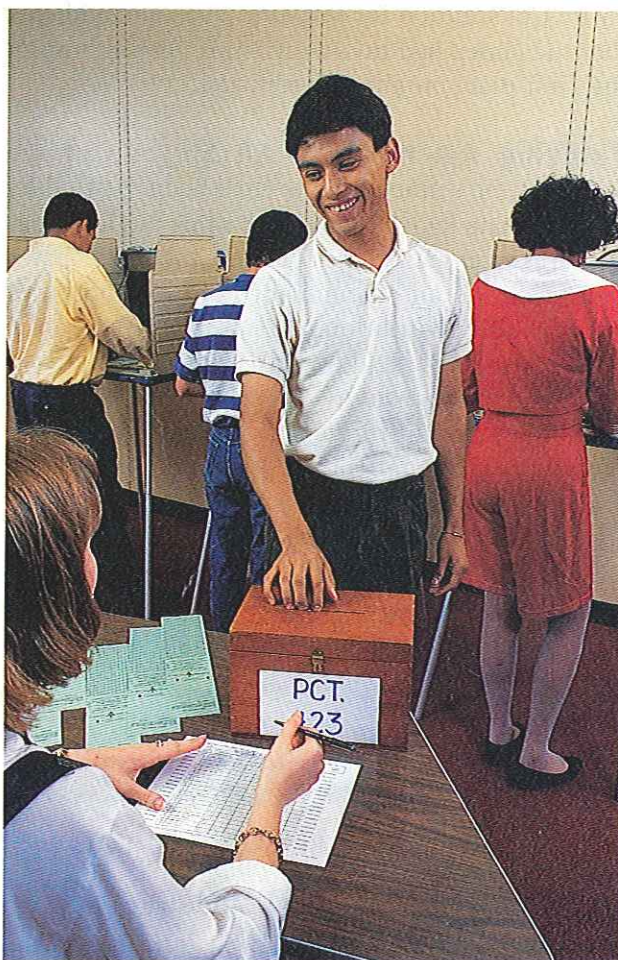
How and why did it change? The framers knew that they could not anticipate what challenges the government and people would face as the United States grew. Thus, just as an architect plans changes and additions to an old house, the framers developed methods for revising the Constitution.

Changes made to the Constitution are called **amendments**. All such amendments must be proposed and ratified through a formal process. The ability to amend the Constitution has allowed the government to meet new needs and challenges.

## Methods of Amending the Constitution

The procedures for amending the U.S. Constitution are found in Article V of the Constitution itself. The basic premise behind these procedures is that amending the Constitution should be more difficult than passing an ordinary law. Passing an ordinary law requires a majority vote, but passing an amendment requires more than a simple majority. By making it difficult to pass a constitutional amendment, the framers helped ensure that amendments would not be frivolous and would not represent only passing interests.

The Constitution sets out two ways to propose an amendment. There also are two ways to ratify a proposed amendment.



**CONSTITUTIONAL GOVERNMENT** *The ratification of the Twenty-sixth Amendment in 1971 lowered the voting age from 21 to 18. How does the Constitution enable the government to meet the changing needs of the people?*

**Proposing Amendments** One way amendments may be proposed is by a vote in Congress. In fact, all amendments to the Constitution so far have been proposed by Congress. At least two thirds of both the House (290 votes) and the Senate (67 votes) must approve an amendment before it can be sent to the states for ratification.

An amendment also may be proposed by a national convention that is called by Congress at the request of at least two thirds (34) of the state legislatures. No convention has ever been called to propose an amendment, however. Many people have pointed to the wording of Article V of the Constitution as one explanation. Article V does not say whether a convention can be limited to proposing only the amendment it was called to consider. As a result, some people have worried that a convention might decide to open up the entire Constitution for revision. Then amendments that the states had no intention of considering in the first place might be proposed.

**Ratifying Amendments** All but one of the Constitution's amendments have been ratified by votes in state legislatures. Under this method, legislatures in at least three fourths (38) of the states must approve an amendment before it becomes part of the Constitution.

The second method for ratifying an amendment requires the approval of special conventions in at least three fourths of the states. The Twenty-first Amendment was ratified in this way. This amendment **repealed**—or reversed by legislative act—the Eighteenth Amendment, which had outlawed the production, transportation, and sale of alcoholic beverages. With its repeal, the Eighteenth Amendment was no longer a formal part of the Constitution.

## CASE STUDY

### The Equal Rights Amendment

**CONSTITUTIONAL GOVERNMENT** The struggle to ratify the Equal Rights Amendment (ERA) is a good example of just how hard it is to amend the Constitution. The ERA aimed to bar discrimination based on a person's sex. Supporters first introduced such an amendment in Congress in 1923. Finally, after increased efforts to win support for



**CONSTITUTIONAL GOVERNMENT** Women in Raleigh, North Carolina, participate in a rally for the ratification of the Equal Rights Amendment. *Why is it important for people to have the freedom to participate in political demonstrations?*

the amendment, the 1972 Congress overwhelmingly voted to send the ERA to the states. However, as with most other amendments, Congress set a deadline for ratification.

In less than a year, 30 states had ratified the ERA. At that point, it appeared that the necessary 38 states would ratify the amendment. The process, however, bogged down soon after that. Opponents criticized the ERA on a number of grounds. Many saw the amendment as an attack on traditional family values. Others believed that the Constitution and the Civil Rights Act of 1964 already guaranteed equal rights for women. (The Civil Rights Act of 1964 is more fully explained in Chapter 13.) Yet others argued that the amendment would mean difficult changes in social standards, such as requiring women to be sent into military combat.

In 1978, to give supporters more time to win approval for the amendment, Congress moved the original deadline for ratification to 1982. This

effort failed, however, as only 35 states had voted to ratify the amendment by that date. In addition, 5 of the 35 states voted to rescind, or take back, their ratification.

## The 27 Amendments

Because of the difficult amendment process, only 27 amendments have been added to the Constitution. The importance of these amendments cannot be overstated. They have protected individual freedoms, expanded voting and other rights, and extended the government's powers.

**Protecting Individual Freedoms** The first 10 amendments, the **Bill of Rights**, were designed as a protection for individual freedoms. (See the chart below.) They were adopted only two years after the Constitution went into effect. As noted in Chapter 2, many states, upon ratifying the Constitution, made strong recommendations that a bill of rights be added.

The Bill of Rights protects citizens' freedom of speech, religion, and assembly, and it guarantees a free press and the rights of people accused of crimes. In addition to protecting individual

freedoms, the Bill of Rights also acknowledges the rights and powers of the states and the people. The Ninth Amendment says that people hold additional rights not specifically mentioned in the Constitution, while the Tenth Amendment says that the states and the people retain all the powers not specifically given to the national government and that the Constitution does not forbid them to have. These amendments were included in the Bill of Rights to ensure that the national government would not unjustly dominate the states and the people.

**Expanding Voting and Other Rights** In the more than 200 years since the Bill of Rights was ratified, other amendments have been adopted in clusters during periods of great social and political change. The Thirteenth, Fourteenth, and Fifteenth Amendments, for example, were adopted just after the Civil War. These amendments banned slavery in the United States, made African Americans U.S. citizens, and gave various rights, including the right to vote, to African American males.

In another era of social change—the first decades of the 1900s—four key amendments were passed. Two of these, the Seventeenth and Nineteenth Amendments, extended the reach of democracy by providing for the popular election of senators and by granting the vote to women.

### Rights and Powers Granted by the Bill of Rights

<b>FIRST AMENDMENT</b>	Provides for freedom of religion, speech, press, and assembly
<b>SECOND AMENDMENT</b>	Asserts the need for a militia and protects the right to keep and bear arms
<b>THIRD AMENDMENT</b>	Prevents soldiers from taking over private homes during peacetime or war unless authorized to do so by law
<b>FOURTH AMENDMENT</b>	Prohibits unreasonable searches and seizures
<b>FIFTH AMENDMENT</b>	Protects the rights of accused persons
<b>SIXTH AMENDMENT</b>	Provides the right to a speedy, fair trial
<b>SEVENTH AMENDMENT</b>	Provides the right to a trial by a jury in civil suits
<b>EIGHTH AMENDMENT</b>	Prohibits excessive bail and fines, prohibits cruel and unusual punishment
<b>NINTH AMENDMENT</b>	Protects people's rights that are not specifically listed in the Constitution
<b>TENTH AMENDMENT</b>	Grants to the states and to the people powers that are not specifically listed in the Constitution

*The Bill of Rights protects the basic freedoms of all U.S. citizens. Which amendments in the Bill of Rights acknowledge the powers of the states?*



# Citizenship in

## Action

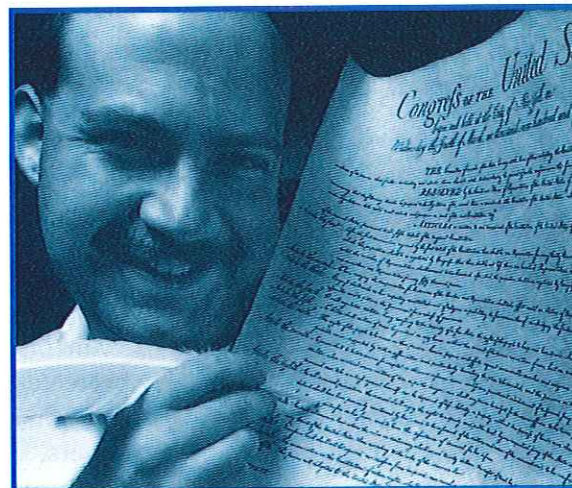
### Passing the Twenty-Seventh Amendment

Texan Gregory Watson accomplished what framer James Madison could not more than 200 years earlier. Largely because of Watson's efforts, the Twenty-seventh Amendment to the Constitution became law in May 1992. According to the amendment, "No law varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened." In other words, Congress cannot give itself a pay raise in the middle of a term of office.

The amendment was introduced originally by James Madison in 1789 as part of a package of 12 amendments, 10 of which became the Bill of Rights. Maryland was the first state to ratify the amendment in 1789, and five other states soon followed. The amendment failed to be ratified by three fourths of the states, however. Because the amendment was sent to the states without a deadline, it was still considered "proposed" even though it had never been approved.

Watson believed that the passage of two centuries had not "robbed the amendment of its relevance." In 1982, when he was a student at the University of Texas in Austin, he launched a decade-long battle to ratify the dusty amendment. The project started out as a term paper and evolved into a one-man campaign.

Watson's battle began after he received a C on a research paper in which he argued in favor of ratifying the proposal that had become known as the "Madison amendment." His skeptical professor called the proposed amendment a "legal dead letter." Convinced of the amendment's timeliness despite the passage of nearly two



*Gregory Watson successfully campaigned for the ratification of the Twenty-seventh Amendment, which restricts the power of Congress to give itself a midterm pay raise.*

centuries, Watson began his relentless quest to "show the American people what can be done if they just put forth a little elbow grease." Most of Watson's "elbow grease" was in the form of mail—letter after letter to legislators in the states that had not yet passed the proposed amendment.

Watson's efforts increased in 1991, when controversy arose after the U.S. Senate voted to give itself a "midnight pay raise." As many citizens shook their heads and pointed fingers at what they perceived as the greed of lawmakers, Watson became convinced that ratification of the Twenty-seventh Amendment was near.

Watson's efforts paid off on May 7, 1992, when Michigan became the thirty-eighth state—the final state needed—to pass Madison's centuries-old amendment. Justifiably proud to call his mission a success and no doubt wiser about the workings of the U.S. government, Watson stated, "You can wield (exercise) a great deal of power, and one person can still make a difference in this country."

#### What Do You Think?

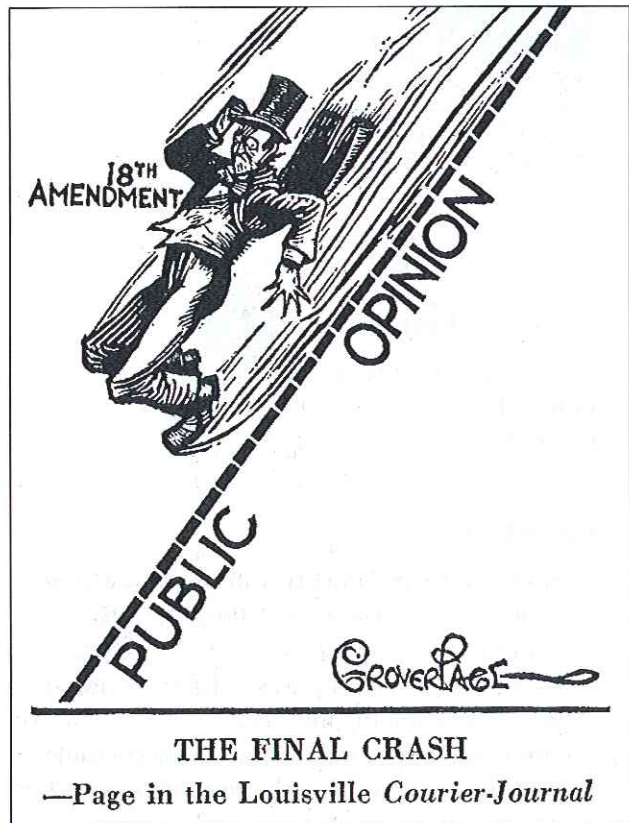


1. Why was this amendment still relevant after more than 200 years?
2. Have you ever thought of campaigning for a change in your student or local government? What are some ways you can express your opinions about government?

Before passage of the Seventeenth Amendment, state legislatures chose senators. Women did not have the right to vote in every state until the passage of the Nineteenth Amendment.

**Extending Government Powers** Two other important amendments were passed during the early 1900s, both of which expanded the reach of the government. First, the Sixteenth Amendment authorized a national income tax. This tax increased the amount of money the government could collect to pay for its programs and to pay other national expenses. Then the Eighteenth Amendment made Prohibition the law of the land. This amendment expanded the national government's powers by allowing it to regulate the manufacture, sale, and transportation of "intoxicating liquors" throughout the country.

**Ratification Deadlines** The last amendment to the Constitution, the Twenty-seventh, was ratified by the states in 1992. (See "Citizenship in Action" on page 54.) This amendment, which was originally proposed in 1789, says that no vote to increase congressmembers' salaries may take effect until after the next regularly scheduled congressional election. The 1789 Congress had not set a deadline for ratification. Almost 200 years later, efforts were made to revive the amendment. Some people argued that the process of ratifying the Twenty-seventh Amendment had already taken too long. Since 1919, Congress usually has set deadlines—generally around seven years—for





**CONSTITUTIONAL GOVERNMENT** This historical cartoon depicts public reaction to the Eighteenth Amendment. According to the cartoonist, what was the response to the amendment establishing Prohibition?

ratifying amendments. Nonetheless, supporters of the Twenty-seventh Amendment were able to secure its ratification.

**SECTION 2** — **REVIEW**

1. Define the following terms: amendment, repeal, Bill of Rights.
2. Why is it important to be able to make changes to the U.S. Constitution?
3. Describe the methods for proposing and ratifying constitutional amendments. What do some people think might happen if a special convention were called to propose an amendment?
4. What is the purpose of the Bill of Rights? Why did its supporters consider it to be important?

**5. Thinking and Writing Critically**  What might have been the consequences for the nation if the framers had not established ways to amend the Constitution? Provide some specific examples of what might have happened over time.

**6. Applying CONSTITUTIONAL GOVERNMENT**  Conduct an Internet search to find out about other amendments that have been proposed but never ratified. Select one of these amendments and write a short report on it.

## SECTION 3

# A FLEXIBLE DOCUMENT

### Political Dictionary

executive agreement  
political party  
cabinet



### Objectives

- ★ How does the Constitution give the three branches of government flexibility in using their powers?
- ★ How have political parties changed the way government operates?
- ★ How does the Constitution allow custom and tradition to help shape government?

The Constitution has been called a “living document,” which means that it is flexible and allows government to adapt to changing times. One way it does this, as noted in Section 2, is through the amendment process. The Constitution, however, also has allowed government to change in less formal ways. Government actions, political parties, and custom and tradition all have helped shape government under the Constitution.

## Government Actions

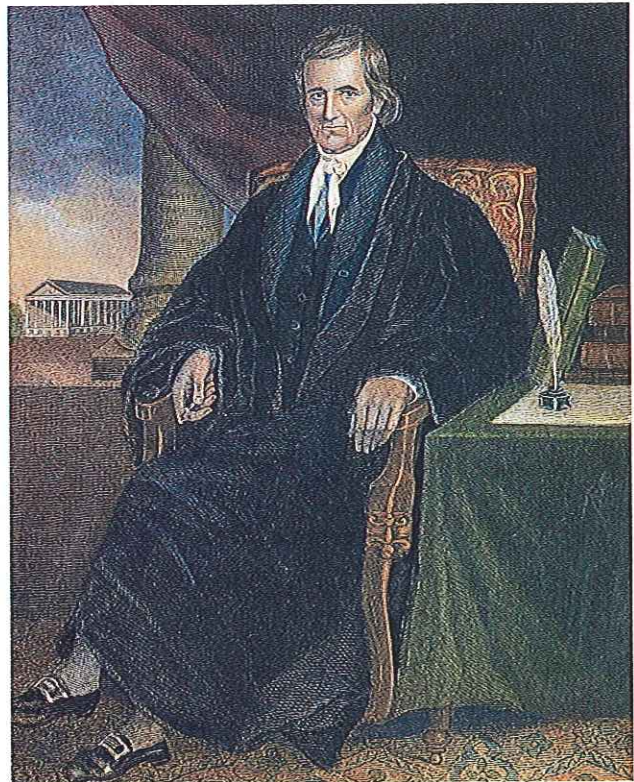
The judicial, legislative, and executive branches have interpreted their constitutional powers many times. This process has allowed the government to meet new circumstances.

**Court Decisions** As noted in Section 1, the 1803 Supreme Court case of *Marbury v. Madison* established the federal courts’ power to determine if a law or other government action is constitutional. Because the wording is vague in some places, the courts have been able to apply the Constitution to circumstances that the eighteenth-century framers could not have anticipated.

For example, the Fourth Amendment forbids “unreasonable searches and seizures.” The authors of the amendment probably never imagined how new technologies, such as telephones, might change the concepts of “searching” and “seizing.” Yet the courts have interpreted the amendment to include these new technologies. For example, they have been able to forbid law enforcement officials from recording private telephone conversations—a form of searching and seizing—without following certain procedures set by law.

**Congressional Legislation** Like the judicial branch, Congress has a great deal of flexibility in adapting to changing times. It decides how best to carry out its responsibilities and passes legislation that responds to new situations. To do this, Congress has created structures and taken on duties that are allowed by—but not specifically mentioned in—the Constitution.

For example, Section 1 of Article III gives Congress the power to establish federal courts



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**CONSTITUTIONAL GOVERNMENT** John Marshall, the third chief justice of the United States, established the Supreme Court’s power of judicial review. *When and in what Supreme Court case was judicial review established?*

# Careers in Government



## Archivist

Perhaps you are one of the more than 1 million people who visited the National Archives in Washington, D.C., last year. The original copies of the Declaration of Independence, the U.S. Constitution, and the Bill of Rights are permanently displayed in this building, the country's storehouse for valuable historical documents.

Who is in charge of repairing, preserving, and overseeing these historical documents and other important public records? This is the job of an archivist. Archivists analyze documents, direct efforts to catalog them, and often educate researchers and government agencies about the documents, their histories, and the time periods in which they were created.

Behind the scenes at the National Archives, for example, archivists oversee the safekeeping, preservation, and display of treasured U.S. artifacts. Permanently sealed in airtight bronze-and-glass cases, the Declaration of Independence, the Constitution, and the Bill of Rights are protected



Archivists at the Library of Congress examine a manuscript to determine its condition.

from curious onlookers as well as exposure to pollutants and other damaging elements. Each night, the entire display is lowered into a "fire-proof, shockproof, and bombproof" vault 22 feet beneath the floor of the exhibition hall. A special archivist, called a preservationist, gauges the documents' deterioration, or decay, with the aid of a sophisticated camera and computers.

Archivists also help make thousands of government and historical documents available to the public by compiling reference information in the form of indexes, guides, bibliographies, and microfilmed documents. Administrative duties such as preparing budgets, attending scientific and association conferences, and taking care of fund-raising activities often are part of the job as well. Because the job entails extensive research and preparation of reference materials, most archivists spend much of their time working alone with little supervision. An enthusiasm for their work, however, helps prevent most archivists from being bothered by this isolation.

A career as an archivist usually requires some experience working in a museum or library, as well as a master's degree in history or a related field. Many archivists also have an additional degree in library science.

Many people compete for archivist jobs. Numerous volunteer opportunities are available to people interested in learning more about a career in this field. A part-time or volunteer position at a local library can provide valuable experience. Museums and cultural groups in your community may train volunteers to give guided tours for their organizations. Studying history and literature is also an excellent way to prepare for a career as an archivist.

below the Supreme Court. The Constitution does not specifically say how those courts should be structured. Rather, it gives Congress the flexibility to carry out this responsibility as needed over time. In fact, as the country has grown, Congress has passed legislation expanding and changing the system of lower-level federal courts to help the court system adapt to the new needs of the population.

Congress, like the courts, also interprets vague wording in the Constitution. For example, as labor issues have become increasingly important, Congress has passed laws concerning working conditions. These laws have included workplace safety rules and minimum wages that employers must pay workers. The power to pass such laws is not specifically mentioned in the Constitution.

Because the products that workers make often travel across state lines, however, Congress has interpreted its constitutional power to control commerce among the states to include the authority to pass laws concerning working conditions.

**Executive Actions** The Constitution also gives the executive branch flexibility in interpreting its powers to take action. One example is the president's power to make **executive agreements**—arrangements that presidents establish with foreign governments and, unlike formal treaties, do not require Senate approval. This power has grown in ways not specifically mentioned in the Constitution.

At times, executive agreements have helped the government meet challenges that might have been more difficult to address using formal constitutional processes. In 1940, for example, President Franklin Roosevelt made an executive agreement with Great Britain to exchange old U.S. warships for the right to use British naval bases in and near North America. Roosevelt made the executive agreement because he feared that a formal treaty approving the same action would take too long. The agreement helped the United States react quickly to the challenge of improving its

defense—while also helping a friend, Great Britain—during World War II.

## Political Parties

Just as it does not specifically state every possible power and action of the three branches, the Constitution does not try to outline every detail of how the government should be run on a day-to-day basis. This flexibility allows officials to reorganize government to meet new challenges or react to new situations.

For example, political parties have long been an important part of U.S. elections even though they are not mentioned in the Constitution. A **political party** is an organized group that seeks to win elections and influence the activities of government. Many of the framers wanted to discourage political parties, fearing that they would divide rather than unite the nation. As is more fully explained in Chapter 18, however, political parties have played important roles in electing presidents and other government officials and in organizing the day-to-day operation of Congress. The Constitution's flexibility allowed the political system to develop in this manner.



**CONSTITUTIONAL GOVERNMENT** President Bill Clinton and Israeli prime minister Shimon Peres signed an antiterrorism agreement on April 30, 1996. Why is it important for the president to have the power to make executive agreements?

## Custom and Tradition

Finally, the Constitution allows custom and tradition to help shape government. Customs and traditions are informal, long-established ways of doing things. They are not mentioned in the Constitution, but customs and traditions strongly influence how government carries out its functions.

For example, even though the Constitution does not provide for a formal body of leaders in the executive branch, President George Washington brought the heads of the executive departments together to act as his advisers. This group of department heads is called the **cabinet**. Cabinet meetings have since become an important



**POLITICAL PROCESSES** *Franklin D. Roosevelt speaks to a crowd at a Bridgeport, Connecticut, train station while campaigning for a fourth term as president. Which amendment limits the number of terms a president can serve today?*

part of the federal government, with every president having had a cabinet to help accomplish the work of the executive branch.

Sometimes custom and tradition can bring pressure to make formal changes to the Constitution. For example, for more than 150 years no president served more than two terms in office. This custom dated back to George Washington, who did not seek re-election at the end of his second term in 1796. Franklin Roosevelt, however, was re-elected to a third presidential term in 1940 and a fourth in 1944. Many people opposed the idea of one person serving as president for so long. As a

result, Congress passed the Twenty-second Amendment, which limited presidents to two terms and thus formalized the custom that began with Washington. The amendment states that


“No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once.”


### SECTION 3

## REVIEW

1. Define the following terms: executive agreement, political party, cabinet.
2. How does the Constitution's wording allow the three branches of government to adapt to new circumstances? Why is it important that government be able to adapt in this way?
3. Why did many of the Constitution's framers fear political parties? How do political parties reflect the Constitution's flexibility regarding the organization of government?

4. How have custom and tradition affected how government functions?

5. **Thinking and Writing Critically**  What are some customs and traditions in your school? Why do schools maintain them?

6. **Applying** **CONSTITUTIONAL GOVERNMENT**  Conduct an Internet search to find the current members of the president's cabinet. Make a list of all the cabinet members and their titles.

## SECTION 4

# THE CONSTITUTION AND THE PUBLIC GOOD

### Political Dictionary



faction

### Objectives

- ★ In what ways does the Constitution prevent factions from controlling the government?
- ★ How does the Constitution ensure that government makes laws that promote the public good?
- ★ Why do critics claim that the Constitution sometimes makes government less effective?

At the time of the Constitutional Convention, many delegates, such as James Madison, worried about whether popular government would be able to control the interests of **factions**—groups of people usually motivated by self-interest. A faction can consist of either a minority or a majority of the population. Majority factions, Madison argued, were more dangerous than minority factions. In a republican government, a minority faction can easily be defeated by a majority. A self-interested majority, however, can threaten the public good because a government that is run by such a group cannot be easily defeated.

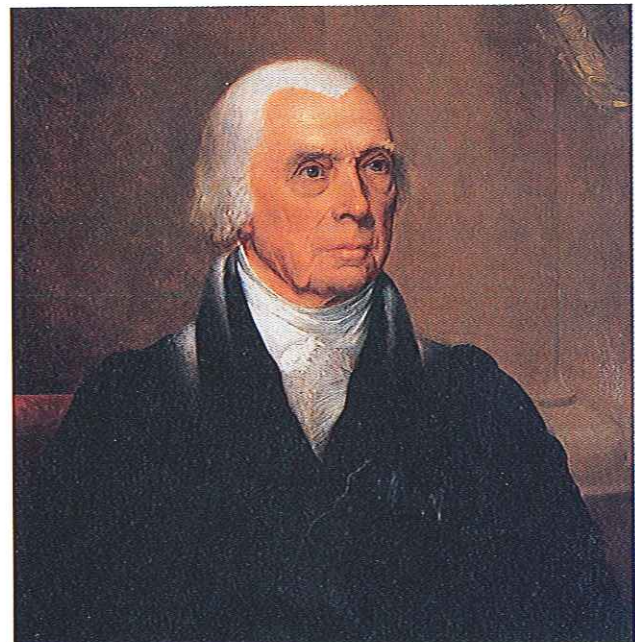
Despite his concerns, Madison believed that the U.S. republic created by the Constitution could resist control by such a faction. At the same time, he argued that the Constitution provides a way to make sure that the government has sufficient authority to rule effectively and that it enacts policies that promote the public good. Was Madison right? This section explores how well the Constitution has accomplished these goals and how effective the U.S. government has been under the Constitution.

## Preventing Control by Factions

Madison argued that the Constitution prevents control by factions in two ways. It takes advantage of the large size of the United States and it uses a system of checks and balances.

**Size** Madison was familiar with the arguments of his day that small republics were more likely to last than large republics. The citizens of small republics, it was argued, would be more likely to share interests, desires, and beliefs. Large republics, on the other hand, would have too many competing interests. Their governments would become arenas in which these interests would battle for control. The result would be tyranny by any faction that won control of government.

Madison, on the other hand, believed that having so many interests in a large republic like the United States was an *advantage*. The Constitution, with the rights and freedoms it promises, ensures that all interests have an equal chance to be represented. Madison said that with such a large number of interests competing for power, forming a faction that could completely dominate government would be difficult. In other words, a faction



*James Madison believed that the large size of the United States would give all interests an equal chance to be represented. Why did Madison believe that majority factions were more dangerous than minority factions?*

that did not consider other groups' interests would be unlikely to control government.

**Checks and Balances** Madison also argued that the Constitution prevents control by factions through a system of checks and balances. As noted in Section 1, the Constitution provides each of the branches of government with ways to check the powers of the other branches. The checks and balances system gives each branch of government what Alexander Hamilton called “constitutional arms for its own defense” against the other branches.

The framers of the Constitution believed that each branch would use its powers to check the interests of those heading the other branches. If a faction took control of one of the branches of government, for example, its power could be limited by the other branches.

## Enacting Good Policies

According to Madison, the Constitution does more than just keep factions from using government for selfish, narrow interests. He also believed that the Constitution formed a republic in which it is *likely* that government will pass laws that serve the broader interests of society, or the public good.

Madison again based his beliefs on the large size of the United States. Because power under the Constitution lies with U.S. citizens, he argued that the government must pursue policies that address the interests of many people. Policies that serve only narrow, selfish interests—or that do not promote the public good—cannot win majority support in a large republic with many interests. Policies based on the principles of “justice and the general good,” however, are more likely to gain enough support to become law.

You can see Madison's ideas at work in your own community. Community debates over such issues as building a new convention center often revolve around how the community as a whole will benefit. Supporters of a new convention center might say that visitors to the center will spend money in the local community, thereby generating more tax revenue. If enough voters believe this argument and value the services that tax revenue helps provide, the convention center proposal will likely win majority approval. In contrast, a proposal that benefits only the narrow interests of one group, such as local construction companies, probably would not.



**POLITICAL PROCESSES** Citizens protest a government shutdown caused by political gridlock during the preparation of the federal budget in 1995 and 1996. The shutdown led to the temporary closing of many federal buildings. Do you think that the Constitution's design promotes gridlock? Explain your answer.

## Effective Government

More than 200 years have passed since Madison made his arguments that the Constitution would help government promote the public good. Has the government fulfilled Madison's hopes?

The fact that representative government in the United States has thrived for more than two centuries is evidence that the Constitution has worked well. It has proved successful in protecting the individual rights of U.S. citizens. Although the country still faces many challenges, it has grown stronger and more prosperous.

Some critics, however, charge that the Constitution sometimes makes it difficult for government to promote the public good and function effectively. They argue that forming a majority from among the republic's many diverse opinions in pursuit of *any* policy, even a policy that promotes the public good, is too difficult. Even when such a majority exists, the Constitution limits the majority's ability to work effectively. These critics point to two major problems that can make effective government difficult under the Constitution: gridlock and avoiding responsibility.

**Gridlock** Some people believe that the Constitution's design promotes gridlock, a term that usually refers to a traffic jam in which cars



and other vehicles cannot move. Political gridlock occurs when the legislative process comes to a standstill because political opponents block each other's efforts.

In 1995 and 1996, for example, a Republican-led Congress and Democratic president Bill Clinton hit gridlock over the federal budget. They disagreed over tax cuts, how and when to balance the federal budget, and the funding of programs for health, education, and the environment.

After weeks of debate over the budget, Congress and the president still could not resolve their differences. Eventually, lacking funds ordinarily provided by the budget, the federal government partially shut down twice, for a total of 27 days. Thousands of federal workers—770,000 during the first shutdown and 280,000 during the second—were told not to report to work. Many people around the country began to question the government's ability to keep the nation running smoothly. They criticized both the president and Congress, saying that their disagreements should not have led to a paralysis of the government.

**Avoiding Responsibility** Other critics say that the Constitution makes it too easy for government leaders to avoid responsibility for failed policies and other problems. In a democracy, elected officials should be held responsible for how effective they have been during their term in office. In a system with checks and balances, however, voters often cannot decide whom to hold responsible. Because of this, one branch of government at times blames another for inaction or the wrong action.

Think about the debate over federal spending. Many people believe the federal government spends too much money or spends it the wrong way. Whom should they hold responsible for that spending? The Constitution gives Congress the responsibility of passing laws that provide funds for federal government projects. But a president may sign or veto such laws. So both Congress and the president are responsible to varying degrees for how much money the government spends, and for what purpose. This shared responsibility makes it hard to pinpoint where the blame for excessive or unnecessary spending rests and what action should be taken to avoid similar problems in the future.

Avoiding responsibility can make government less effective. Rather than make difficult but needed spending cuts, for example, some leaders might prefer to blame others for government's failure to bring spending under control. Voters, however, have the power to question the actions of their elected officials. If the president argues that Congress spends too much money or spends it irresponsibly, or if Congress charges that the president has created costly and unnecessary programs, voters can ask each side to explain why it did not take steps to block the other's actions.

After examining the issue, voters may determine that neither the president nor members of Congress are acting responsibly. The voters then can elect other people whom they believe will act more responsibly. In the end, it is the citizens in a democracy who must decide whether the government they have chosen is serving the public good and then take action accordingly.

## SECTION 4

## REVIEW

1. Define the following term: faction.
2. Why did James Madison believe the Constitution would prevent government from being controlled by factions?
3. How does the Constitution take advantage of the large size of the United States to help government promote the public good?
4. How does gridlock make government less effective? How can leaders use the system of checks and balances to try to avoid taking action?

### 5. Thinking and Writing Critically

Staying informed is an important part of holding leaders responsible for how well government works. How can citizens stay informed of their leaders' actions?

### 6. Applying PRINCIPLES OF DEMOCRACY

Why might it be important for all interests to have an equal chance to be represented in government? Do you think that the diversity of interests in the United States makes the government less efficient? Explain your answer.

## SECTION 1

The framers designed the Constitution based on five principles: popular sovereignty, limited government, separation of powers, checks and balances, and federalism. Popular sovereignty means that the government's authority comes from the people. This principle can be found throughout the U.S. Constitution. The Constitution also provides for limited government by establishing guidelines for how government may act.

The Constitution divides government among three branches, thus establishing a separation of powers. The powers of these branches are listed in the first three articles of the Constitution. Dividing power among the branches also establishes a system of checks and balances, which gives each branch the authority to check, or restrain, the powers of the others. Finally, the rights of the states are protected through a federal system in which powers are divided among national, state, and local governments.

## SECTION 2

The framers also created means by which the Constitution could be amended. There are two ways to propose an amendment. The first way is by a vote in Congress. The second is by a national convention that is called by Congress at the request of at least two thirds of the state legislatures, a method that has never been used.

There are also two ways to ratify amendments to the Constitution. The first is through a vote of the state legislatures. At least three fourths of the states must approve an amendment before it becomes part of the Constitution. The second method requires approval of special conventions in at least three fourths of the states.

Amending the Constitution is difficult, which has helped limit the number of constitutional amendments to just 27. The first 10 amendments, called the Bill of Rights, protect individual liberties as well as the powers of the states. Later amendments extended voting and other rights and the government's powers.

## SECTION 3

Because it is a flexible document, the Constitution allows government to adapt to new circumstances. Under the Constitution, government actions, political parties, and custom and tradition have all helped government adapt to changing times. Government actions include court decisions, congressional legislation, and executive actions. Political parties play an important role in elections and in organizing the daily operations of Congress. Tradition and custom—long-established ways of doing things—strongly influence how government carries out its functions.

## SECTION 4

The framers created a constitution that prevents factions from taking control of the government. They did this by establishing a system of checks and balances and by taking advantage of the great diversity of interests in the large U.S. republic. This great diversity of interests also helps government choose policies that promote the public good. Policies that serve only narrow, selfish interests are unlikely to gain majority support among so many competing interests. Although the Constitution may make government less effective at times, the freedoms and rights it guarantees ensure that government ultimately serves the public good.



## Government Notebook

Review what you wrote in your Government Notebook at the beginning of the chapter about why you think the plan of government provided by the Constitution has been successful for more than 200 years. Now that you have finished studying this chapter, how would you revise your answer? Record your response in your Notebook.

# REVIEW

## REVIEWING CONCEPTS

1. Why is the Constitution called a "living document"? How can the Constitution be amended? *part of it*
2. In what ways does the Constitution reflect the principles of popular sovereignty and limited government?
3. How does the Bill of Rights work to protect individual rights?
4. Why has the Constitution been amended only 27 times in more than 200 years?
5. Why did James Madison believe that the U.S. republic's large size would help government serve the public good?
6. How does the system of checks and balances help prevent one branch of government from becoming too powerful? In what ways does the system contribute to government that serves the public good?
7. What is the "supremacy clause"? How is it related to the principle of federalism?

## THINKING AND WRITING CRITICALLY



1. **CONSTITUTIONAL GOVERNMENT** Imagine that there is a national debate in which some people would like to eliminate the system of checks and balances in order to make the U.S. government more efficient. Write a letter to the editor of your school newspaper explaining what might happen if the system were eliminated and why doing so would be harmful for the United States.
2. **CONSTITUTIONAL GOVERNMENT** How does the Constitution affect your life today? How might the way you live your life change if,

for example, there were no freedom of speech or religion?

3. **PRINCIPLES OF DEMOCRACY** Do you think that political parties are an important part of a democratic government? Do you think that political parties divide the nation, as the framers feared they might? Explain your answer.
4. **PUBLIC GOOD** How do you think the president's power to appoint federal judges promotes the public good? Do you think the interests of the people would be better protected if all government officials were elected? Explain your answer.

## CITIZENSHIP IN YOUR COMMUNITY



Working with a group, research the customs and traditions in your community. Then create a brochure describing these customs and traditions for visitors to your community. The brochure should include the customs and traditions of particular neighborhoods, churches, and community groups, as well as the purposes of the customs and traditions it describes. Be sure to illustrate your brochure with pictures and other images.

## COOPERATIVE PORTFOLIO PROJECT



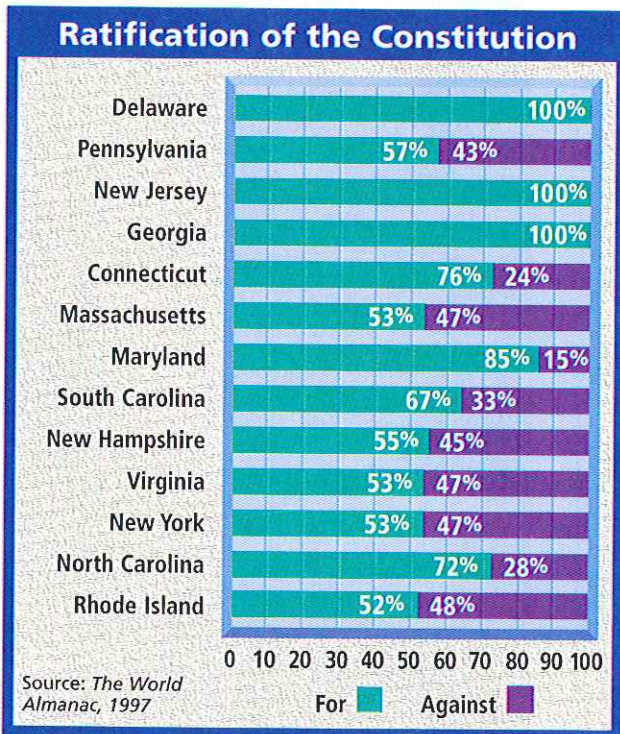
With a group, create a handbook for student-government officers at your school. Include a description of the responsibilities and powers of each office. Make a list of the annual events and activities at your school, and indicate which grade (9, 10, 11, or 12) will be responsible for each event. Your handbook should be clearly written and easy to follow. You may want to include photographs of your student government at work.

## PRACTICING SKILLS: UNDERSTANDING CHARTS AND GRAPHS



The bar graph below contains information on the votes cast by each state legislature for the ratification of the U.S. Constitution. Study the graph and answer the following questions.

1. Which states unanimously ratified the Constitution?
2. Which states accepted the Constitution by less than 60 percent? What issues do you think caused the lack of support in these states?
3. Which states ratified the Constitution by more than 70 percent?



## THE INTERNET: LEARNING ONLINE



Conduct an Internet search for Web sites containing information about the Constitution and constitutional issues. You might start with search words such as *constitution*, *amendment*, and *bill of rights*. Then work with a group to outline how you might create a Web site other students could use to learn more about the Constitution. What information and images would you include in your Web site? What links to other Web sites would you include?

## ANALYZING PRIMARY SOURCES



### MARBURY V. MADISON

The 1803 Supreme Court case *Marbury v. Madison* established the principle of judicial review. Read the following excerpt from the Court's majority opinion—which was written by Chief Justice John Marshall—and answer the questions that follow.

“The powers of the legislature are defined and limited; and that those limits may not be mistaken or forgotten, the Constitution is written. To what purpose are powers limited, and to what purpose is that limitation committed to writing, if these limits may, at any time, be passed by those intended to be restrained? The distinction between a government with limited and unlimited powers is abolished if those limits do not confine the persons on whom they are imposed. . . . It is a proposition too plain to be contested [opposed] that the Constitution controls any legislative act repugnant [disagreeable] to it. . . .

It is, emphatically [definitely], the province and duty of the Judicial Department to say what the law is. . . . If two laws conflict with each other, the courts must decide on the operation of each. So if a law be in opposition to the Constitution, if both the law and the Constitution apply to a particular case, so that the court must either decide that case conformably to [in agreement with] the law, disregarding the Constitution, or conformably to the Constitution, disregarding the law, the court must determine which of these conflicting rules governs the case.”

1. What would be “abolished” if the limits of the Constitution did not restrict officials?
2. Why is the judicial branch responsible for resolving conflicts between laws?
3. Do you think that the principle of judicial review established by *Marbury v. Madison* protects the public good? Why or why not?