

HSLDA'S GENERATION JOSHUA

Chapter 1 AMERICA'S FOUNDATIONS



When the United States broke away from Great Britain and formed its own government, our country was unique among nations. This chapter will introduce you to the purpose of government and the most common types of governmental structures, giving you a basis for understanding how and why the founders of America crafted our government the way they did. Then the intentionality behind our governing documents should become astonishingly clear.

SECTION 1.1 AN INTRODUCTION TO GOVERNMENT

For the purposes of this course, we define **government** as an institution or political body that has the power to make and enforce laws over a certain group of people, territory, or collection of property. It places certain limits on man's actions for the sake of everyone's well-being, rewarding those who do good and punishing those who do wrong.

WHY DOES MAN NEED GOVERNMENT?

Before we can examine the specifics of how government works, we must first understand government's purpose. Think back to when you were younger, and wanted to do something your parents would not allow you to do. Did you ever wonder why you couldn't just do as you pleased? Why couldn't you be your own boss? These questions—although they may sound silly to you now—actually get at the heart of our study of civics and patriotism. What is the purpose of government? Why does man need government anyway?

Man needs government because he is sinful. Jeremiah 17:9 says, “The heart is deceitful above all things, and desperately sick; who can understand it?” Romans 3:23 states, “For all have sinned and fall short of the glory of God.” Romans 3:10–12,18 observes, “None is righteous, no, not one; no one understands; no one seeks for God. All have turned aside; together they have become worthless; no one does good, not even one . . . There is no fear of God before their eyes.”

Because man is born with a sin nature (a result of the fall described in Genesis 3), he tends toward sinful actions, thoughts, and attitudes. Without limits or rules, each person chooses to act in his self-interest, at the expense or to the harm of others.

God has not left man to himself, however. He has placed a conscience within the heart of every person to provide internal boundaries, guiding a person in knowing what is right and wrong. He also established authority structures (or institutions) to provide man with external boundaries. The civil authority for a **society**—an organized group of individuals living within particular geographic boundaries—is a government.

Typically, governments are established for three main reasons: (1) order, (2) protection, and (3) the promotion of happiness, peace, and prosperity. When governments function properly, they ensure that those who do wrong are punished and those who do right are protected. A government becomes unhealthy and unjust if these objectives are unbalanced, overemphasizing only one of the goals to the detriment of the other two, or if the objectives are applied only to the person or people in power. A just government has its foundation objectives in proper ratio and serves to protect and benefit the people rather than its leadership.

Regardless of how a government treats its citizens, the Bible gives Christians instructions as to how they should live under their governing authority as God has set up government to ultimately benefit people by protecting what is good and punishing what is bad. Paul writes in Romans 13:1–7:

Let every person be subject to the governing authorities. For there is no authority except from God, and those that exist have been instituted by God. Therefore whoever resists the authorities resists what God has appointed, and those who resist will incur judgment. For rulers are not a terror to good conduct, but to bad. Would you have no fear of the one who is in authority? Then do what is good, and you will receive his approval, for he is God’s servant for your good. But if you do wrong, be afraid, for he does not bear the

sword in vain. For he is the servant of God, an avenger who carries out God’s wrath on the wrongdoer. Therefore one must be in subjection, not only to avoid God’s wrath but also for the sake of conscience. For because of this you also pay taxes, for the authorities are ministers of God, attending to this very thing. Pay to all what is owed to them: taxes to whom taxes are owed, revenue to whom revenue is owed, respect to whom respect is owed, honor to whom honor is owed.

First Peter 2:13–17 echoes these themes of living with respect and obedience toward the government, but with the view that in doing so we’ll silence ignorant speech.

Be subject for the Lord’s sake to every human institution, whether it be to the emperor as supreme, or to governors as sent by him to punish those who do evil and to praise those who do good. For this is the will of God, that by doing good you should put to silence the ignorance of foolish people. Live as people who are free, not using your freedom as a cover-up for evil, but living as servants of God. Honor everyone. Love the brotherhood. Fear God. Honor the emperor.

Finally, we should not fear the outcome of living under rulers who do not follow the ways of God because “The king’s heart is a stream of water in the hand of the LORD; He turns it wherever He will” (Proverbs 21:1). With God, ultimate justice unites with ultimate love so that “for those who love God all things work together for good.” (Romans 8:28)

THEORIES OF GOVERNMENT

James Madison wisely observed, “If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary” (*The Federalist* 51). Unfortunately, men are *not* angels, and government is necessary. No man is perfect, and therefore no government will ever be perfect because it is made up of sinful men. Through the centuries, many different types of government have been developed to maintain the order and prosperity of a nation. These governments usually fall into four categories of governmental theory.

A person’s theory of government does not usually fit neatly into one category, but may be influenced by multiple categories. What you believe about government—why it exists and what areas of life it should or should not be involved in—is very important because it informs your understanding of how government should be structured and what forms of governmental power are legitimate.

The box below provides a description of the three common theories of governance.

THEORIES OF GOVERNMENT

Order and Tradition

An ancient and long-standing view of why we need government is that it promotes order so that people can live happily without fear. Traditionalists argue that government is necessary for establishing laws, punishing evil, promoting virtue, respecting tradition, and ending the chaos that would result from anarchy. Those who hold this theory usually see the power of government stemming from a higher power, such as God or a king, and believe that men have a duty to obey that authority.

Natural Rights

The governments of America and many European countries are founded at least in part on the idea of natural rights—meaning that man is born with certain inherent rights, and the purpose of government is to protect these rights. People who hold this theory disagree about why people have these rights in the first place. There is also disagreement about what may be considered a natural right (privacy? life? property? health care? education? etc.).

Social Contract

The social contract theory, made influential by philosophers John Locke and Thomas Hobbes, holds that people originally lived in a state of freedom in which each man was responsible for himself. Man created government in order to provide for needs that he could not fulfill himself (for example, an individual needs protection from enemies, but cannot wage war against a group of invaders all by himself). In exchange for the order and protection that government provides, people agree to obey the government's authority.

STRUCTURES OF GOVERNMENT

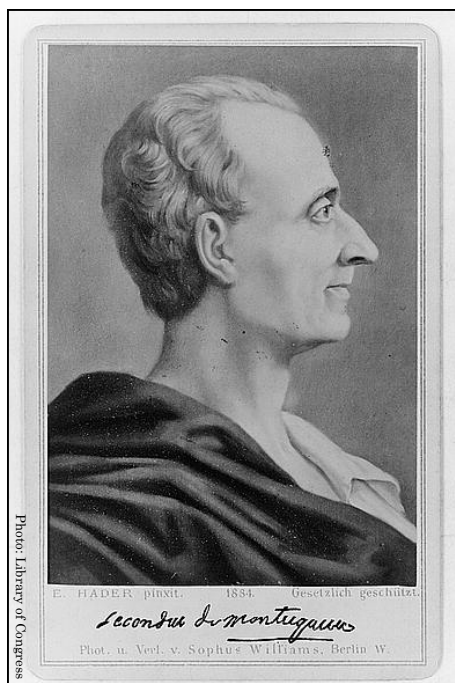
In government, theory and practice differ widely. Just as there are many theories of why we need government, there are different ideas on how government should be structured. This is how you can have governments formed on a similar premise that function very

differently—it’s because the two governments have different structures.

The study of different structures of government is known as **comparative politics**. Comparative politics contrasts government systems using statistics and case studies in order to arrive at conclusions about government.

Many political thinkers have written on this subject; among these are the ancient philosopher Aristotle (*The Politics*) and the more modern French thinkers Charles Montesquieu (*The Spirit of the Laws*) and Alexis de Tocqueville (*Democracy in America*). Aristotle came up with six types of government—three good and three bad. Montesquieu attempted to simplify classifications of government by breaking them down into three groups, and then used the theory of separation of powers to describe how the French government was then administered. Only a hundred years after Montesquieu, Tocqueville took an in-depth look at how democracy works in America and compared it to other government systems.

GOVERNMENTS CLASSIFIED



Charles Montesquieu

One of the early philosophers of modern political theory was Montesquieu (1689–1755), a French political thinker who is remembered for his explanation of the theory of *separation of powers*, which he described in his book *The Spirit of the Laws*. Montesquieu separated government into three branches of administrative power (executive, judicial, and legislative). He was also among the first of the early political thinkers to classify government structures into groups. He separated governments into three groups: republics (based on virtue), monarchies (based on honor), and despotisms (based on fear). Naturally, governments appear in different combinations of these forms. In the next few sections you will be introduced to the unique form of the American government, a constitutional republic.

Drawing from the writings of Montesquieu, we’ve listed five classic forms of government in a box on the next page.

CLASSIFICATIONS OF GOVERNMENT

Theocracy

A theocracy is a government under the direct rule of God. Ancient Israel is considered to have been a theocracy during the period of time after leaving Egypt and before crowning Saul as king.

Autocracy

One of oldest and most common forms of government, autocracy is a system in which all the political power belongs to one person. Most autocrats either inherit their position or seize power through a military takeover. A common form of autocracy is a monarchy, in which a king or emperor possesses all authority to rule, and passes on his title and power to his heir.

Democracy

Coined by the Greeks and meaning “government by the many,” a democracy is a government in which the people hold the power to govern. In a pure democracy, the people govern themselves by direct vote. An example of democracy would be France in the late 1700s during the revolution, when the citizens voted on all issues themselves and each held certain powers. The Greeks of ancient Athens attempted a form of democracy as well. Most modern democracies are not pure in form. Instead, they are representative democracies or hybrids between a democracy and a republic.

Republic

Much like in a democracy, in a republic, those who hold the right to vote possess sovereign power. Instead of all citizens governing directly by voting on every issue, however, the citizens elect representatives who are responsible for carrying out the administration of the government according to the law.

Totalitarian Regime

In a totalitarian state, the state holds ultimate power over everything. Citizens have little or no freedom of choice since the government controls every aspect of their lives (economic, social, religious, etc). Communism and fascism are both forms of totalitarian government..

REVIEW 1.1

1. What is the definition of *government*? Why does man need government?
2. Which of the three theories of government do you ascribe to, and why?
3. What is comparative politics? Name three political thinkers who studied comparative politics.
4. How did Montesquieu classify governments in his *Spirit of the Laws*?
5. Name the five classifications of government structures.
6. What similarities and differences do you see among these classifications of government?

SECTION 1.2 PRINCIPLES OF AMERICAN GOVERNMENT

America is a constitutional republic, *not* a democracy. In a pure democracy, the government protects the will of the majority. This means that if the majority votes for a bad policy—for example, taking away the rights of the minority—then there is nothing the minority can do to protect itself. The whims and desires of the people push the government in one direction or the other, usually at the expense of the individual or minority.

In the American constitutional republic, on the other hand, the individual's God-given natural rights are protected whether that individual is part of the majority or not. The Constitution, together with a representative structure, helps keep the whims of the majority in check so that mob rule does not result.

SO WHAT'S A REPUBLIC?

The citizens of a republic exercise power through representatives. This is called in **indirect governance**, as opposed to a democracy's **direct governance**. Since most citizens have families to take care of and jobs to work, they don't have time to spend months devoted to deciding how our country should be run. Instead, citizens in a republic elect a person to go in their place and be a full-time representative of their cultural and political views in the government's decision-making process.

The key principle of republican government is that the representatives are intended to provide a layer of protection against the changeable passions of the people. Passion itself is not necessarily bad, but good governance requires passion tempered by wisdom.

Think about having to make a decision about something when you are really upset or excited. You may let your feelings override your reason and end up making a choice you later regret. On some things, deciding based on our feelings isn't bad—like what to have for dinner: do you feel like chicken or steak? But on an issue like whether or not to fund a particular project or ban gun ownership, making a decision based solely on how you feel may result in bad public policy. We need representatives who can balance impartiality and wise judgment with the passions of the people.

America would not be a great country without people who were passionate enough about freedom to leave their homeland and sail to a new land. However, passion alone very quickly results in disorder, strife, and eventually some form of dictatorship—the exact opposite of freedom. America's founders understood this very well. This is why they set up our government as a republic.

There are four basic principles that underlie America's government and help protect it against the encroachment of tyranny: **self-government, separation of powers, rule of law, and checks and balances.**

SELF-GOVERNMENT

There is not sufficient
virtue among men for
self-government.

James Madison
The Federalist 55

The powers of a republican government are intended to be limited, providing the people with as much freedom as possible. The government is made by the people, of the people, and for the people. If the people make wise decisions and are able to govern themselves, then the government will not need to pass more laws or take more control. If, however, the people prove to be lazy, selfish, and unable to control themselves, then the government will take more

authority and control more aspects of the citizens' lives. For example, some people like to drive on the road in a way that endangers the safety of others. Since they do not exercise self-control (self-governance), the government sets speed limits.

In a republic like ours, where people have more freedom than in almost any other civilization in history, citizens must use liberty wisely and not abuse their freedom to put



Dr. Benjamin Rush

others in danger. Recognizing that Christianity encourages self-government—responsibility, unselfishness, and self-control—Dr. Benjamin Rush (one of the only founders who both signed the Declaration of Independence and ratified the Constitution) said, “I have always considered Christianity as the strong ground of republicanism.” But seeing that not everyone in America is a Christian, and Christians themselves still sin and do not always curb their passions, some government is necessary to protect the freedom of all. Self-government does not mean no government.

SEPARATION OF POWERS

How does one grant political authority to an institution and yet prevent it from trying to grasp more power? The answer, the founders decided, was separation of powers. James Madison said in *The Federalist* 47:

[T]he preservation of liberty requires that the three great departments of power should be separate and distinct . . . The accumulation of all powers, legislative, executive and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.

In practice, this is the system outlined by our Constitution. The founders divided our government into three separate branches exercising unique powers: the **legislative**, **executive**, and **judicial branches**. The legislative branch is seen in action through Congress, the lawmaking part of government. The executive branch, or the president and his agencies, executes (enforces) the laws Congress makes. The judicial branch, through the Supreme Court, makes sure that the laws Congress passes are constitutional.

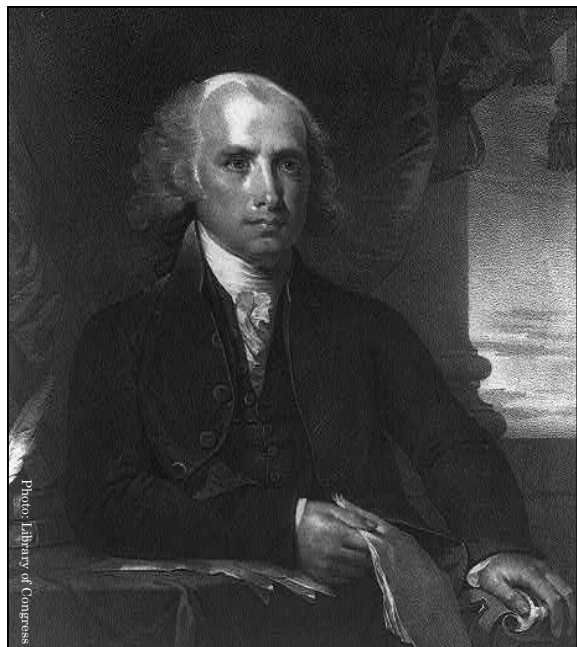
Each branch has enough power to perform its duties, but not so much that any one branch can run roughshod over the other two. For example, the president (part of the executive

branch) appoints Supreme Court justices (the judicial branch), but the justices cannot take office unless they are approved by the Senate (the legislative branch).

RULE OF LAW

The third principle American government rests upon is the rule of law, which means that a written document (the law) is the supreme authority. Both the government and the people must submit to the law or deal with the consequences spelled out in the law for lawbreakers. This is a key concept, as many governments contemporary with our nation’s founding did not practice rule of law. Instead, these countries were ruled by a person or people who were above the laws that they made and exempt from following them—the leader *was* the law. But when a country is governed by rule of law, a more just system is in effect. The leaders are held to the same laws as the people, and will be removed from office if they are corrupt. Rule of law protects the freedoms of the people against the tyranny of the government.

CHECKS AND BALANCES



James Madison

“Ambition must be made to counteract ambition,” wrote James Madison in *The Federalist* 51, regarding the system of checks and balances the founders put into the Constitution. A check is when one branch of government monitors another branch’s actions to make sure they are constitutional. A balance is when the branches of government have competing interests (Madison uses the word *ambition* in place of *interest*).

These interests create tension, not unlike what you get with two evenly matched teams playing tug of war. The result is that the middle of the rope stays in the same place—everything is in equilibrium.

The function of checks and balances work is seen in two concepts: **judicial review** and **bicameralism**. Judicial review is the process by which the judicial branch evaluates the constitutionality of laws. The Supreme Court can strike down a law passed by Congress if it determines that the law violates the Constitution. This places a check on the power of the

legislative branch, preventing Congress from passing unconstitutional laws.

The other concept is bicameralism, which means “two houses.” Our Congress is bicameral since it has a House of Representatives and a Senate. Our founders set up the House of Representatives to be a larger legislative body, directly elected by the people and thus more rowdy and passionate. The Senate, on the other hand, was originally established to be a smaller, slower, more deliberative body, elected by the state governments (part of this check was removed in 1913 with the passage of the 17th Amendment—more on that later). Hence, the House is more “democratic” and the Senate more “republican.” Both houses are lawmaking bodies and both must pass the same version of a law in order for it to go to the president to be signed or vetoed. But due to the difference in the nature of each house, there is a tension between the interests of the people in the House and the interests of the states in the Senate. Although this tension can slow down the lawmaking process, it ensures that deliberation balances passion as the two bodies reach a compromise. We’ll explore the structure and duties of each of these houses in chapter 3.

REVIEW 1.2

1. Is America a democracy or a republic? Explain.
2. How does a republic differ from a democracy and what is the key difference?
3. What keeps passion in check in a republic? Why is this necessary?
4. What four concepts are the foundation of our government system? Define each one. Do they work together or overlap in any ways?
5. What are the three branches of American government?
6. Explain the James Madison quote: “Ambition must be made to counteract ambition.” What do you think it means?

SECTION 1.3 THE DECLARATION OF INDEPENDENCE

In the next three sections we’ll be looking at the three major documents of our government’s founding: the Declaration of Independence, the Articles of Confederation, and the Constitution. While there are several other important letters and papers from the same time period that shed light on the experiment called America, we will limit the scope of our study here to those three documents. Feel free to explore further the writings of America’s

founders and the proclamations and letters that led up to her independence.

A LITTLE HISTORY

From the 1607 founding of Jamestown, the first permanent English settlement in the New World, to the mid-1750s, British subjects living in the American colonies were largely loyal to their motherland. All the colonies had appointed royal governors—representatives of the king of England—except Rhode Island and Connecticut, which elected their own governors. There was some trade between colonies, but huge differences existed among the colonies in terms of population, economic class, and industry, especially between the northern and southern colonies. At times, the fact that they were ruled by a common king seemed to be the only thing that held them together.

The French were perpetually at war with England and maintained control of what is now Canada, just to the north of the British colonies. Along the western frontier of the British colonies, French trappers allied with Indian tribes and attacked British wilderness forts. The conflict grew and between 1754 and 1763, England and France fought a war with each other on their colonial borderlines. The war was called the French and Indian War for the alliances the French made with various Indian tribes to help them fight against the British.

With the battlefield so far removed from England, many American colonists felt that Parliament (the English legislative body, like our Congress) was not responding sufficiently or quickly enough with troops. Over in England, Parliament was squeezed financially from the Seven Year's War, a global military conflict, one part of which was the French and Indian War. As most of Parliament's funds were depleted, it felt the colonies should shoulder some of the war debt. Since the troops were defending colonists, most of England felt that this was a fair and just decision.

THE INTOLERABLE ACTS

Beginning in 1764, Parliament passed a number of acts that raised taxes, clamped down on trade between the colonies and the rest of the world, and tightened the grip England had on the day-to-day activities of the average colonist. The acts included the Sugar Act (1764), the Quartering Act (1765), the Stamp Act (1765), the Townshend Acts (1767), and the Tea Act (1773).

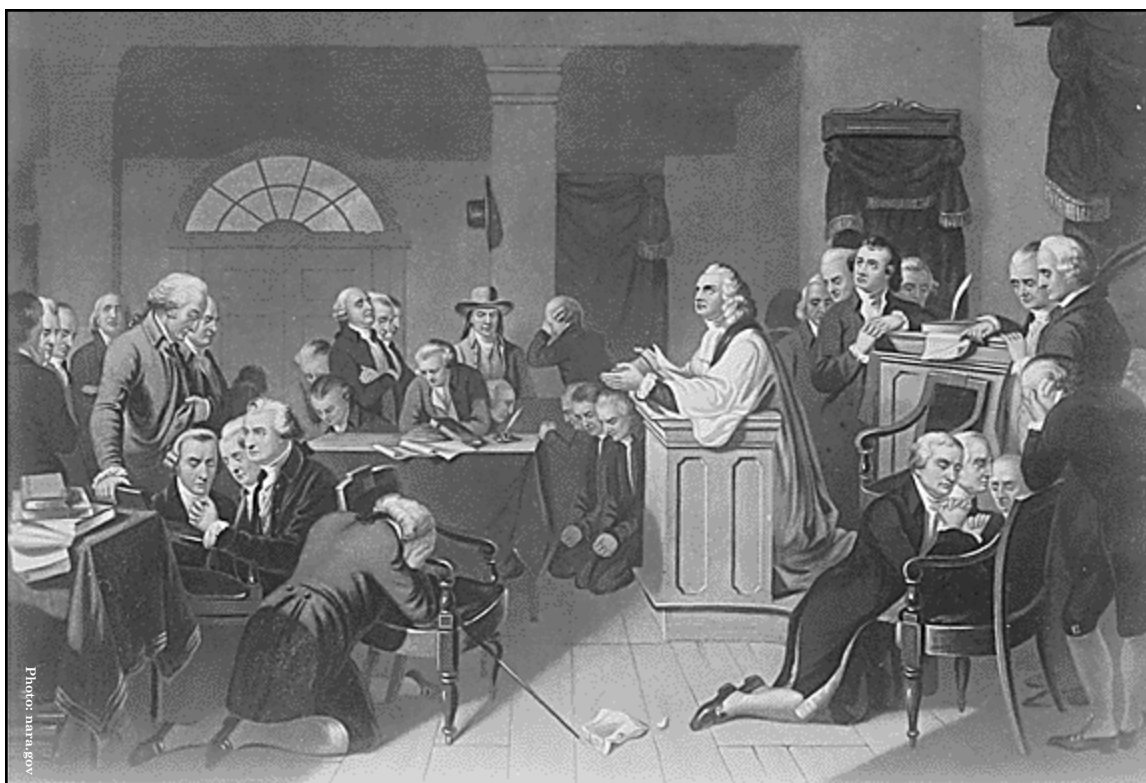
By 1773, a few colonists had decided talk was not enough and decided to respond to the recent Tea Act by staging what we now call the Boston Tea Party, in which colonists dumped shiploads of tea into Boston Harbor to protest the tax on tea. In 1774, Parliament passed a series of punitive acts in order to bring the colonies back into submission. Called

the “Intolerable Acts” by the colonies, these new laws skyrocketed tensions between America and England. Each act further eroded the relationship of trust, affection, and loyalty to the crown, since colonists expected the king to defend them against Parliament’s harsh acts. Colonial leadership began to question whether to remain under the authority of Parliament and the king. Diplomatic attempts at resolving or lessening the increasing burdens laid by Parliament were ineffective.

THE CONTINENTAL CONGRESS REQUESTS A DECLARATION

In the fall of 1774, all but one of the 13 colonies sent representatives to a convention in Philadelphia to discuss what to do. This was the First Continental Congress. The hope of those attending the congress is reflected in the opening prayer given by Reverend Jacob Duché:

. . . Be Thou present, O God of wisdom, and direct the councils of this honorable assembly; enable them to settle things on the best and surest foundation. That the scene of blood may be speedily closed; that order, harmony and peace may be effectually restored, and truth and justice, religion and piety, prevail and flourish amongst the people. . . .



First Prayer in Congress 1774, H.B. Hall

A second congress was convened in May 1775 in response to the battles at Lexington and Concord a month earlier, which had resulted in the death of nearly 50 colonists. Although different in many ways, the colonies were banding together against a common enemy: their motherland who had turned on her own colonies.

The Second Continental Congress established a colonial army, headed by General George Washington. The timing proved impeccable as the British launched a successful attack on Boston near Bunker Hill in June 1775. In August 1775, the king of England, George III, declared the colonies to be in a state of rebellion and ordered official action to suppress the rebellion. Despite this, many colonists did not want to break away from England and still hoped for some resolution. By 1776, however, the Continental Congress deemed it necessary to formally break away.

In June 1776, the congress appointed five men to draft a document that would declare the colonies' independence from England: John Adams, Benjamin Franklin, Thomas Jefferson, Robert Livingston, and Roger Sherman. The committee submitted a document to be approved at the end of June. After some revisions, the Continental Congress voted for independence and adopted the Declaration of Independence on July 4, 1776. Fifty-six men representing all 13 colonies signed the document, including well-known founders like Thomas Jefferson, John Adams, John Witherspoon, and Benjamin Franklin. Here is the full text of the declaration.

IN CONGRESS, JULY 4, 1776.

THE UNANIMOUS DECLARATION OF THE THIRTEEN UNITED STATES OF AMERICA

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—That to secure these rights,

Governments are instituted among Men, deriving their just powers from the consent of the governed,—That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. 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, and to provide new Guards for their future security.—Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

He has refused his Assent to Laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected;

whereby the Legislative powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harrass our people, and eat out their substance.

He has kept among us, in times of peace, Standing Armies without the Consent of our legislatures.

He has affected to render the Military independent of and superior to the Civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:

For Quartering large bodies of armed troops among us:

For protecting them, by a mock Trial, from punishment for any Murders which they should commit on the Inhabitants of these States:

For cutting off our Trade with all parts of the world:

For imposing Taxes on us without our Consent:

For depriving us in many cases, of the benefits of Trial by Jury:

For transporting us beyond Seas to be tried for pretended offences:

For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:

For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:

For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated Government here, by declaring us out of his Protection and waging War against us.

He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince whose character is thus marked by every act which may define a Tyrant, is

unfit to be the ruler of a free people.

Nor have We been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

REVIEW 1.3

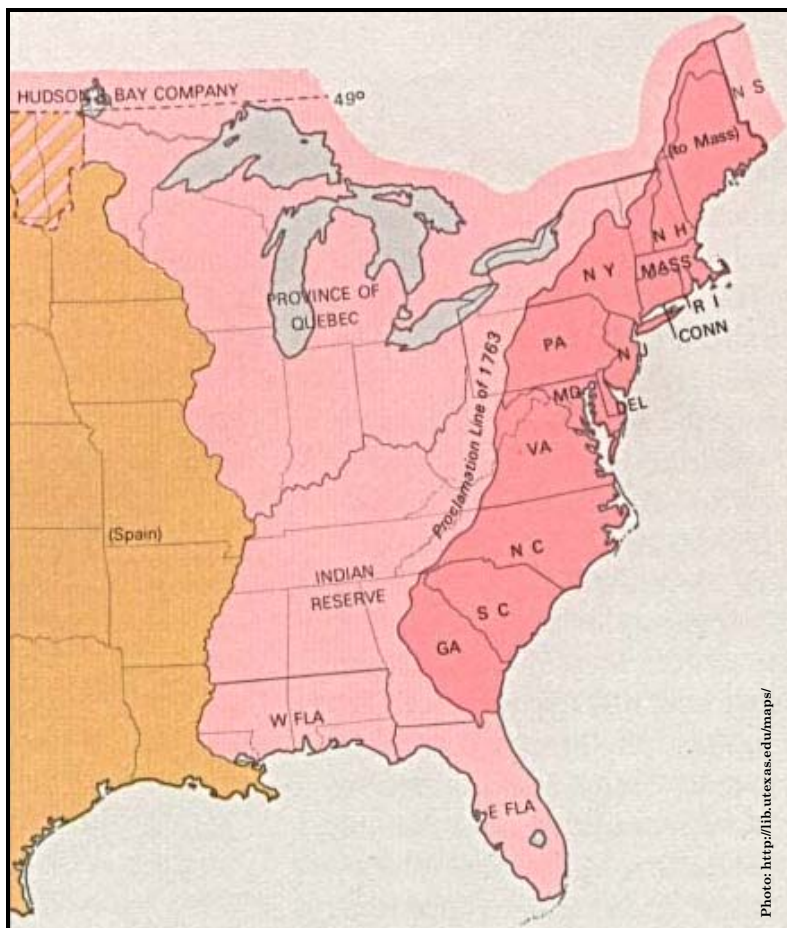
1. What event triggered the rise in tensions between America and England?
2. What were the Intolerable Acts and why were they passed?
3. Why and when were the continental congresses convened? What did they do?
4. Who were the five men selected to draft the Declaration of Independence?
5. List from the declaration five grievances that the colonists had against the king.
6. What kind of attitudes to you see portrayed in the declaration? Do you think the authors still wanted to mend relations with England?

SECTION 1.4 THE ARTICLES OF CONFEDERATION

As war raged on between the colonies and England, the newly formed colonial alliance needed some sort of governing document addressing relations between individual colonies, especially since certain colonies were more interested in going their own way once independence from England was achieved. Most colonies were afraid that if a centralized government was established over them, it would become as tyrannical as England had been.

Only a week after the Declaration of Independence was signed, a version of the Articles of

Confederation, America's first governing document, was presented to the Continental Congress for review. But it took a year of debate before the Articles were adopted in November 1777, and even then, each colony had to **ratify**, or officially adopt in the legislature, the Articles. The last colony to ratify was Maryland in 1781, which allowed the Articles to then take effect. The Articles, which officially named our country "The United States of America," served as the new states' guiding law for nearly 10 years. During much of that time, America was at war with England and thus there was little time for nation building.



Map of America in 1775. The 13 original colonies are shown in red. French territories appear in pink, Spanish-owned land in orange, and area disputed by France and Spain in stripes.

POWER TO THE STATES

The Articles of Confederation did tie the individual states together—but only loosely.

Except the few powers specifically granted to Congress, all political authority rested with the state governments. This was reflective of the common mindset at the time, which was that the ultimate authority was their particular state—not a union of states. Most citizens of this new union of states considered themselves Virginians or New Yorkers first. As such, state peculiarities and loyalties colored how America’s first national government functioned and ultimately prevented the articles from having any real power.

There was not a judiciary, and there was only a very vague reference to an “office of the president” which formed out of a “Committee of the States” without any real power. Each state was allowed between two and seven members in Congress but had one vote total. All congressional acts required 9 out of 13 votes in order to pass, and Congress’s realm of authority was restricted to declaring war, raising revenue and men to field an army, handling Indian and foreign affairs, coining money, and handling disputes between states. As an interesting side note, the Articles stated that if Canada agreed to the terms of the document, it could join the confederation automatically, but no other states could join unless approved by nine votes in Congress.

The confederation congress did oversee a couple of significant acts, including the Treaty of Paris (1783) and the Land Ordinance of 1785. Yet weakness inherent in the document continued to show the union of states that they needed a stronger document in order to survive.

WEAKNESS

War with England ended with the signing of the Treaty of Paris on September 3, 1783. John Adams, Benjamin Franklin, and John Jay were the American diplomats who signed the treaty along with their British counterparts. But the confederation congress had to ratify the treaty before it became official, and gathering the minimum of nine states required to be present for a vote proved exceedingly difficult. The treaty was not ratified by Congress until January 1784.

With the business of war actually complete, Congress focused on trying to pay off war debts. Sadly, this was an unsuccessful venture as all of the revenue proposals brought to the table were repeatedly ignored or rejected by the states. The financial situation deteriorated so quickly that the exasperated Board of Treasury declared in 1786 that the union was close to bankruptcy and dissolution unless the states complied with the revenue proposals.

The inability to execute its duties effectively, especially in such important areas as foreign affairs and the paying of debts, demonstrated to Congress that the Articles needed revision.

Much to the chagrin of some states and the relief of others, a constitutional convention was called in 1787 to amend the Articles of Confederation and fix the many weaknesses that marred the document.

What the country got instead was a brand-new constitution.

REVIEW 1.4

1. When were the Articles of Confederation adopted and when did they actually take effect?
2. What was the purpose of the Articles? What did they provide for?
3. What are some of the powers the confederation congress had?
4. What was the Treaty of Paris and what weakness in the Articles did it show?
5. Why did Congress have trouble paying off war debt?

SECTION 1.5 THE CONSTITUTION

A **constitution** is a document that embodies the principles of a people and outlines the structure of a government that protects the people's rights. It is the ultimate expression of rule of law, as the government itself is bound by the constitution. But the actual power and effectiveness of a constitution hinges on the people it governs. If a people and their government do not respect the rule of law or the principles that guide their constitution, then it is doubtful that their constitution will hold strong.

Thankfully, the men who crafted America's constitution were wise and they largely reflected the sentiments of the people whom they represented at the Constitutional Convention. But you might be surprised to know that the same differences in political principles that we experience today were present at the 1787 convention. To borrow from Solomon, the wisest man who ever lived, "There is nothing new under the sun." (Eccles.1:9)

You might be thinking: Wait a second! The Founding Fathers disagreed with each other?

The answer is a resounding yes! And the disagreements were just as heated and divisive as these we see conservatives and liberals having today. But the Constitution didn't paper over the founders' differences over issues like slavery. Instead, the Founders tried to provide a way for the nation to work through their disagreements over time. The resulting document was explicit and precise on the fundamentals of how the country should run, but vague on other issues (such as slavery) to allow the country to implement changes as time went on.



Independence Hall, Philadelphia, Pennsylvania

Philadelphia. They debated for three long, hot, humid summer months before agreeing upon the final draft of the Constitution and sending it to each state to ratify.

The convention brought together some familiar faces as well as new ones. Some very famous faces were missing altogether. John Adams and Thomas Jefferson were overseas attending to foreign affairs. Patrick Henry, famous for his “Give me liberty or give me

SUNNY PHILADELPHIA

As mentioned in the last section, by 1787, Congress realized that the Articles of Confederation needed immediate repairs. The concentration of powers in one body (no separation of powers), the lack of executive power to enforce laws or carry out duties, and the inability to collect taxes had brought the young country to its knees. The economic situation of the United States was so terrible that many poor farmers were being jailed and their land confiscated to pay state taxes. In May 1787, 55 delegates from all the states (except for Rhode Island, which abstained as it feared the larger states would take over) met at Independence Hall in

death!” battle cry, was also absent. As a strong supporter of states’ rights, Henry felt that the Articles were good enough and refused to attend, saying he “smelt a rat.” By “rat” he meant his fellow Virginian and advocate for a stable central (federal) government, James Madison. Madison was a new face to the scene. A young delegate to the Virginia state legislature, Madison had a plan he wanted to propose that not only provided fixes to the Articles, but actually overhauled the entire document for a newer, more substantial constitution.

Also in attendance were George Washington, Benjamin Franklin, James Wilson, Robert Morris, John Dickinson, Alexander Hamilton, and George Mason, among many other fine but lesser-known lawyers, gentlemen, and doctors. All the men understood political theory, and while they varied widely in their beliefs on such key issues as state sovereignty and slavery, they all agreed that something needed to change for the union to continue.

CAN’T WE ALL GET ALONG?

Factions of all kinds appeared at the convention and during the ratification process. Delegates from the North disagreed with southern delegates on what to do about slavery. Large states like Virginia and Pennsylvania disagreed with smaller states like New Hampshire and Connecticut over representation. Out of these differences came opposing plans for the new constitution.

Two main camps of thought emerged in the convention debates, the **Federalists** and the **Antifederalists**. Most attendees broadly fell into one group or the other, but not all were as radical or unyielding in their beliefs as the absent Antifederalist, Patrick Henry.

The Federalists were instrumental in pushing for a new constitution since they desired a strong central government able to truly unify the different states. Prominent Federalists at the convention included James Madison, George Washington, and Benjamin Franklin.

Antifederalists clung to many of the ideals represented in the articles. Fearful that the rights of states and individuals would not be properly protected in a new Federalist document, they wanted to simply tweak the weak areas of the original articles. George Mason of Virginia, George Clinton of New York, and Luther Martin of Maryland were among the Antifederalist delegates present. Interestingly, the two camps didn’t divide along state lines. The most vocal in each camp (Madison and Henry) were both from Virginia.

James Madison was the primary author of the Virginia Plan, which laid out a strong

centralized government with a bicameral legislature elected according to population. This meant that the number of representatives each state could elect would be based on the size of the state’s population. The plan was supported by the large states, which were more populous and would therefore have more representation under it.

In contrast, the New Jersey Plan, presented by William Paterson, proposed more or less a revision of the Articles of Confederation that still focused on individual state sovereignty. Paterson’s plan laid out a unicameral (one-house) legislature in which each state had one vote, regardless of size. Small states naturally favored this plan. Both plans called for congressional regulation of commerce and an executive appointed by the legislature.

The degree of discord during the convention was highlighted by Benjamin Franklin’s call for prayer. In an effort to bring about unity, Franklin, the oldest delegate at the convention made a motion that the convention pray before beginning daily business:

The small progress we have made after 4 or five weeks close attendance & continual reasonings with each other—our different sentiments on almost every question, several of the last producing as many noes as ayes, is methinks a melancholy proof of the imperfection of the Human Understanding. We indeed seem to **feel** our own want of political wisdom, since we have been running about in search of it. We have gone back to ancient history for models of government, and examined the different forms of those Republics which having been formed with the seeds of their own dissolution now no longer exist. And we have viewed Modern States all round Europe, but find none of their Constitutions suitable to our circumstances. . . .

. . . [T]he longer I live, the more convincing proofs I see of this truth—that God governs in the affairs of men. And if a sparrow cannot fall to the ground without his notice, is it probable that an empire can rise without his aid? We have been assured, Sir, in the sacred writings that “except the Lord build they labor in vain” . . . I also believe that without [H]is concurring aid we shall succeed in this political building no better than the Builders of Babel: We shall be divided by our little partial local interests; our projects will be confounded, and we ourselves shall become a reproach and a by word down to future age. And what is worse, mankind may hereafter from this unfortunate instance, despair of establishing Governments by Human Wisdom, and leave it to chance, war, and conquest.

I therefore beg leave to move—that henceforth prayers imploring the assistance of Heaven, and its blessings on our deliberations, be held in this Assembly every morning before we proceed to business, and that one or more of the Clergy of this City be requested to officiate in that service. (1)

But even this resulted in further debate! Delegates argued about whether or not to adopt Franklin’s motion, whether the adoption of daily prayers would alert the public to the convention’s inability to compromise, and whether they even had the funds to pay for a minister to pray over them every morning. Eventually, the meeting adjourned for the day without voting on the matter.

COMPROMISE: THE KEY TO SUCCESS

Compromise was crucial. The success of the convention (and the entire country) was at stake. Thankfully, compromise did finally happen. The first major compromise was over whether or not to count slaves for purposes of representation—a hot debate between the Northern and Southern states. Northern states were generally opposed to slavery and did not want slaves numbered in the general population counts that determined congressional representation. Southern states saw the continuation of slavery as vital to their economic security and argued that slaves should be counted in the population, increasing the number of representatives each state could have in Congress. To resolve the disagreement, both sides agreed to a compromise that provided that three-fifths of “all other persons” (i.e. slaves). Hence the deal was termed the Three-Fifths Compromise.

This led to a breakthrough in the general debate between large and small states over representation. The Connecticut Compromise (sometimes called the Great Compromise) brought together elements of the Virginia and New Jersey plans in an effort to appease all parties. The compromise set up a bicameral legislature featuring a lower house based on state population and an upper house with equal representation for each state.

The Great Compromise was the watershed moment, allowing the convention to appoint a committee to draft the Constitution itself. While the final result contained the fingerprints of Madison (it borrowed heavily from his Virginia Plan), he was not on the committee. Instead, the committee consisted of people less familiar to us: Nathaniel Gorham, John Rutledge, Edmund Randolph, James Wilson, and Oliver Ellsworth. The first draft of the new Constitution was presented the general assembly on August 6, 1787. After some additional bickering over slavery that nearly undid all the progress made at the convention, a final compromise was made that allowed the South to continue the importation of slaves for another 20 years. The Constitution was approved on September 16 and sent to the state

legislatures for ratification.

The inability of the convention to effectively resolve the issue of slavery forced the dispute to be dealt with by a later generation. The just society the founders envisioned would remain unjust as long as slavery continued. This is perhaps the greatest failure of the convention, and reminds us that, as great as our founders were, they were not perfect.

While allowing slavery allowed the country to forge ahead as one nation, it also meant that the problem festered until war broke out. During the nearly 75 years between the convention and the Civil War, hundreds of thousands of humans continued to suffer as slaves. And once war did come, over 600,000 men died in the conflict. In his second inaugural address, President Abraham Lincoln stated that the war was God’s retribution for not resolving the problem of slavery sooner:

Yet, if God wills that [the war] continue, until all the wealth piled by the bond-men’s two hundred and fifty years of unrequited toil shall be sunk, and until every drop of blood drawn with the lash, shall be paid by another drawn by the sword, as was said three thousand years ago, so still it must be said “the judgments of the Lord, are true and righteous altogether.”

Although the Civil War could be viewed as evidence of the failure of the Constitution, the durability of our country in the 150 years since the Civil War also demonstrates the resilience of the document.

THE FEDERALISTS AND ANTIFEDERALISTS

Once copies of the Constitution had been sent to each state, two factions went head-to-head, on whether or not the states should ratify the new document. Almost as soon as the new document went public, Antifederalists led a newspaper campaign decrying the Constitution as another form of tyranny. Their efforts were not united, as they were driven by separate state interests and their arguments tended to be more localized. Some of the more famous letters were authored by someone who called himself “Cato.” In his fifth letter, published in *The New York Journal* on November 22, 1787, Cato warned that the “new government was vague and inexplicit, that the great powers of the President, connected with his duration in office would lead to oppression and ruin.”

In response to the attacks levied by the Antifederalists, three staunch *Federalists*, James Madison, Alexander Hamilton, and John Jay, wrote a series of 85 essays that were also printed in newspapers. These famous essays are known today as the *Federalist Papers*.

Nine states had to ratify the Constitution for it to take effect. Some states, like New Jersey and Georgia, quickly and nearly unanimously ratified the new Constitution. Others, like Virginia and New York, dragged out their debates and barely passed it with a simple majority of the votes. Rhode Island, which had sat out of the Constitutional Convention, was the last to ratify, in May 1790, with a slim majority of two votes.

A CONSTITUTIONAL GOVERNMENT

The ratified version of the Constitution consisted of a **preamble** and seven articles, limiting the powers of the federal government to what is explicitly spelled out in the document and reserving all other powers to the states and individual citizens. The first three articles laid out the three branches of government (which we'll cover in chapters 3–5), followed by five articles detailing the relationship between the states and the federal government; describing how the Constitution may be amended; establishing the Constitution, federal laws, and treaties as the supreme law of the country; and giving the ratification requirements.

THE CONSTITUTION OF THE UNITED STATES

PREAMBLE

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

Within a year of being ratified by the final state, the Constitution was amended with 10 more articles collectively called “The Bill of Rights,” which spell out the rights of individual citizens to protect them against federal or state laws that might encroach upon them. These 10 articles plus the 17 other amendments that have been added over the years are the subject of the next chapter.

THE AMERICAN EXPERIMENT

The brilliance behind the Constitution and its system of governance is how practical it is. It is not merely a string of theories about how a government *should* run. The founders understood the natural tendency of man to be selfish, greedy, power-hungry, and at times extremely evil. They also knew that these very men might be the life and heartbeat inside the structure of government they set up. Thus, the key feature of the Constitution is its attempt to give the federal authority enough strength to protect liberty, but not enough to restrict liberty. This is the great tension—felt by the founders even hundreds of years ago—between liberty and security, an issue that still dominates the political arena today.

America is an experiment—at its inception in 1776 and still today. How close can we get to a free society and keep it? How can we enjoy our freedoms, but stay secure? How can we prevent tyranny of the majority or minority? Despite the errors, failings, and abuses committed by our people, representatives, leaders, and judges, the experiment called the United States of America has been mostly a successful one. Cultural norms have changed, but the core of our country itself remains vibrant and still functions (with some minor adjustments) the way it did over 200 years ago. Perfection doesn't exist on this earth, but our country is quite possibly the closest experience that the world will get to a happily free *and* secure people.

REVIEW 1.5

1. What is a constitution?
2. What was the Constitutional Convention? Who attended? Where was it?
3. What weaknesses did the Constitutional Convention set out to fix?
4. Who were the Federalists and the Antifederalists? What did they believe?
5. Who presented the Virginia Plan? What were its features?
6. Who presented the New Jersey Plan? What were its features?
7. Explain the two main constitutional compromises at the convention.
8. What was the result of the convention's decision to not fully address the problem of slavery?
9. What is the tension that both threatens and strengthens the Constitution?

CHAPTER 1 ESSAY

Choose one topic from the list below and write a one-page research essay. Use at least two sources from the library or internet. See the syllabus for details.

- Research the governmental structure of another country. Compare and contrast it with the system the Constitution sets up for America.
- Research one of the following men and write about his contributions to our founding documents: Roger Sherman, John Rutledge, Robert Morris, or Edmund Randolph.
- Choose a Federalist essay. If you're not sure where to start, *The Federalist* 6, 10, 14, 39, 51, 58, and 84 are some of the most popular. Then, choose an Antifederalist essay. Morton Borden's compilation (*The Antifederalist Papers*, Michigan State University Press, 1965), numbers them according to the corresponding Federalist essay (e.g. Antifederalist #10 argues against Federalist #10). After reading each, imagine you were living in the late 1780s. Do you think you would be a Federalist or an Antifederalist? Draw from the essays you read as you state your reasons why you'd be one or the other.

WORKS CITED

(1) Per James Madison's notes at the Constitutional Convention in Philadelphia on June 28, 1787; as published in Max Farrand's *The Records of the Federal Convention of 1787*, Volume I: (memory.loc.gov/ammem/amlaw/lwfr.html).

SUPPLEMENTAL RESOURCES

A Student's Guide to American Political Thought by George W. Carey (2004): Published by the Intercollegiate Studies Institute (ISI), a conservative intellectual group.

A Student's Guide to Political Philosophy by Harvey Mansfield (2001): Also from ISI Books.

Drive Thru History America: Foundations of Character (2006): DVD. Colorful, fast-paced, information-packed trip across the American colonies, with comedic host Dave Stotts looking at the lives of eight very different individuals who impacted our country's quest for independence.

Founding Documents Course (generationjoshua.org): Free online high school course delving into the main documents of America. Who wrote them? Why?

John Adams (2008): Miniseries. Episodes 1 and 2 are specifically relevant. Well-scripted portrayal of the American Revolution and creation of some of our founding documents through the acute perspective of John Adams, Founding Father and second president of the United States. Produced by HBO, based on *John Adams* by David McCullough. Not rated. **WARNING:** *Contains some intense scenes including period appropriate medical procedures and a tar and feathering incident. Parental discretion advised.*

Constitutional Convention Course (generationjoshua.org): Free online high school course providing a detailed look at the convention. Includes script for a mock convention.

The Federalist Papers (thomas.loc.gov/home/histdox/fedpapers.html): Entire text of the essays online for free at the Library of Congress.

The Antifederalist Papers (constitution.org/afp/afp.htm): Collection and history of the writings online for free.

The Federalist Papers Course (generationjoshua.org): Free online high school course composed of selected readings from the Federalist Papers.