

# Foundations of American Democracy (Unit 1)

# 1

## BIG IDEAS

- CONSTITUTIONALISM
- LIBERTY AND ORDER
- COMPETING POLICY-MAKING INTERESTS

The Constitution provides the basic framework of government. It is the supreme law of the land. It evolved from a political philosophy that, although democratic in origin, was cynical, and its framers had economic interests in mind when the document was finalized. In order to understand the practical manner in which the Constitution describes the relationship of the branches of government to each other, to the states, and to the individual, you first must look at what preceded its ratification: the history of British rule of the colonies, the American Revolution, the failed first attempt at creating a workable constitution (the Articles of Confederation), the compromises made at the Constitutional Convention, the debate over an inclusion of a Bill of Rights, and ultimately the debate over ratification of the new Constitution. These factors all contributed to the creation of what has been called a living document—the Constitution of the United States. Our federal form of government has a huge effect on how we are able to function as part of our society.

## QUESTIONS STUDENTS MUST ANSWER

1. How did the American revolutionary leaders who wrote the Constitution strive to guarantee individual freedom and liberty while also protecting the public?
2. How has the Constitution evolved from the different theories of government, the debate over its ratification, and the compromises resulting from the Constitutional Convention?
3. How has the Constitution been affected by the courts through the years, resulting in public policies that have an impact on citizens?

## BIG IDEAS

### Constitutionalism

The United States Constitution, along with the other founding documents such as the Federalist Papers and the Declaration of Independence, resulted in our “Constitutionalism.” They created the principles of American government, including separation of powers and checks and balances among the branches of government as well as a division of power, called federalism, between the states and federal government.

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## Liberty and Order

How a balance is achieved between the power of government and individual rights.

## Competing Policy-Making Interests

Within the Constitution there are built-in mechanisms that create competitive policy-making interests and processes that guarantee that the people's interests will be represented.

### KEY TERMS STUDENTS MUST KNOW

Anti-Federalists	Great Compromise
Articles of Confederation	Impeachment
Block grant	Implied powers
Bureaucracy	Importation of slaves compromise
Categorical grant	Mandates
Checks and balances	Necessary and proper clause
Commerce Clause	Participatory democracy
Concurrent powers	Pluralist democracy
Elite democracy	Ratification
Enumerated powers	Separation of powers
Federalism	Shays' Rebellion
Federalists	Three-Fifths Compromise

### REQUIRED PRIMARY DOCUMENTS STUDENTS MUST KNOW

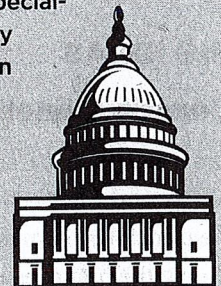
Federalist No. 10  
Brutus No. 1  
The Declaration of Independence  
Federalist No. 51

### REQUIRED SUPREME COURT CASES STUDENTS MUST KNOW

*McCulloch v Maryland* (1819)  
*United States v Lopez* (1995)

### CONTEMPORARY CONNECTIONS

- Over \$6 billion was spent by candidates, political parties, and special-interest groups in the 2016 presidential election—the most in any presidential election. Perhaps that is why many people believe in the elite theory of government, one of the theories of modern governance that we explore in this unit.
- Federalist No. 10 spoke about the danger of factions that could paralyze government. Today's Republican conservative faction called the "Freedom Caucus" has held up legislation in the House of Representatives even though they represent only a minority of the House Republicans



## KEY CONCEPT 1.A: EVOLUTION OF REPRESENTATIVE DEMOCRACY

A basic characteristic of American government has been a balance between how much power the government has and uses and the rights individuals have. This balance is evident in the fact that there is a limited government that can be changed through popular sovereignty. The Declaration of Independence argued for the inalienable rights of “life, liberty and the pursuit of happiness.”

The **Big Idea, Constitutionalism**, is reflected by this concept.

### EVOLUTION OF REPRESENTATIVE DEMOCRACY BASED ON THE IDEA OF LIMITED GOVERNMENT

From the roots of our political system in ancient Greece, to the writings of Enlightenment thinkers such as Montesquieu and Locke, to the principles outlined in the Declaration of Independence, our representative democracy has emerged as a distinct republican form of government.

The origins of Greek democracy come from the premise that governmental rule should be that of the many rather than the few. In its purest form, a direct democracy would have every citizen attending a town meeting and voting on every issue with the majority prevailing. Because of the size of the country, this becomes impractical and works only on a limited scale (such as in the classic New England town meeting where, for instance, a town’s budget is approved).

Enlightenment thinkers proposed that a democracy should rely on the consent of the people. They also asserted that there were natural rights that could not be taken away by the government, such as life, liberty, and property. In drafting the Declaration of Independence, Thomas Jefferson made sure these principles of unalienable rights would be incorporated. They were also included in the Constitution. The individual became the central focus of government policy. Such concepts as equality, freedom, and order became the driving forces of our democracy. This principle of limited government is the extension of the philosophy of the Enlightenment thinkers: government is created by the consent of the governed. In both moral and political philosophy, the social contract is a theory or model (originating during the Age of Enlightenment) that typically addresses the questions of the origin of society and the legitimacy of the authority of the state over the individual. Social contract arguments typically posit that individuals have consented, either explicitly or tacitly, to surrender some of their freedoms and submit to the authority of the ruler (or to the decision of a majority), in exchange for protection of their remaining rights. If people have natural rights, it must also be assumed that government cannot take these rights away. Republicanism stresses liberty and unalienable individual rights as central values, making people sovereign as a whole; it rejects monarchy, aristocracy, and inherited political power, expects citizens to be independent in their performance of civic duties, and reviles corruption. American republicanism was founded and first practiced by the founding fathers in the eighteenth century.

### Theories of Representative Democracy

There are three models of representative democracy—pluralist, participatory, and elite. Pluralism involves various groups all vying for control of the policy agenda. No single group emerges, forcing the groups to compromise. A centrist position is achieved, and, although no one group is totally happy, a number of groups, as a result of the bargaining that goes on, agree on mutually acceptable positions. Participatory theory emphasizes participation in politics. Elite theory defines group behavior as deriving from an upper class. Elite and class theory revolve around an

economic stratum of society controlling the policy agenda. An upper class, the wealthy of society, is recognized as the elite and controls the linkage institutions of government. The majoritarian model is the purest form of democracy. Its principal tenet relies on direct democracy, with a majority vote characterizing the model. In practical terms, when voters get a proposal on the ballot by the initiative process, they will vote on it directly by using majority rule.

Even though we can make the argument that many interest groups are elitist in nature because of the socioeconomic characteristics of their membership, and that many competing groups can cause gridlock in government, these groups often compete with each other in a manner consistent with pluralism.

Let us support this assertion by briefly describing the characteristics of each of these theories. Pluralists maintain that

- competing groups are healthy because they provide a political connection to government, offering government officials a choice;
- the competition often clarifies information and prevents any one group from dominating government; and
- competing groups have each developed a political strategy to achieve their goals and eventually the resources of one group will independently affect governmental policy.

Elite group theory maintains that

- power is concentrated in the largest and richest organizations;
- the unequal nature of the power of groups negates the fact that groups are proliferating; and
- ultimately money talks, and these large groups will have the most influence.

The participatory model of government maintains that

- direct democracy that relies on majority rule defeats the idea of a representative form of government;
- this model can result in a violation of minority rights since all decisions are made by majority rule; and
- a majority-rule approach to government can only work on a limited basis, such as in a “town meeting” setting.

## **Merging of Political Theories**

Our democracy has components of each of these political theories. No one theory is ideal. Each has its own advantages and disadvantages. However, most political analysts would agree that a democracy characterized by a pluralist society working in harmony and achieving compromise through centrist positions usually has a good chance of success.

Historically, when the Federalist party became the first to lead the government, it was controlled by the elite. Today, many critics of our system contend that there are too many special-interest groups who, through their political action committees, are able to influence key lawmakers. Those officials who are able to achieve consensus seem to have the most success in achieving public-policy goals.

## Required Document

### The Declaration of Independence

Thomas Jefferson, John Adams, Benjamin Franklin, Roger Sherman, and Robert Livingston included the political ideas from philosophers such as Locke, Rousseau, and Montesquieu in the Declaration of Independence. Looking at Locke's *Second Treatise of Civil Government*, you cannot help but notice the similarities between the language Locke used and the phrases used in the Declaration of Independence. Ideas such as natural rights as they relate to life, liberty, and property; the consent of the governed; and the concept of limited—all borrowed by the authors of the Declaration of Independence. For instance, as Locke describes natural rights: "the state of nature has a law to govern it, which obliges everyone." The Declaration of Independence calls natural law "Laws of Nature and Nature's God." On equality, Locke refers to people as "men being by nature all free, equal and independent," whereas the Declaration of Independence announced that "all men are created equal." In addition, the Declaration of Independence used many of the concepts from English Common Law related to the rights of the accused and the institutions such as representative colonial assemblies as the rationale why the colonists had to revolt against Great Britain.

Looking at the Declaration of Independence itself, you should be able to summarize the major parts of the document:

- **THE PHILOSOPHICAL BASIS** Using Locke's philosophy, the Declaration of Independence establishes "unalienable rights" as the cornerstone of natural rights. As a consequence of these rights, limited governments are formed, receiving their powers from "the consent of the governed."
- **THE GRIEVANCES** In a lawyerlike dissertation, the second part of the Declaration of Independence makes the case against Great Britain. Taxation without representation, unjust trials, forced quartering of British soldiers in private homes, abolition of colonial assemblies, and a policy of mercantilism—these grievances created a logic for drastic change.
- **THE STATEMENT OF SEPARATION** Announcing to the world that the colonists had no choice but to revolt, Jefferson stated that it is not only the right, but the duty, of the colonists to change the government. You should understand how risky the revolution was for the rebelling colonists. Like David against Goliath, the outcome of the American Revolution was far from certain. England had superior power, a navy that was supreme, and resources that could support a prolonged war effort. The colonists immediately had to build and train an army, but they had experienced leadership and a fierce desire for freedom.

Called a "conservative revolution," the new leaders tried to create a government based on the idea of the consent of the governed. Individual state governments guaranteed their citizens the rights they had under British rule. Power was not centralized, and the new nation made sure that the new constitution, the Articles of Confederation, could not end up as the basis for a government with a king.

Even though the Declaration of Independence stated that "all men are created equal," the societal structure did not reflect equality. The unalienable rights of "life, liberty, and the pursuit of happiness" were assumed to apply to white male colonists. The issue of slaves, women, and native peoples having these rights was not addressed. Because the American Revolution was the first attempt at applying these principles, the fact that all segments of society were not initially included was not surprising, because those in power did not want a great deal of political and social upheaval.

## Optional Readings

### The Mayflower Compact (1620)

*Key Quote:*

“Having undertaken, for the glory of God, and advancement of the Christian faith, and honor of our King and Country, a voyage to plant the first colony in the northern parts of Virginia, do by these presents solemnly and mutually, in the presence of God, and one of another, covenant and combine our selves together into a civil body politic, for our better ordering and preservation and furtherance of the ends aforesaid; and by virtue hereof to enact, constitute, and frame such just and equal laws, ordinances, acts, constitutions and offices, from time to time, as shall be thought most meet and convenient for the general good of the Colony, unto which we promise all due submission and obedience.”

### John Locke's Second Treatise of Civil Government (1690)

*Key Quote:*

“MEN being, as has been said, by nature, all free, equal, and independent, no one can be put out of this estate, and subjected to the political power of another, without his own consent. The only way whereby any one divests himself of his natural liberty, and puts on the bonds of civil society, is by agreeing with other men to join and unite into a community for their comfortable, safe, and peaceable living one amongst another, in a secure enjoyment of their properties, and a greater security against any, that are not of it.”

### Baron de Montesquieu: Spirit of the Laws (1748)

*Key Quote:*

“When the body of the people is possessed of the supreme power, it is called a democracy. When the supreme power is lodged in the hands of a part of the people, it is then an aristocracy. In a democracy the people are in some respects the sovereign, and in others the subject.”

#### KEY CONCEPT 1.B: ORIGINS OF THE CONSTITUTION

The Constitution developed as a result of the weaknesses found in the Articles of Confederation and after a vigorous debate occurred at the Constitutional Convention between Federalists and Anti-Federalists.

The **Big Idea, Constitutionalism**, is reflected by this concept.

## FEDERALISTS VS. ANTI-FEDERALISTS

In Federalist Paper No. 10, the Federalists argued that a “tyranny of the majority” could threaten the economic fiber of the nation. Led by Alexander Hamilton, John Jay, and James Madison, they believed the new Constitution, through its checks and balances and the separation of the three branches of government, would ensure protection of the minorities. Through a series of articles published as the *Federalist Papers* and signed with the pseudonym Publius, they outlined the necessity of a government that would be forced to compromise as a result of the separate powers of each branch. They also believed the Constitution had enough built-in safeguards for the rights

of individuals. The Constitution gave each state “full faith and credit” as well as a “republican” form of government. In addition, as the Federalists were quick to point out, the prohibition of the passage of ex post facto laws (laws that were retroactive in nature) and bills of attainder laws (laws that dictated prison sentences for accused who were not given a trial), and the prohibition of suspending the writ of habeas corpus (a guarantee of individual due process rights) gave individuals protection against a tyrannical federal government. Typically, the Federalists represented the upper class: bankers, and rich large-property owners. Their economic philosophy was clearly expressed throughout the *Federalist Papers*.

The Anti-Federalists, led by the newly emerging middle class, had George Mason and Richard Henry Lee as their chief spokesmen. In a rival publication to the Federalist publications, *Pennsylvania Packet* and *Letters from the Federal Farmer*, and through individual essays penned under the name of Brutus, they argued that the principles of the Declaration of Independence would be eroded by the new Constitution. They believed the Constitution would firmly establish an economic elite and create the potential for an abusive federal government, especially in the area of protecting individual rights.

The Anti-Federalists insisted that a bill of rights had to be part of the new Constitution—otherwise, a powerful president supported by the Congress could easily abuse the civil liberties of the individual. Additionally, the sovereignty of the states became a concern, even with the guarantees provided. Nowhere was this argument more heated than in New York. The Anti-Federalists prevented the approval of the Constitution until Madison and Hamilton guaranteed that the first Congress would approve a bill of rights. Typically, the Anti-Federalists represented the farmers and the so-called common people. They rejected the elitist base represented by the Federalists.

In looking at the *Federalist Papers*, you can see how the U.S. political system was characterized and created from established groups that had differing attitudes toward how best to form a new government. In Federalist No. 10, Madison pointed out that factions could ultimately paralyze effective government. One of the first examples of why Madison was convinced factions could be potentially dangerous was Shays’ Rebellion soon after the Revolutionary War. Former patriot soldier Daniel Shays organized a group of angry Massachusetts farmers attempting to forestall foreclosure of their lands. Frustrated in their attempts to get government support, they took up arms against the local authorities. Shays was arrested, and the revolt failed.

The Anti-Federalist position found in Brutus No. 1 argued against the ratification of the Constitution, stating, “In a republic of such vast extent as the United-States, the legislature cannot attend to the various concerns and wants of its different parts. It cannot be sufficiently numerous to be acquainted with the local condition and wants of the different districts, and if it could, it is impossible it should have sufficient time to attend to and provide for all the variety of cases of this nature, that would be continually arising.” Even the overall fight over the ratification of the proposed constitution was waged on “party lines.” Federalists supported ratification. Anti-Federalists opposed ratification. In this case, the policy agenda was the adoption of a new constitution.

Once the Constitution was ratified, two leading parties evolved. The Federalist Party, headed by Alexander Hamilton and made up of the country’s upper class, supported a strong national government and set a policy agenda that would solve the nation’s economic problems. In doing so, the party appealed to business interests such as manufacturing and trade. It believed in a loose construction, or a liberal interpretation, of the Constitution. The opposition party, the Democratic-Republicans, led by Thomas Jefferson after his return from France, where he had been the United States ambassador, was characterized as the party of the “common man.” It believed in a more limited role of the central government and was considered strict constructionist, which is characterized by a conservative interpretation of the Constitution. Its constituency was farmers, merchants, and the middle class of U.S. society.

## Illustrative Example

In the 2010 midterm elections a unique special-interest group, the “Tea Party” emerged and played a significant role in determining the outcome of the election. The Tea Party’s name is derived from the Boston patriots who organized the Boston Tea Party in 1773. The modern-day Tea Party consists of Republicans who served in the House of Representatives and a grassroots movement of people who believe in less government, lower taxes, and lower government spending, and has as one of their battle cries, “taking the government back.”

### Required Documents

#### Federalist No. 10

James Madison wrote Federalist No. 10. Madison’s view was that the development of factions was an inevitable feature of society. Even though he was fearful of the potential of factions, he did not make the argument that they should be abolished. He believed the separation of powers of the three branches of government and the division of government between the national and local would, in the end, provide enough governmental protection and regulation of these interests. In addition, the formation of political parties became an additional balance to the formation of private interest groups, many of which were economically based during the early stages of our country’s existence;

*Key Quote:*

“By a faction, I understand a number of citizens, whether amounting to a majority or minority of the whole, who are united . . . by some common . . . interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.” He even went so far as to say “the regulation of these various and interfering interests forms the principal task of modern Legislation.”

#### Brutus No. 1

Brutus No. 1 starts a series of essays written by Anti-Federalists, including Robert Yates, Patrick Henry, and John DeWitt. The first essay makes an argument against the ratification of the U.S. Constitution by New York. Brutus was afraid the new government would become despotic and take away people’s liberty. The essay argued for a written Bill of Rights to be included in the Constitution. Brutus also argues that the three branches of government were too powerful.

*Key Quote:*

“Many instances can be produced in which the people voluntarily increased the powers of their rulers; but few, if any, in which rulers willingly abridged their authority.”

## Optional Reading

### Letters from the Federal Farmer #1

*Key Quote:*

“The first principal question that occurs, is whether, considering our situation, we ought to precipitate the adoption of the proposed constitution? If we remain cool and temperate, we are in no immediate danger of any commotions; we are in a state of perfect peace, and in no danger of invasions; the state governments are in the full exercise



of their powers; and our governments answer all present exigencies, except the regulation of trade, securing credit, in some cases, and providing for the interest, in some instances, of the public debts; and whether we adopt a change, three or nine months hence, can make but little odds with the private circumstances of individuals; their happiness and prosperity, after all, depend principally upon their own exertions.”

## **Required Document**

### **The Articles of Confederation**

Although the Articles of Confederation recognized the need for a central government, this document relied on the states to make the decisions that would ultimately determine whether the country would survive. Under the Articles of Confederation, the national government had two levels—a weak national government with a one-house Congress and dominant state governments. Congress was given limited power to declare war, make peace, and sign treaties. The national government could borrow money, but it had no power to tax the individual states. The Articles of Confederation created a national army and navy, but the government had no power to draft soldiers. There was no chief executive or national court system, and legislation had to be passed by a two-thirds majority.

The states could create economic havoc by imposing tariffs on each other, by creating their own currency in addition to the national currency, by refusing to amend the Articles of Confederation (an amendment needed unanimous approval by the states), and by refusing to recognize treaties made by the national government.

Foreign policy was virtually nonexistent. The Barbary pirates threatened our ships, and our borders were vulnerable to attacks from both English and Spanish interests.

A success of the national government was the Northwest Ordinance, which abolished slavery in the newly acquired Northwest territories.

The most positive aspect of the government was that a new middle class was developing on the state level. Even though the old guard from the colonial era still existed, small farmers began to dominate state politics. This created a broader political base and started the beginning of opposing political parties (Federalists and Anti-Federalists).

By 1787 it was obvious that, at a minimum, the Articles of Confederation had to be revised, and many felt they should be totally changed to reflect the realities of what a functional government should be.

## **The Constitutional Convention Created Compromises and the Development of the United States System of Government**

With the exception of Rhode Island, the states sent 55 delegates to the Constitutional Convention in Philadelphia in 1789. The delegates' makeup included merchants, lawyers, farmers, and bankers as well as state government officials. Leaders such as Thomas Jefferson, Thomas Paine, Patrick Henry, John Adams, and John Hancock doubted that replacing the Articles of Confederation with the new constitution was the answer to the country's problems and did not attend. Those present believed a revision of the Articles of Confederation would not go far enough. Hamilton, Washington, and Madison led the fight for a new constitution. Benjamin Franklin, at age 81, was one of the oldest delegates and the only one to sign both the Declaration of Independence and the Constitution.

Philosophically, the delegates were split on how to reconcile basic differences regarding the organization of a new government. They shared a cynical belief that people could not be given