

American Government

17e

Institutions & Policies

James Q. Wilson | John J. Dilulio, Jr. | Meena Bose | Matthew S. Levendusky



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Institutions and Policies

James Q. Wilson

*University of California, Los Angeles, emeritus
Pepperdine University
Boston College*

John J. DiIulio, Jr.

University of Pennsylvania

Meena Bose

Hofstra University

Matthew Levendusky

University of Pennsylvania



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**James Q. Wilson, John J. Dilulio Jr.,
Meena Bose, Matthew Levendusky**

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Letter to Instructors

Dear American Government Instructor:

We wrote *American Government: Institutions and Policies, 17th edition*, not only to explain to students how the federal government works, but also to examine how its institutions have developed over time and evaluate their effects on public policy. Within this distinguishing framework, we explain the history of Congress, the presidency, the judiciary, and the bureaucracy because the politics we see today are different from those we would have seen in earlier generations. Likewise, we also explain how public opinion, elections, interest groups, and the media shape and contribute to policy, and how that influence has evolved over time.

American Government: Institutions and Policies, 17th edition, is grounded in certain key ideas that help students understand not simply American government, but also the reasons why the national government in this country is different from those in other democracies. These ideas include the principles of the U.S. Constitution and American constitutionalism, America's adversarial political culture, and a commitment to freedom and limited government. This book is an attempt to explain and discuss the historical and practical reasons for these differences.

New to This Edition

And as always, the book is thoroughly revised to excite students' interest about the latest in American politics and encourage critical thinking. Updates reflect the latest scholarship and current events, including the Trump administration, the 2020 election, the COVID-19 pandemic, and the protests following the death of George Floyd while in police custody. We also continue our discussion of ongoing debates about the federal budget, immigration, taxes, and other key issues in American politics; and foreign-policy issues in the Middle East, Europe, and elsewhere. Reworked Learning Objectives open, organize, and close each chapter, serving as a road map to key concepts and helping students assess their comprehension. Each chapter now contains a "Constitutional Connections" box to help students connect the topic to the nation's founding, "What Would You Do?" to deal with a real-life controversy, "Policy Dynamics: Inside/Outside the Box" to apply our framework for understanding public policy to various issues, and Infographic Questions to help students learn to reason from data.

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We hope this book helps your students grapple with the fundamental questions of American government, and understand who governs and to what ends. And we also hope it inspires them to continue their engagement with the exciting and dynamic world of American politics.

Sincerely,

John J. DiIulio, Jr.

Meena Bose
Meena.Bose@hofstra.edu

Matthew S. Levendusky
mleven@sas.upenn.edu

Letter to Students

Dear Student:

Welcome to *American Government: Institutions and Policies, 17th ed!* We wrote the textbook to help you grapple with two of the fundamental questions of American government and politics: who governs and to what ends? The textbook will help you to answer these questions, and to better understand how the structure of American government determines the policies that we see. The features we include—from learning objectives, to constitutional connections, to policy dynamics, and what would you do—will help you to master key concepts and topics, and apply them from the classroom to everyday political life. Much has changed these last few years in American politics, especially in light of the COVID-19 pandemic and the protests following the death of George Floyd while in police custody. Our goal is to help you understand these important events, as well as more long-standing features of American politics.

- **Learning Objectives** open and close each chapter, serving as a road map to the book's key concepts and helping you to assess your understanding.
- **Then and Now** chapter-opening vignettes offer attention-grabbing looks at a particular topic in the past and in the present, reinforcing the historical emphasis of the text and applying these experiences to the world around you today.
- **Constitutional Connections** features raise analytical issues from the constitutional debates that remain relevant today.
- **Policy Dynamics: Inside/Outside the Box** features present policy dynamics and encourage you to think about where they belong within *American Government's* classic politics of policymaking framework, which is introduced in Chapter 1.
- **Infographic Questions** help you learn to reason from data.
- **Landmark Cases** provide brief descriptions of important Supreme Court cases.
- **What Would You Do?** features place you in the role of a decision maker on realistic contemporary policy debates.
- **To Learn More** sections close each chapter with carefully selected Web resources and classic and contemporary suggested readings to further assist you in learning about American politics.

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We hope all of these resources help you to master the material in the course and have a richer understanding of American government and democracy. We also hope that this textbook encourages you to continue your intellectual journey in American politics, and that understanding how the political process functions will inspire you to become involved in some way. How will you shape who governs and to what ends?

Sincerely,

John J. DiIulio, Jr.

Meena Bose
Meena.Bose@hofstra.edu

Matthew S. Levendusky
mleven@sas.upenn.edu

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The Test Bank, offered in Blackboard, Moodle, Desire2Learn and Canvas formats, contains learning objective-specific multiple-choice and essay questions for each chapter. Import the test bank into your LMS to edit and manage questions, and to create tests.

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Kenneth Rivera, *Brandywine High School*

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Adam Zucconi, *Richard Bland College*

About the Authors

James Q. Wilson

James Q. Wilson most recently taught at Boston College and Pepperdine University. He was Professor Emeritus of Management and Public Administration at the University of California, Los Angeles and was previously Shattuck Professor of Government at Harvard University. He wrote more than a dozen books on the subjects of public policy, bureaucracy, and political philosophy. Dr. Wilson was president of the American Political Science Association (APSA), and he is the only political scientist to win three of the four lifetime achievement awards presented by the APSA. He received the Presidential Medal of Freedom, the nation's highest civilian award, in 2003. Dr. Wilson passed away in March 2012 after battling cancer. His work helped shape the field of political science in the United States. His many years of service to his *American Government* book remain evident on every page and will continue for many editions to come.

John J. DiIulio, Jr.

John J. DiIulio, Jr. is Professor of Political Science at the University of Pennsylvania and has won each of Penn's most prestigious teaching awards. He was previously Professor of Politics and Public Affairs at Princeton University. Dr. DiIulio received his Ph.D. in Political Science from Harvard University. He has been a senior fellow and directed research programs at several leading think tanks, including the Brookings Institution, and has won awards from the Association of Public Policy Analysis and Management, the APSA, and other bodies. Dr. DiIulio has advised presidential candidates in both parties, served on bipartisan government reform commissions, and worked as a senior staff member in the White House.

Meena Bose

Meena Bose is Executive Dean of Public Policy and Public Service Programs in Hofstra University's Peter S. Kalikow School of Government, Public Policy and International Affairs, and Director of Hofstra's Peter S. Kalikow Center for the Study of the American Presidency. She received her Ph.D. (1996) from Princeton University. Dr. Bose teaches courses on the American Presidency, Presidential Leadership and Policy Making, and American Politics. She is the author or editor of several volumes in presidency studies and American politics. Dr. Bose taught for six years at the United States Military Academy at West Point.

Matthew S. Levendusky

Matthew S. Levendusky is Professor of Political Science at the University of Pennsylvania. He received his Ph.D. from Stanford University (2006). Dr. Levendusky teaches courses in public opinion, campaigns and elections, policymaking, and political polarization. He has written two books on political polarization and the mass media, both published by the University of Chicago Press.

The American System

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In framing a government which is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed; and in the next place oblige it to control itself.

— FEDERALIST NO. 51



Tony Savino/Corbis Historical/Getty Images

CHAPTER 1

The Study of American Government

Learning Objectives

- 1-1** Explain how politics drives democracy.
- 1-2** Discuss five views of how political power is distributed in the United States.
- 1-3** Explain why “who governs?” and “to what ends?” are fundamental questions in American politics.
- 1-4** Summarize the key concepts for classifying the politics of different policy issues.

Today, Americans and their elected leaders are hotly debating the federal government's fiscal responsibilities, for both spending and taxation.

Some things never change.

« **Then** In 1786, a committee of Congress reported that since the Articles of Confederation were adopted in 1781, the state governments had paid only about one-seventh of the monies requisitioned by the federal government. The federal government was broke and sinking deeper into debt, including debt owed to foreign governments. Several states had financial crises, too.

In 1788, the proposed Constitution's chief architect, James Madison, argued that while the federal government needed its own "power of taxation" and "collectors of revenue," its overall powers would remain "few and defined" and its taxing power would be used sparingly.¹ In reply, critics of the proposed Constitution, including the famous patriot Patrick Henry, mocked Madison's view and predicted that if the Constitution were ratified, there would over time be "an immense increase of taxes" spent by an ever-growing federal government.²

* **Now** The federal budget initially proposed for 2021 called for spending more than \$4.8 trillion, with a budget deficit close to \$1 trillion (i.e., spending that much more than projected government revenues). An expected national debt of more than \$25 trillion, much of it borrowed from foreign nations, was projected to balloon to more than \$30 trillion by 2030. Projected interest on the national debt in 2021 would be near \$400 billion and was expected to top \$600 billion by 2028.³

The Budget Control Act of 2011 had called for long-term deficit reduction, but when the White House and Congress could not reach agreement in 2013, automatic spending cuts—known as "sequestration"—went into effect, and the federal government even shut down for 16 days in October. The two branches ultimately reached agreement, but could not find common ground on questions about long-term revenue and spending goals—a problem that recurred in late 2018 and into 2019, when the government closed for five weeks over a debate about immigration and funding for border security.

So, in the 1780s, as in the 2010s, nearly everyone agreed that government's finances were a huge mess and that

bold action was required, and soon; but in each case, then and now, there was no consensus about what action to take, or when.

issue A conflict, real or apparent, between the interests, ideas, or beliefs of different citizens.

1-1 Politics and Democracy

This might seem odd. After all, it may seem that the government's financial problems, including big budget deficits and revenue shortfalls, could be solved by simple arithmetic: either spend and borrow less, or tax more, or both. But now ask: Spend or borrow less for what, and raise taxes on whom, when, how, and by how much? For example, should we cut the defense budget but continue to fund health care programs, or the reverse? Or should we keep defense and health care funding at current levels but reduce spending on environmental protection or homeland security? Should we perhaps increase taxes on the wealthy (define *wealthy*) and cut taxes for the middle class (define *middle class*), or ... what?

Then, as now, the fundamental government finance problems were *political*, not mathematical. People disagreed not only over how much the federal government should tax and spend, but also over whether it should involve itself at all in various endeavors. For example, in 2011, the federal government nearly shut down, not mainly over disagreements between the two parties about how much needed to be cut from the federal budget (in the end, the agreed-to cuts totaled \$38.5 billion), but primarily over whether any federal funding at all should go to certain relatively small-budget federal health, environmental, and other programs.

Fights over taxes and government finances; battles over abortion, school prayer, and LGBTQ+ rights; disputes about where to store nuclear waste; competing plans on immigration, international trade, welfare reform, environmental protection, or gun control; and contention surrounding a new health care proposal. Some of these matters are mainly about money and economic interests; others are more about ideas and personal beliefs. Some people care a lot about at least some of these matters; others seem to care little or not at all.

Regardless, all such matters and countless others have this in common: each is an **issue**, defined as a conflict, real or apparent, between the interests, ideas, or beliefs of different citizens.⁴

An issue may be more apparent than real; for example, people might fight over two tax plans that, despite superficial differences, would actually distribute tax burdens on different groups in exactly the same way. Or an issue may be as real as it seems to the conflicting parties, as,

politics *The activity by which an issue is agitated or settled.*

power *The ability of one person to get another person to act in accordance with the first person's intentions.*

authority *The right to use power.*

for example, with matters that pose clear-cut choices (high tariffs or no tariffs; abortion legal in all cases or illegal in all cases).

And an issue might be more about conflicts over means than over ends. For example, on health care reform or other issues, legis-

lators who are in the same party and have similar ideological leanings (like a group of liberal Democrats, or a group of conservative Republicans) might agree on objectives but still wrangle bitterly with each other over different means of achieving their goals. Or they might agree on both ends and means but differ over priorities (which goals to pursue first), timing (when to proceed), or tactics (how to proceed).

Whatever form issues take, they are the raw materials of politics. By **politics** we mean “the activity—negotiation, argument, discussion, application of force, persuasion, etc.—by which an issue is agitated or settled.”⁵ Any given issue can be agitated (brought to attention, stimulate conflict) or settled (brought to an accommodation, stimulate consensus) in many different ways. And government can agitate or settle, foster or frustrate political conflict in many different ways.

As you begin this textbook, this is a good time to ask yourself which issues matter to you. In general, do you care a lot, a little, or not at all about economic issues, social issues, or issues involving foreign policy or military affairs? Do you follow any particular, ongoing debates on issues such as tightening gun control laws, expanding health insurance, regulating immigration, or funding antipoverty programs?

As you will learn in Part II of this textbook, some citizens are quite issue-oriented and politically active. They vote and try to influence others to vote likewise; they join political campaigns or give money to candidates; they keep informed about diverse issues, sign petitions, advocate for new laws, or communicate with elected leaders; and more.

But such politically attentive and engaged citizens are the exception to the rule, most especially among young adult citizens under age 30. According to many experts, ever more young Americans are closer to being “political dropouts” than they are to being “engaged citizens” (a fact that is made no less troubling by similar trends in the United Kingdom, Canada, Scandinavia, and elsewhere).⁶ Many high school and college students believe getting “involved in our democracy” means volunteering for community service, but not voting.⁷ Most young Americans do not regularly read or closely follow political

news; and most know little about how government works and exhibit no “regular interest in politics.”⁸ In response to such concerns, various analysts and study commissions have made proposals ranging from compulsory voting to enhanced “civic education” in high schools.⁹

The fact that you are reading this textbook tells us that you probably have some interest in American politics and government. Our goal in this textbook is to develop, enliven, and inform that interest through examining concepts, interests, and institutions in American politics from a historical perspective as well as through current policy debates.

Power, Authority, and Legitimacy

Politics, and the processes by which issues are normally agitated or settled, involves the exercise of power. By **power** we mean the ability of one person to get another person to act in accordance with the first person's intentions. Sometimes an exercise of power is obvious, as when the president tells the Air Force that it cannot build a new bomber, or orders soldiers into combat in a foreign land. Other times an exercise of power is subtle, as when the president's junior speechwriters, reflecting their own evolving views, adopt a new tone when writing about controversial issues such as education policy. The speechwriters may not think they are using power—after all, they are the president's subordinates and may see their boss face-to-face infrequently. But if the president speaks the phrases that they craft, then they have used power.

Power is found in all human relationships, but we are concerned here only with power as it is used to affect who will hold government office and how government will behave. We limit our view here to government, and chiefly to the American federal government. However, we repeatedly pay special attention to how things once thought to be “private” matters become “public”—that is, how they manage to become objects of governmental action. Indeed, as we discuss more later, one of the most striking transformations of American politics has been the extent to which, in recent decades, almost every aspect of human life has found its way onto the political agenda.

People who exercise political power may or may not have the authority to do so. By **authority** we mean the right to use power. The exercise of rightful power—that is, of authority—is ordinarily easier than the exercise of power not supported by any persuasive claim of right. We accept decisions, often without question, if they are made by people who we believe have the right to make them; we may bow to naked power because we cannot resist it, but by our recalcitrance or our resentment we put the users of naked power to greater trouble than the wielders of authority. In this book, we on occasion speak

of “formal authority.” By this we mean that the right to exercise power is vested in a governmental office. A president, a senator, and a federal judge have formal authority to take certain actions.

What makes power rightful varies from time to time and from country to country. In the United States, we usually say a person has political authority if the right to act in a certain way is conferred by a law or by a state or national constitution. But what makes a law or constitution a source of right? That is the question of **legitimacy**. In the United States, the Constitution today is widely, if not unanimously, accepted as a source of legitimate authority, but that was not always the case.

Defining Democracy

On one matter, virtually all Americans seem to agree: no exercise of political power by government at any level is legitimate if it is not in some sense democratic. That wasn’t always the prevailing view. In 1787, as the Framers drafted the Constitution, Alexander Hamilton worried that the new government he helped create might be too democratic, whereas George Mason, who refused to sign the Constitution, worried that it was not democratic enough. Today, however, almost everyone believes that democratic government is the only proper kind. Most people believe that American government is democratic; some believe that other institutions of public life—schools, universities, corporations, trade unions, churches—also should be run on democratic principles if they are to be legitimate; and some insist that promoting democracy abroad ought to be a primary purpose of U.S. foreign policy.

Democracy is a word with at least two different meanings. First, the term *democracy* is used to describe those regimes that come as close as possible to Aristotle’s definition—the “rule of the many.”¹⁰ A government is democratic if all, or most, of its citizens participate directly in either holding office or making policy. This often is called **direct or participatory democracy**. In Aristotle’s time—Greece in the 4th century B.C.—such a government was possible. The Greek city-state, or *polis*, was quite small, and within it citizenship was extended to all free adult male property holders. (Slaves, women, minors, and those without property were excluded from participation in government.) In more recent times, the New England town meeting approximates the Aristotelian ideal. In such a meeting, the adult citizens of a community gather once or twice a year to vote directly on all major issues and expenditures of the town. As towns have become larger and issues more complicated, many town governments have abandoned the pure town meeting in



Ryan Rahman/Alamy Stock Photo

Image 1.1 In September 2019, thousands of students marched in lower Manhattan as part of a global protest against climate change.

Q How can students make a difference in American politics and policy making?

favor of either the representative town meeting (in which a large number of elected representatives, perhaps 200–300, meet to vote on town affairs) or representative government (in which a small number of elected city councilors make decisions).

The second definition of *democracy* is the principle of governance of most nations that are called democratic. It was most concisely stated by the economist Joseph Schumpeter: “The democratic method is that institutional arrangement for arriving at political decisions in which individuals [i.e., leaders] acquire the power to decide by means of a competitive struggle for the people’s vote.”¹¹ Sometimes this method is called, approvingly, **representative democracy**; at other times it is referred to, disapprovingly, as the elitist theory of democracy. It is justified by one or both of two arguments. First, it is impractical, owing to limits of time, information, energy, interest, and expertise, for the public at large to decide on public policy, but it is not impractical to expect them to make reasonable choices among competing leadership groups. Second, some people (including, as we shall see in the next chapter, many of the Framers of the Constitution) believe direct democracy is likely to lead to bad decisions because people often decide large issues on the basis of fleeting passions and in response to popular demagogues, or leaders who appeal to emotions, not

legitimacy Political authority conferred by law or by a state or national constitution.

democracy The rule of the many.

direct or participatory democracy A government in which all or most citizens participate directly.

representative democracy A government in which leaders make decisions by winning a competitive struggle for the popular vote.

reason, to gain support. This concern about direct democracy persists today, as evidenced by the statements of leaders who disagree with voter decisions. For example, voters in many states have rejected referenda that would have increased public funding for private schools. Politicians who oppose the defeated referenda speak approvingly of the “will of the people,” but politicians who favor them speak disdainfully of “mass misunderstanding.”

Whenever we refer to that form of democracy involving the direct participation of all or most citizens, we use the term *direct* or *participatory* democracy. Whenever the word *democracy* is used alone in this book, it will have the meaning Schumpeter gave it. Schumpeter’s definition usefully implies basic benchmarks that enable us to judge the extent to which any given political system is democratic.¹² A political system is nondemocratic to the extent that it denies equal voting rights to part of its society and severely limits (or outright prohibits) “the civil and political freedoms to speak, publish, assemble, and organize,”¹³ all of which are necessary to a truly “competitive struggle for the people’s vote.” A partial list of nondemocratic political systems would include absolute monarchies, empires, military dictatorships, authoritarian systems, and totalitarian states.¹⁴

Scholars of comparative politics and government have much to teach about how different types of political systems—democratic and nondemocratic—arise, persist, and change. For our present purposes, however, it is most important to understand that America itself was once far less democratic than it is today and that it was so not by accident but by design. As we discuss in the next chapter, the men who wrote the Constitution did not use the word *democracy* in that document. They wrote instead of a “republican form of government,” but by that they meant what we call “representative democracy.” And, as we emphasize when discussing civil liberties and civil

rights (see Chapters 5 and 6), and again when discussing political participation (see Chapter 8), the United States was not born as a full-fledged representative democracy; and, for all the progress of the past half-century or so, the nation’s representative democratic character is still very much a work in progress.

For any representative democracy to work, there must, of course, be an opportunity for genuine competition for leadership. This requires in turn that individuals and parties be able to run for office, that communications (through speeches or the press, in meetings, and on the Internet) be free, and that the voters perceive that a meaningful choice exists. But what, exactly, constitutes a “meaningful choice”? How many offices should be elective and how many appointive? How many candidates or parties can exist before the choices become hopelessly confused? Where will the money come from to finance electoral campaigns? Such questions have many answers. In some European democracies, for example, very few offices—often just those in the national or local legislature—are elective, and much of the money for campaigning for these offices comes from the government. In the United States, many offices—executive and judicial as well as legislative—are elective, and most of the money the candidates use for campaigning comes from industry, labor unions, and private individuals.

Some people have argued that the virtues of direct or participatory democracy can and should be reclaimed even in a modern, complex society. This can be done either by allowing individual neighborhoods in big cities to govern themselves (community control) or by requiring those affected by some government program to participate in its formulation (citizen participation). In many states, a measure of direct democracy exists when voters can decide on issues through a referendum—that is, policy choices that appear on the ballot. The proponents of direct democracy defend it as the only way to ensure that the “will of the people” prevails.

As we discuss in the nearby Constitutional Connections feature, and as we explore more in Chapter 2, the Framers of the Constitution did not think that the “will of the people” was synonymous with the “common interest” or the “public good.” They strongly favored representative democracy over direct democracy, and they believed that elected officials could best ascertain what was in the public interest.



Image 1.2 The January 2017 Women’s March on Washington to protest the Trump presidency became an annual event in subsequent years.

1-2 Political Power in America: Five Views

Scholars differ in their interpretations of the American political experience. Where some see a steady march of democracy, others see no such thing; where some emphasize how voting and other rights have been



Much of American political history has been a struggle over what constitutes legitimate authority. The Constitutional Convention in 1787 was an effort to determine whether a new, more powerful federal government could be made legitimate; the succeeding administrations of George Washington, John Adams, and Thomas Jefferson were in large measure preoccupied with disputes over the kinds of decisions that were legitimate for the federal government to make. The Civil War was a bloody struggle over slavery and the legitimacy of the federal union; the New Deal of Franklin Roosevelt was hotly debated by those who disagreed over whether it was legitimate for the federal government to intervene deeply in the economy. Not uncommonly, the

federal judiciary functions as the ultimate arbiter of what is legitimate in the context of deciding what is or is not constitutional (see Chapter 16). For instance, in 2012, amidst a contentious debate over the legitimacy of the federal health care law that was enacted in 2010, the U.S. Supreme Court decided that the federal government could require individuals to purchase health insurance but could not require states to expand health care benefits for citizens participating in the federal-state program known as Medicaid. In the spring and summer of 2017, the Trump White House and the Republican-led Congress tried unsuccessfully to repeal the 2010 law, though they did end the tax penalty, or mandate, for people who do not have health coverage.

steadily expanded, others stress how they were denied to so many for so long, and so forth. Short of attempting to reconcile these competing historical interpretations, let us step back now for a moment to our definition of representative democracy and five competing views about how political power has been distributed in America.

Representative democracy is defined as any system of government in which leaders are authorized to make decisions—and thereby to wield political power—by winning a competitive struggle for the popular vote. It is obvious then that very different sets of hands can control political power, depending on what kinds of people can become leaders, how the struggle for votes is carried on, how much freedom to act is given to those who win the struggle, and what other sorts of influence (besides the desire for popular approval) affect the leaders' actions.

The actual distribution of political power in a representative democracy depends on the composition of the political elites who are involved in the struggles for power and over policy. By **elite** we mean an identifiable group of persons who possess a disproportionate share of some valued resource—in this case, political power.

At least five views exist about how political power is distributed in America: (1) the **class view** (wealthy capitalists and other economic elites determine most policies), (2) the **power elite view** (a group of business, military, labor union, and elected officials controls most decisions), (3) the **bureaucratic view** (appointed bureaucrats ultimately run everything); (4) the **pluralist view** (representatives of a large number of interest groups are in charge), and (5) the **creedal passion view** (morally impassioned elites drive political change).

The first view began with the theories of Karl Marx, who, in the 19th century, argued that governments were

dominated by business owners (the “bourgeoisie”) until a revolution replaced them with rule by laborers (the “proletariat”).¹⁵ But strict Marxism has collapsed in most countries. Today, a class view, though it may derive inspiration from Marx, is less dogmatic and emphasizes the power of “the rich” or the leaders of multinational corporations.

The second view ties business leaders together with other elites whose perceived power is of concern to the view's adherents. These elites may include top military officials, labor union leaders, mass media executives, and the heads of a few special-interest groups. Derived from the work of sociologist C. Wright Mills, this power elite view argues that American democracy is dominated by a few top leaders, many of them wealthy or privately powerful, who do not hold elective office.¹⁶

The third view is that appointed officials run everything despite the efforts of elected officials and the public to control them. The bureaucratic view was first set forth

elite *Persons who possess a disproportionate share of some valued resource, such as money, prestige, or expertise.*

class view *View that the government is dominated by capitalists.*

power elite view *View that the government is dominated by a few top leaders, most of whom are outside of government.*

bureaucratic view *View that the government is dominated by appointed officials.*

pluralist view *View that competition among all affected interests shapes public policy.*

creedal passion view *View that morally impassioned elites drive important political changes.*

by German scholar Max Weber (1864–1920). He argued that the modern state, in order to become successful, puts its affairs in the hands of appointed bureaucrats whose competence is essential to the management of complex affairs.¹⁷ These officials, invisible to most people, have mastered the written records and legislative details of the government and do more than just implement democratic policies; they actually make those policies.

The fourth view holds that political resources—such as money, prestige, expertise, and access to the mass media—have become so widely distributed that no single elite, no social class, no bureaucratic arrangement, can control them. Many 20th-century political scientists, among them David B. Truman, adopted a pluralist view.¹⁸ In the United States, they argued, political resources are broadly shared in part because there are so many governmental institutions (cities, states, school boards) and so many rival institutions (legislatures, executives, judges, bureaucrats) that no single group can dominate most, or even much, of the political process.

The fifth view maintains that while each of the other four views is correct with respect to how power is distributed on certain issues or during political periods of “business as usual,” each also misses how the most important policy decisions and political changes are influenced by morally impassioned elites who are motivated less by economic self-interest than they are by an almost religious zeal to bring government institutions and policies into line with democratic ideals. Samuel P. Huntington articulated this creedal passion view, offering the examples of Patrick Henry and the revolutionaries of the 1770s, the advocates of Jackson-style democracy in the 1820s, the progressive reformers of the early 20th century, and the leaders of the civil rights and antiwar movements in the mid-20th century.¹⁹

1-3 Who Governs? To What Ends?

So, which view is correct? At one level, all are correct, at least in part: Economic class interests, powerful cadres of elites, entrenched bureaucrats, competing pressure groups, and morally impassioned individuals have all at one time or another wielded political power and played a part in shaping our government and its policies.

But, more fundamentally, understanding any political system means being able to give reasonable answers to each of two separate but related questions about it: Who governs, and to what ends?

We want to know the answer to the first question because we believe that those who rule—their personalities and beliefs, their virtues and vices—will affect what they

do to and for us. Many people think they already know the answer to the question, and they are prepared to talk and vote on that basis. That is their right, and the opinions they express may be correct. But they also may be wrong. Indeed, many of these opinions must be wrong because they are in conflict. When asked, “Who governs?” some people will say “the unions” and some will say “big business”; others will say “the politicians,” “the people,” or “the special interests.” Still others will say “Wall Street,” “the military,” “crackpot liberals,” “the media,” “the bureaucrats,” or “white males.” Not all these answers can be correct—at least not all of the time.

The answer to the second question is important because it tells us how government affects our lives. We want to know not only who governs, but what difference it makes who governs. In our day-to-day lives, we may not think government makes much difference at all. In one sense that is right because our most pressing personal concerns—work, play, love, family, health—essentially are private matters on which government touches but slightly. But in a larger and longer perspective, government makes a substantial difference. Consider that in 1935, 96 percent of all American families paid no federal income tax, and for the 4 percent or so who did pay, the average rate was only about 4 percent of their incomes. Today almost all families pay federal payroll taxes, and the average rate is about 21 percent of their incomes. Or consider that in 1960, in many parts of the country, African Americans could ride only in the backs of buses, had to use washrooms and drinking fountains that were labeled “colored,” and could not be served in most public restaurants. Such restrictions have almost all been eliminated, in large part because of decisions by the federal government.

It is important to bear in mind that we wish to answer two different questions, and not two versions of the same question. You cannot always predict what goals government will establish by knowing only who governs, nor can you always tell who governs by knowing what activities government undertakes. Most people holding national political office are economically secure, middle-aged, white, Protestant males, but we cannot then conclude that the government will adopt only policies that are to the narrow advantage of the economically secure, the middle-aged, whites, Protestants, or men. If we thought that, we would be at a loss to explain why the rich are taxed more heavily than the poor, why the War on Poverty was declared, why constitutional amendments giving rights to African Americans and women passed Congress by large majorities, or why Catholics and Jews have been appointed to so many important governmental posts.

This book is chiefly devoted to answering the question, who governs? It is written in the belief that this question

cannot be answered without looking at how government makes—or fails to make—decisions about a large variety of concrete issues. Thus, in this book we inspect government policies to see what individuals, groups, and institutions seem to exert the greatest power in the continuous struggle to define the purposes of government.

Expanding the Political Agenda

No matter who governs, the most important decision that affects policymaking is also the least noticed one: deciding what to make policy *about*, or in the language of political science, deciding what belongs on the **political agenda**. The political agenda consists of issues that people believe require governmental action. We take for granted that politics is about certain familiar issues such as taxes, energy, welfare, civil rights, and homeland security. We forget that there is nothing inevitable about having these issues—rather than some other ones—on the nation's political agenda.

For example, at one time, it was unconstitutional for the federal government to levy income taxes; energy was a nonissue because everyone (or at least everyone who could chop down trees for firewood) had enough; welfare was something for cities and towns to handle; civil rights were supposed to be a matter of private choice rather than government action; “homeland security” was not in the political lexicon, and a huge federal cabinet department by that name was nowhere on the horizon.

At any given time, what is on the political agenda is affected by at least four things as follows:

- *Shared political values*—for example, if people believe that poverty is the result of social forces rather than individual choices, then they have a reason to endorse enacting or expanding government programs to combat poverty.
- *The weight of custom and tradition*—people usually will accept what the government customarily does, even if they are leery of what it proposes to do.
- *The importance of events*—wars, terrorist attacks, and severe or sustained economic downturns can alter our sense of the proper role of government.
- *Terms of debate*—the way in which political elites discuss issues influences how the public views political priorities.

Because many people believe that whatever the government now does it ought to continue doing, and because changes in attitudes and the impact of events tend to increase the number of things that government does, the political agenda is always growing larger. Thus, today there are far fewer debates about the legitimacy of a proposed government policy than there were in the 1920s or the 1930s.

For instance, in the 1930s, when what became the Social Security program was first proposed, the debate was largely

about whether the federal government should have any role whatsoever in providing financial support for older adults or disabled citizens. In stark contrast, today, not a single member of Congress denies that the federal government should have a *major* role in providing financial support for older adults or disabled citizens, or advocates ending Social Security. Instead, today's debates about the program are largely over competing plans to ensure its longterm financial solvency.

Popular views regarding what belongs on the political agenda often are changed by events. During wartime or after a terrorist attack on this country, many people expect the government to do whatever is necessary to win, whether or not such actions are clearly authorized by the Constitution. Economic depressions or deep recessions, such as the ones that began in 1929, 2007, and 2020, also lead many people to expect the government to take action. A coal mine disaster leads to an enlarged role for the government in promoting mine safety. A series of airplane hijackings leads to a change in public opinion so great that what once would have been unthinkable—requiring all passengers at airports to be searched before boarding their flights—becomes routine. A global pandemic makes face masks routine in air travel and other contained public spaces.

But sometimes the government enlarges the political agenda, often dramatically, without any crisis or widespread public demand. This may happen even at a time when the conditions at which a policy is directed are improving. For instance, there was no mass public demand for government action to make automobiles safer before 1966, when a law was passed imposing safety standards on cars. Though the number of auto fatalities (per

political agenda *Issues that people believe require governmental action.*



Image 1.3 Seeing first responders in action in the immediate aftermath of 9/11, Americans felt powerfully connected to their fellow citizens.

100 million miles driven) had gone up slightly just before the law was passed, in the long term, highway deaths had been more or less steadily trending downward.

It is not easy to explain why the government adds new issues to its agenda and adopts new programs when little public demand exists and when, in fact, the conditions to which the policies are addressed have improved. In general, the explanation may be found in the behavior of groups, the workings of institutions, the media, and the action of state governments.

Groups

Many policies are the result of small groups of people enlarging the scope of government by their demands. Sometimes these are organized interests that negotiate with public officials (e.g., corporations or unions); sometimes they are groups of people that coalesce around an issue such as climate change or racial justice. The organized groups often work quietly, behind the scenes; groups that focus on a specific issue may try to influence public officials through rallies and protests.

For example, organized labor favored a tough federal safety law governing factories and other workplaces, not because it was unaware that factory conditions had been improving, but because the standards by which union leaders and members judged working conditions had risen even faster. As people became better off, conditions that once were thought normal suddenly became intolerable.

On occasion, a group expresses in violent ways its dissatisfaction with what it judges to be intolerable conditions. The riots in American cities during the mid-1960s had a variety of causes, and people participated out of a variety of motives. For many, rioting was a way of expressing pent-up anger at what they regarded as an unresponsive and unfair society. A sense of relative deprivation—of being worse off than one thinks one *ought* to be—helps explain why so large a proportion of the rioters were not uneducated, unemployed recent migrants to the city, but rather young men and women born in the North, educated in its schools, and employed in its factories.²⁰ Life under these conditions turned out to be not what they had come to expect or what they were prepared to tolerate.

The new demands of such groups need not result in an enlarged political agenda, and they often do not produce such results when society and its governing institutions are confident of the rightness of the existing state of affairs. Unions could have been voted down on the occupational safety bill; rioters could have been jailed and ignored. At one time, this is exactly what would have happened. But society itself had changed: Many people who were not workers sympathized with the plight of the injured worker and distrusted the good intentions of

business in this matter. Many well-off citizens felt a constructive, not just a punitive, response to the urban riots was required and thus urged the formation of commissions to study—and the passage of laws to deal with—the problems of inner-city life. Such changes in the values and beliefs of people generally—or at least of people in key government positions—are an essential part of any explanation of why policies not demanded by public opinion nonetheless become part of the political agenda.

Government Institutions

Among the set of institutions whose influence on agenda-setting has become especially important are the courts, the bureaucracy, and the Senate.

The courts can make decisions that force the hand of the other branches of government. For example, when in 1954 the Supreme Court ordered schools desegregated, Congress and the White House could no longer ignore the issue. Local resistance to implementing the order led President Dwight D. Eisenhower to send troops to Little Rock, Arkansas, despite his dislike for using force against local governments. Similarly, when the Supreme Court ruled in 1973 that the states could not ban abortions during the first trimester of pregnancy, abortion suddenly became a national political issue. Right-to-life activists campaigned to reverse the Court's decision or, failing that, to prevent federal funds from being used to pay for abortions. Pro-choice activists fought to prevent the Court from reversing course and to get federal funding for abortions. In these and many other cases, the courts act like trip wires: When activated, they set off a chain reaction of events that alters the political agenda and creates a new constellation of political forces.

Indeed, the courts can sometimes be more than trip wires. As the political agenda has expanded, the courts have become the favorite method for effecting change for which there is no popular majority. Little electoral support may exist for allowing abortion on demand, eliminating school prayer, ordering school busing, or attacking tobacco companies, but in the courts elections do not matter. The courts are the preferred vehicles for the advocates of unpopular causes.

The bureaucracy has acquired a new significance in American politics not simply because of its size or power but also because it is now a source of political innovation. At one time, the federal government *reacted* to events in society and to demands from segments of society; ordinarily it did not itself propose changes and new ideas. Today, the bureaucracy is so large and includes within it so great a variety of experts and advocates, that it has become a *source* of policy proposals as well as an implementer of those that become law. The late U.S. Senator Daniel Patrick Moynihan called this the “professionalization of

reform,” by which he meant, in part, that the government bureaucracy had begun to think up problems for government to solve rather than simply to respond to the problems identified by others.²¹ In the 1930s, many of the key elements of the New Deal—Social Security, unemployment compensation, public housing, old-age benefits—were ideas devised by nongovernment experts and intellectuals here and abroad and then, as the crisis of the depression deepened, taken up by the federal government. In the 1960s, by contrast, most of the measures that became known as part of Lyndon Johnson’s “Great Society”—federal aid to education, manpower development and training, Medicare and Medicaid, the War on Poverty, the Crime Control and Safe Streets Act providing federal aid to local law enforcement agencies—were developed, designed, and advocated by government officials, bureaucrats, and their political allies.

Chief among these political allies are U.S. senators and their staffs. Once the Senate was best described as a club that moved slowly, debated endlessly, and resisted, under the leadership of conservative Southern Democrats, the plans of liberal presidents. With the collapse of the one-party South and the increase in the number of liberal activist senators, the Senate became, in the 1960s, an incubator for developing new policies and building national constituencies.²² (In chapter 13, we will explore whether the Senate still fits this description in the 21st century.)

Media

The national press can either help place new matters on the agenda or publicize those matters placed there by others. There was a close correlation between the political attention given in the Senate to proposals for new safety standards for industry, coal mines, and automobiles and the amount of space devoted to these questions in the pages of the *New York Times*. Newspaper interest in the matter, low before the issue was placed on the agenda, peaked at about the time the bill was passed.²³

It is difficult, of course, to decide which is the cause and which the effect. The press may have stimulated congressional interest in the matter or merely reported on what Congress had already decided to pursue. Nonetheless, the press must choose which of thousands of proposals it will cover. The beliefs of editors and reporters led it to select the safety issue.

Action by the States

National policy is increasingly being made by the actions of state governments. You may wonder how. After all, a state can only pass laws that affect its own people. Of course, the national government may later adopt ideas pioneered in the states, as it did when Congress passed a “Do Not Call” law

in 2003 to allow you to reduce phone calls from salespeople, on land lines or cell phones. The states had taken the lead on this issue.

But there is another way in which state governments can make national policy directly without Congress ever voting on the matter. The attorneys general of states may sue a business firm and settle the suit with an agreement that binds the industry throughout the country. The effect of one suit was to raise prices for consumers and create a new set of regulations. This is what happened in 1998 with the tobacco agreement negotiated between cigarette companies and some state attorneys general. The companies agreed to raise their prices, pay more than \$240 billion to state governments (to use as they wished) and several billion dollars to private lawyers, and comply with a massive regulatory program. A decade later, the federal government passed laws that reinforced the state’s regulations, culminating in the Family Smoking Prevention Tobacco Control Act of 2009. More recently, in 2019, a judge in Oklahoma ordered a pharmaceutical company to pay close to \$600 million for treatment and other services to address the state’s opioid crisis, and four drug companies in Ohio reached a \$260 million settlement agreement for the same issue.

cost A burden that people believe they must bear if a policy is adopted.

benefit A satisfaction that people believe they will enjoy if a policy is adopted.

1-4 The Politics of Different Policy Issues

Once an issue is on the political agenda, its nature affects the kind of politicking that ensues. Some issues provoke intense conflict among interest groups; others allow one group to prevail almost unchallenged. Some issues involve ideological appeals to broad national constituencies; others involve quiet bargaining in congressional offices. We all know that private groups try to influence government policies; we often forget that the nature of the issues with which government is dealing influences the kinds of groups that become politically active.

One way to understand why government handles a given issue as it does is to examine what seem to be the costs and benefits of the proposed policy. The **cost** is any burden, monetary or nonmonetary, that some people must bear, or believe they must bear, if the policy is adopted. The costs of a government spending program are the taxes it entails; the cost of a foreign policy initiative may be the increased chance of having the nation drawn into war.

The **benefit** is any satisfaction, monetary or nonmonetary, that people believe they will enjoy if the policy is adopted. The benefits of a government spending program

majoritarian politics A policy in which almost everybody benefits and almost everybody pays.

are the payments, subsidies, or contracts received by some people; the benefits of a foreign policy initiative may include the enhanced security of the nation, the protection of a valued ally, or the vindication of some important principle such as human rights.

Two aspects of these costs and benefits should be borne in mind. First, it is the *perception* of costs and benefits that affects politics. People may think the cost of an auto emissions control system is paid by the manufacturer, when it is actually passed on to the consumer in the form of higher prices and reduced performance. Political conflict over pollution control will take one form when people think that the polluting industries pay the costs and another form when they think that the consumers pay.

Second, people take into account not only who benefits but also whether it is legitimate for that group to benefit. When programs providing financial assistance to women with dependent children were first developed in the early part of the 20th century, they were relatively noncontroversial because people saw the money as going to widows and orphans who deserved such aid. Later, giving aid to mothers with dependent children became controversial because some people now perceived the recipients not as deserving widows but as irresponsible women who had never married. Whatever the truth of the matter, the program had lost some of its legitimacy because the beneficiaries were no longer seen as “deserving.” By the same token, groups once thought underserving, such as men out of work, were later thought to be entitled to aid, and thus the unemployment compensation program acquired a legitimacy that it once lacked.

Politics is in large measure a process of raising and settling disputes over who *will* benefit or pay for a program and who *ought* to benefit or pay. Because beliefs about the results of a program and the rightness of those results are matters of opinion, it is evident that ideas are at least as important as interests in shaping politics. In recent years, ideas have become especially important with the rise of issues whose consequences are largely intangible, such as abortion, school prayer, and LGBTQ+ rights.

Though perceptions about costs and benefits change, most people most of the time prefer government programs that provide substantial benefits to them at low cost. This rather obvious fact can have important implications for how politics is carried out. In a political system based on some measure of popular rule, public officials have a strong incentive to offer programs that confer—or seem to confer—benefits on people with costs either small in amount, remote in time, or borne by “somebody else.” Policies that seem to impose high, immediate costs in return for small or remote benefits will be avoided,

enacted with a minimum of publicity, or proposed only in response to a real or apparent crisis.

Ordinarily, no president would propose a policy that would immediately raise the cost of fuel, even if he were convinced that future supplies of oil and gasoline were likely to be exhausted unless higher prices reduced current consumption. But when a crisis occurs, such as the Arab oil cartel’s price increases beginning in 1973, it becomes possible for the president to offer such proposals—as did Richard Nixon, Gerald Ford, and Jimmy Carter in varying ways. Even then, however, people are reluctant to bear increased costs, and thus many are led to dispute the president’s claim that an emergency actually exists.

Four Types of Politics

These entirely human responses to the perceived costs and benefits of proposed policies can be organized into a simple theory of politics.²⁴ It is based on the observation that the costs and benefits of a policy may be *widely distributed* (spread over many, most, or even all citizens) or *narrowly concentrated* (limited to a relatively small number of citizens or to some identifiable, organized group).

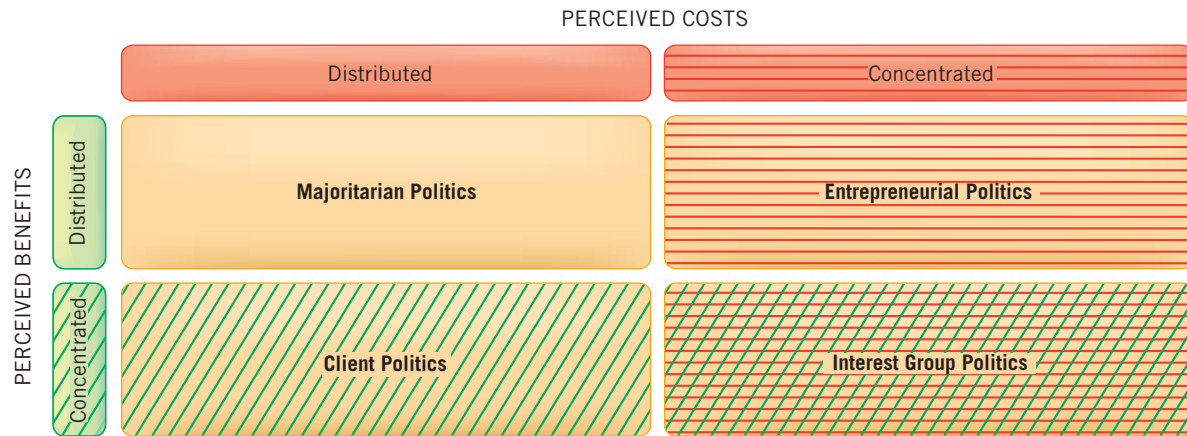
For instance, a widely distributed cost would include an income tax, a Social Security tax, or a high rate of crime; a widely distributed benefit might include retirement benefits for all citizens, clean air, national security, or low crime rates. Examples of narrowly concentrated costs include the expenditures by a factory to reduce its pollution, government regulations imposed on doctors and hospitals participating in the Medicare program, or restrictions on freedom of speech imposed on a dissident political group. Examples of narrowly concentrated benefits include subsidies to farmers or merchant ship companies, the enlarged freedom to speak and protest afforded a dissident group, or protection against competition given to an industry because of favorable government regulation.

The perceived distribution of costs and benefits shapes the *kinds of political coalitions that will form*—but it does not necessarily determine *who wins*. Four types of politics exist, and a given popular majority, interest group, client, or entrepreneur may win or lose depending on its influence and the temper of the times.

Majoritarian Politics: Distributed Benefits, Distributed Costs

Some policies promise benefits to large numbers of people at a cost that large numbers of people will have to bear (see Figure 1.1). For example, almost everyone will sooner or later receive Social Security benefits, and almost everyone who works has to pay Social Security taxes.

Such **majoritarian politics** are usually not dominated by pulling and hauling among rival interest groups;

Figure 1.1 A Way of Classifying and Explaining the Politics of Different Policy Issues

Q What are some factors that might influence how people perceive costs and benefits for a policy issue, and why?

instead, they involve making appeals to large segments of voters and their representatives in hopes of finding a majority. The reason why interest groups are not so important in majoritarian politics is that citizens rarely will have much incentive to join an interest group if the policy that such a group supports will benefit everybody, whether or not they are members of the group. This is the “free rider” problem. Why join the Committee to Increase (or Decrease) the Defense Budget when what you personally contribute to that committee makes little difference in the outcome and when you will enjoy the benefits of more (or less) national defense even if you stay on the sidelines?

Majoritarian politics may be controversial, but the controversy is usually over matters of cost or ideology, not between rival interest groups. For example, intense controversy ensued over the health care plan that President Barack Obama signed into law, but the debate was not dominated by interest groups, and many different types of politics were at play (see Policy Dynamics: Inside/Outside the Box on page 17). The military budget went up during the early 1980s, down in the late 1980s, up after 2001, and down again after 2010. These changes reflected different views on how much we need to spend on our military operations abroad.

Interest Group Politics: Concentrated Benefits, Concentrated Costs

In **interest group politics**, a proposed policy will confer benefits on some relatively small, identifiable group and impose costs on another small, equally identifiable group. For example, when Congress passed a bill requiring companies to give 60 days’ notice of a plant closing or a large-scale layoff, labor unions (whose members would benefit) backed the bill, and many business firms

(which would pay the costs) opposed it.

Issues of this kind tend to be fought out by organized interest groups. Each side will be so powerfully affected by the outcome that it has a strong incentive to mobilize: Union members who worry about layoffs will have a personal stake in favoring the notice bill; business leaders who fear government control of investment decisions will have an economic stake in opposing it.

Interest group politics often produces decisions about which the public is uninformed. For instance, bitter debates have occurred between television broadcasters and cable companies over who may send what kind of signals to which homes. But these debates hardly draw any public notice—until after a law is passed and people see their increased cable charges.

Though many issues of this type involve monetary costs and benefits, they can also involve intangible considerations. If the American Nazi party wants to march through a predominantly Jewish neighborhood carrying flags with swastikas on them, the community may organize itself to resist out of revulsion due to the horrific treatment of Jews by Nazi Germany. Each side may hire lawyers to debate the issue before the city council and in the courts. (We discuss how the courts ruled on this issue in Chapter 5.)

Client Politics: Concentrated Benefits, Distributed Costs

With **client politics** some identifiable, often small group will benefit, but everybody—or at least a large part of society—will pay the costs. Because the benefits are concentrated, the group to receive those benefits has an incentive to organize and work to get them. But because

interest group politics

A policy in which one small group benefits and another small group pays.

client politics A policy in which one small group benefits and almost everybody pays.

pork-barrel legislation

Legislation that gives tangible benefits to constituents in several districts or states in the hope of winning their votes in return.

log-rolling *A legislator supports a proposal favored by a colleague with reciprocal support for a proposal endorsed by the legislator.*

entrepreneurial politics

A policy in which almost everybody benefits and a small group pays.

the costs are widely distributed, affecting many people only slightly, those who pay the costs may be either unaware of any costs or indifferent to them because per capita they are so small.

This situation gives rise to client politics (sometimes called clientele politics); the beneficiary of the policy is the “client” of the government. For example, many farmers benefit

substantially from agricultural price supports, but the far more numerous food consumers have no idea what these price supports cost them in taxes and higher food prices. Similarly, for some time airlines benefited from the higher prices they were able to charge on certain routes as a result of government regulations that restricted competition over prices. But the average passenger was either unaware that costs were higher or did not think the higher prices were worth making a fuss about.

Not all clients have economic interests. Localities can also benefit as clients when, for example, a city or county obtains a new dam, a better harbor, or an improved irrigation system. Some of these projects may be worthwhile, others may not; by custom, however, they are referred to as *pork-barrel projects*. Usually several pieces of “pork” are put into one barrel—that is, several projects are approved in a single piece of **pork-barrel legislation**, such as the “rivers and harbors” bill that Congress passes almost every year. Trading votes in this way attracts the support of members of Congress from each affected area; with enough projects a majority coalition is formed. This process is called **log-rolling**.

Not every group that wants something from government at little cost to the average citizen will get it. Welfare recipients cost the typical taxpayer a small amount each year, yet there was great resistance to increasing these benefits. The homeless have not organized themselves to get benefits; indeed, most do not even vote. Yet benefits are being provided (albeit in modest amounts). These examples illustrate the importance of popular views concerning the legitimacy of client claims as a factor in determining the success of client demands.

By the same token, groups can lose legitimacy that they once had. People who grow tobacco once were supported simply because they were farmers, and were thus seen as both “deserving” and politically important. But when people began worrying about the health risks associated with using tobacco, farmers who produce tobacco lost some legitimacy compared with those who produce corn or cotton. As a result, it became harder to get votes for maintaining tobacco price supports and easier to slap higher taxes on cigarettes.

Entrepreneurial Politics: Distributed Benefits, Concentrated Costs

In **entrepreneurial politics**, society as a whole or some large part of it benefits from a policy that imposes substantial costs on some small, identifiable segment of society. The antipollution and safety requirements for automobiles were proposed as ways of improving the health and well-being of all people at the expense (at least initially) of automobile manufacturers.

It is remarkable that policies of this sort are ever adopted, and in fact many are not. After all, the American political system creates many opportunities for checking and blocking the actions of others. The Founders deliberately arranged things so that it would be difficult to pass a new law; a determined minority therefore has an excellent



Topham/The Image Works

Image 1.4 During the Great Depression, depositors besieged a bank, hoping to get their savings out.

chance of blocking a new policy. And any organized group that fears the loss of some privilege or the imposition of some burden will become a very determined minority indeed. The opponent has every incentive to work hard; the large group of prospective beneficiaries may be unconvinced of the benefit or regard it as too small to be worth fighting for.

Nonetheless, policies with distributed benefits and concentrated costs are in fact adopted, and in recent decades they have been adopted with increasing frequency. A key element in the adoption of such policies has been the work of people who act on behalf of the unorganized or indifferent majority. Such people, called **policy entrepreneurs**, are those both in and out of government who find ways of pulling together a legislative majority on behalf of interests that are not well represented in the government. These policy entrepreneurs may or may not represent the interests and wishes of the public at large, but they do have the ability to dramatize an issue in a convincing manner. Ralph Nader is perhaps the best-known example of a policy entrepreneur, or as he might describe himself, a “consumer advocate.” But there are other examples from both ends of the political spectrum, conservative as well as liberal.

Entrepreneurial politics can occur without the leadership of a policy entrepreneur if voters or legislators in large numbers suddenly become disgruntled by the high cost of some benefit that a group is receiving (or become convinced of the urgent need for a new policy to impose such costs). For example, voters may not care about government programs that benefit the oil industry when gasoline costs only one dollar a gallon, but they might care very much when the price rises to three dollars a gallon, even if the government benefits had nothing to do with the price increase. By the same token, legislators may not worry much about the effects of smog in the air until a lot of people develop burning eyes and runny noses during an especially severe smog attack.

In fact, most legislators did not worry very much about toxic or hazardous wastes until 1977, when the Love Canal dump site near Buffalo, New York, spilled some of its toxic waste into the backyards of an adjacent residential neighborhood and people were forced to leave their homes. Five years later, anyone who had forgotten about the Love Canal was reminded of it when the town of Times Beach, Missouri, had to be permanently evacuated because it had become contaminated with the chemical dioxin. Only then did it become widely known that more than 30,000 toxic waste sites nationwide posed public safety risks. The Superfund program was born in 1980 of the political pressure that developed in the wake of these and other highly publicized tales of toxic waste

dangers. Superfund was intended to force industries to clean up their own toxic waste sites. It also authorized the Environmental Protection Agency (EPA) to act speedily, with or without cooperation from industries, in identifying and cleaning up any sites that posed a large or imminent danger.

Superfund suffered a number of political and administrative problems, and only a few of the 1,300 sites initially targeted by the EPA had been cleaned up a dozen years after the program went into effect.²⁵ Regardless, Superfund is a good illustration of entrepreneurial politics in action. Special taxes on once largely unregulated oil and chemical companies funded the program. These companies once enjoyed special tax breaks, but as the politics of the issue changed, they were forced to shoulder special tax burdens. In effect, the politics of the issue changed from client politics to entrepreneurial politics.

policy entrepreneurs

Activists in or out of government who pull together a political majority on behalf of unorganized interests.

Policy Dynamics: Inside/Outside the Box

Superfund also thereby illustrates how dynamic the politics of policymaking can be. Once an issue makes its way on to the political agenda, the politics of the issue can remain stable, change a little or a lot, and change very slowly or quite suddenly. And policy issues can “migrate” from one type of politics (and one of the four boxes) to another.

By the same token, the policy dynamics of some issues are simply harder to categorize and explain than the policy dynamics of others. For instance, in the mid-2000s, 13 states amended their state constitutions to prohibit or further restrict same-sex marriage. In 2008, California voters approved a ballot measure, Proposition 8, banning same-sex marriage. But virtually all of these policies were enacted at a time when popular acceptance of a person’s sexual orientation, including same-sex marriage, was rising. In 2001, by a margin of 57 percent to 35 percent, Americans opposed same-sex marriage; but, by 2013, a 49 percent to 44 percent plurality favored same-sex marriage. In 2012, President Barack Obama, having previously ordered an end to the “Don’t Ask, Don’t Tell” policy that had banned people in the military who were not heterosexual from revealing their sexual orientation, publicly declared his support for legalizing same-sex marriage. Surveys indicated that the only groups still harboring wide majorities opposed to same-sex marriage were evangelical Christians and adults born in 1945 or earlier.²⁶ In 2013, the U.S. Supreme Court struck down a

1996 law that allowed the federal government to discriminate against same-sex married couples, and two years later, the Court declared that same-sex marriages are constitutional.

So, how best can we categorize or explain the politics of this issue? Which type of politics—majoritarian, client, interest group, or entrepreneurial—were most important to policymaking? Why did state laws become more restrictive at the very time that both mass public opinion and elite opinion were trending toward greater acceptance? Do the still-unfolding policy dynamics of this issue fit neatly (or fit at all) in any of our four boxes? Start thinking about these questions; we revisit them in Chapters 3 and 6.

Finally, while the politics of some issues do fit neatly into one box or another, the politics of other issues reflect several different types of politics.

For example, most major pieces of social legislation reflect *majoritarian* politics—Social Security remains a prime example—but health care issues often have played out within all four boxes—majoritarian, client, interest group, and entrepreneurial—at once. This was certainly true of the politics of the Patient Protection and Affordable Care Act of 2010, better known as “Obamacare.” As we illustrate in our first Policy Dynamics: Inside/Outside the Box feature, the perceived costs and benefits of the Obama plan affected the political coalitions that formed around it and involved all four types of politics.

Understanding Politics

Whether pondering one’s own positions on given issues, attempting to generalize about the politics of different policy issues, or tackling questions about American government, institutions, and policies, an astute student will soon come to know what Aristotle meant when he wrote that it is “the mark of the educated person to look for precision in each class of things just so far as the nature of the subject admits.”²⁷

Ideally, political scientists ought to be able to give clear answers, amply supported by evidence, to the questions we have posed about American democracy, starting with “who governs?” In reality they can (at best) give partial, contingent, and controversial answers. The reason is to be found in the nature of our subject. Unlike economists, who assume that people have more or less stable preferences and can compare ways of satisfying those preferences by looking at the relative prices of various goods and services, political scientists are interested in how preferences are formed, especially for those kinds of services, such as national defense or pollution control, that cannot be evaluated chiefly in terms of monetary costs.

Understanding preferences is vital to understanding power. Who did what in government is not hard to find out, but who wielded power—that is, who made a

difference in the outcome and for what reason—is much harder to discover. *Power* is a word that conjures up images of deals, bribes, power plays, and arm-twisting. In fact, most power exists because of shared understanding, common friendships, communal or organizational loyalties, and different degrees of prestige. These are hard to identify and almost impossible to quantify.

Nor can the distribution of political power be inferred simply by knowing what laws are on the books or what administrative actions have been taken. The enactment of a consumer protection law does not mean that consumers are powerful, any more than the absence of such a law means that corporations are powerful. The passage of such a law could reflect an aroused public opinion, the lobbying of a small group claiming to speak for consumers, the ambitions of a senator, or the intrigues of one business firm seeking to gain a competitive advantage over another. A close analysis of what the law entails and how it was passed and administered is necessary before much of anything can be concluded.

This book avoids sweeping claims that we have an “imperial” presidency (or an impotent one), an “obstructionist” Congress (or an innovative one), or “captured” regulatory agencies. Such labels do an injustice to the different roles that presidents, members of Congress, and administrators play in different kinds of issues and in different historical periods.

The view taken in this book is that judgments about institutions and interests can be made only after one has seen how they behave on a variety of important issues or potential issues, such as economic policy, the regulation of business, social welfare, civil rights and liberties, and foreign and military affairs. The policies adopted or blocked, the groups heeded or ignored, the values embraced or rejected—these constitute the raw material from which



Image 1.5 Protesters decry efforts to repeal the Affordable Care Act.



Policy Dynamics: Inside/Outside the Box

Obamacare: All Four Boxes?

When Medicare was enacted in 1965, Democrats in the House and Senate voted for it by a wide margin, but roughly half of the Republicans in each chamber also supported it. But the 2010 health care bill was passed without any Republican support. In other words, the 1965 Medicare bill that President Lyndon Johnson signed into law had broad bipartisan backing, but the 2010 health care bill that President Obama signed into law had none. Using the model of the policy process explained in this chapter, here is a summary of how the costs and benefits of the Obama plan affected the political coalitions that formed around health care.

Majoritarian Politics: The bill was opposed by a majority of Americans for a variety of reasons. Many thought it too expensive (\$940 billion over 10 years) or worried about the government regulations the law contained.

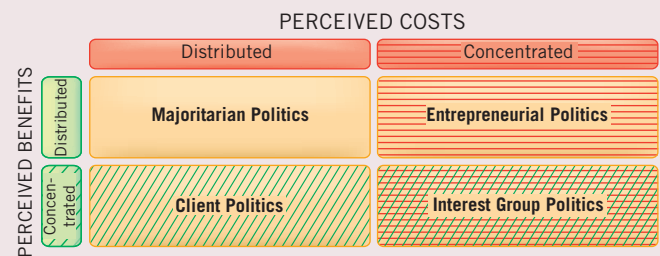
Client Politics: Drug manufacturers looked forward to having many new customers as more people owned health insurance. To get this benefit, the pharmaceutical companies agreed to pay up to \$85 billion in higher taxes. Many hospitals thought they would be helped by having more patients who could pay their bills with health insurance.

Interest Group Politics: Labor unions wanted health care coverage, but business firms were upset by the higher taxes and fees they would have to pay. Poorer people liked it, but those earning \$200,000 a year or more would see their taxes escalate. Older adults on Medicare and many doctors worried that the new law promised to cut payments to physicians, but the American Medical Association and the AARP (the largest organization representing senior citizens) endorsed the law.

Policy Entrepreneurs: In early 2010, the winners were President Obama and the Democratic leaders in the House who got a bill passed over popular and interest group opposition. In the latter half of 2010, however, the winners

were the Republicans who opposed “Obamacare” and used the issue on the way to sweeping GOP victories in the November 2010 elections. When the 112th Congress was seated in 2011, Republicans in the House made good on a pledge to vote for the outright repeal of the new law (the symbolic bill died in the Senate), and several state attorneys general challenged the law’s constitutionality in the federal courts (focusing mainly on the provision mandating that individuals purchase health insurance). In 2012, the U.S. Supreme Court upheld the constitutionality of the law’s individual mandate, but ruled against certain other provisions of the law, including ones pertaining to changes in the federal-state program known as Medicaid, a program that was created in 1965 alongside Medicare (see Chapter 17).

The Medicare law and the new health care law mobilized very different coalitions, in part because, between 1965 and 2010, Congress became a far more polarized institution (see Chapter 13). The Obamacare policy was based on a combination of majoritarian, client, interest group, and entrepreneurial politics. The politics of the issue was neither inside nor outside any one of the four boxes, but spread across all four.



**“GOP” refers to “Grand Old Party,” a widely used synonym for the Republican Party.

one can fashion an answer to the central questions we have asked: Who governs, and to what ends?

The way in which our institutions of government handle social welfare, for example, differs from the way other democratic nations handle it, and it differs as well from the way our own institutions once treated it. The description of our institutions in Part III will therefore include not only an account of how they work today but also a brief historical background on their workings and a comparison with similar institutions in other countries. We tend to assume that how we do things today is the only way they could possibly be done. In fact, a government

can operate in other ways, based on some measure of popular rule. History, tradition, and belief weigh heavily on all that we do.

Although political change is not always accompanied by changes in public laws, the policy process is arguably one of the best barometers of changes in who governs. Our way of classifying and explaining the politics of different policy issues has been developed, refined, and tested over more than four decades (longer than most of our readers have been alive!). Our own students and others have valued it mainly because they have found it helps to answer such questions about



What Would You Do?

Will You Favor or Oppose the Ban on Initiatives?

To: Governor Lucy Avery
From: Professor Ella Nicole
Subject: Initiative repeal

You have supported several successful initiatives (life imprisonment for thrice-convicted violent felons, property tax limits), but you have never stated your views on the actual initiative process, and the repeal proposal likely will surface during tomorrow's news briefing.

To Consider:

A report released yesterday and signed by more than 100 law and public policy professors statewide urges that the state's constitution be amended to ban legislation by initiative. The initiative allows state voters to place legislative measures directly on the ballot by getting enough signatures. The initiative "has led to disastrous policy decisions on taxes, crime, and other issues," the report declared.

Arguments for:

1. Ours is a representative, not a direct, democracy in which voters elect leaders and elected leaders make policy decisions subject to review by the courts.
2. Voters often are neither rational nor respectful of constitutional rights. For example, many people demand both lower taxes and more government services, and polls find that most voters would prohibit people with certain views from speaking and deprive all persons accused of a violent crime from getting out on bail while awaiting trial.
3. Over the past 100 years, hundreds of statewide ballot initiatives have been passed in 24 states. Rather than giving power to the people, special interest groups have spent billions of dollars manipulating voters to pass initiatives that enrich or benefit their own interests, not those of the public at large.

Arguments against:

1. When elected officials fail to respond to persistent public majorities favoring tougher crime measures, lower property taxes, and other popular concerns, direct democracy via the initiative is legitimate, and the courts can still review the law.
2. More Americans than ever have college degrees and easy access to information about public affairs. Studies find that most average citizens are able to figure out which candidates, parties, or advocacy groups come closest to supporting their own economic interests and personal values.
3. All told, the 24 states that passed laws by initiative also passed thousands more laws by the regular legislative process (among the tens of thousands of bills they considered). Studies find that special interest groups are severely limited in their ability to pass new laws by initiative, whereas citizens' groups with broad-based public support are behind most initiatives that pass.



What Will You Decide? Enter **MindTap** to make your choice.

Your decision: ☐ Favor ban ☐ Oppose ban

who governs: How do political issues get on the public agenda in the first place? How, for example, did sexual harassment, which was hardly ever discussed or debated by Congress, burst onto the public agenda? Once on the agenda, how does the politics of issues like income security for older Americans—for example, the politics of Social Security, a program that has been on the federal books since 1935 (see Chapter 17)—change over time? And if, today, one cares about expanding civil liberties (see Chapter 5) or protecting civil rights (see Chapter 6), what political obstacles and opportunities will one likely face? What role will public opinion, organized interest groups, the media, the courts, political parties, and other

institutions likely play in frustrating or fostering one's particular policy preferences, whatever they might be?

Peek ahead, if you wish, but understand that the place to begin a search for how power is distributed in national politics and what purposes that power serves is with the founding of the federal government in 1787: the Constitutional Convention and the events leading up to it. Though the decisions of that time were not made by philosophers or professors, the practical men who made them had a philosophic and professorial cast of mind, and thus they left behind a fairly explicit account of what values they sought to protect and what arrangements they thought ought to be made for the allocation of political power.

Learning Objectives

1-1 Explain how politics drives democracy.

Politics is the activity by which an issue is agitated or settled. Politics occurs because people disagree and the disagreement must be managed. Disagreements over many political issues, including disputes over government budgets and finances, are often fundamentally disagreements over what government should or should not do at all. Democracy can mean either that everyone votes on all government issues (direct or participatory democracy) or that the people elect representatives to make most of these decisions (representative democracy).

1-2 Discuss five views of how political power is distributed in the United States.

Some believe that political power in America is monopolized by wealthy business leaders, by other powerful elites, or by entrenched government bureaucrats. Others believe that political resources such as money, prestige, expertise, organizational position, and access to the mass media are so widely dispersed in American society, and the governmental institutions and offices in which power may be exercised so numerous and varied, that no single group truly has all or most political power. In this view, political power in America is distributed more or less widely. Still others suggest that morally impassioned leaders have at times been deeply influential in our politics. No one, however, argues that political resources are distributed equally in America.

1-3 Explain why “who governs?” and “to what ends?” are fundamental questions in American politics.

The political agenda consists of those issues that people with decision-making authority believe require government action. The behavior of groups, the workings of institutions, the media, and the actions of state governments have all figured in the expansion of America's political agenda, and understanding how those actors have expanded the agenda—that is, “who governs?”—is necessary to understand the nature of American politics. Similarly, the great shifts in the character of American government—its size, scope, institutional arrangements, and the direction of its policies—have reflected complex and sometimes sudden changes in elite or mass beliefs about what government is supposed to do—that is, “to what ends?” The federal government now has policies on street crime, the environment, homeland security, and many other issues that were not on the federal agenda a half-century (or, in the case of homeland security, just two decades) ago.

1-4 Summarize the key concepts for classifying the politics of different policy issues.

One way to classify and explain the politics of different issues is in relation to the perceived costs and benefits of given policies and how narrowly concentrated (limited to a relatively small number of identifiable citizens) or widely distributed (spread over many, most, or all

citizens) their perceived costs and benefits are. This approach gives us four types of politics: *majoritarian* (widely distributed costs and benefits), *interest group* (narrowly concentrated costs and benefits), *client* (widely distributed costs and narrowly concentrated benefits), and *entrepreneurial* (narrowly concentrated costs and widely distributed benefits). Different types

of coalitions are associated with each type of politics. Issues can sometimes “migrate” from one type of politics to another. Some policy dynamics involve more than one type of politics. And the politics of some issues is harder to classify and explain than the politics of others.

To Learn More

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CHAPTER 2

The Constitution

Learning Objectives

- 2-1** Explain how evolving debates about liberty led from the Revolutionary War to the Constitutional Convention.
- 2-2** Discuss the major proposals for and compromise over representation in the Constitutional Convention.
- 2-3** Summarize the key issues presented by Federalists and Antifederalists in ratification debates for the Constitution
- 2-4** Discuss continuing debates about democracy and the Constitution.

« **Then** When the Constitutional Convention was held in Philadelphia in 1787, its members were all white men. They were not chosen by popular election, and a few famous men, such as Patrick Henry of Virginia, refused to attend. One state, Rhode Island, sent no delegates at all. They assembled in secret and there was no press coverage. The delegates met to remedy the defects of the Articles of Confederation, under which the rebellious colonies had been governed; but instead of fixing the Articles, they wrote an entirely new constitution. Then they publicized it and said that it would go into effect once it had been ratified—not by state legislatures, but by popular conventions in at least nine states.

* **Now** Suppose you think we should have a new constitutional convention to remedy what you and others view as defects in the present document. As you will see later in this chapter, opinions about how our Constitution might be improved are quite diverse. Some critics want the Constitution to create an American version of the parliamentary system of government one finds in the United Kingdom. Others would rather that it weaken the federal government—for example, by requiring that the budget be balanced each year, or by cutting funds and staff from national programs, such as housing and education assistance, with the expectation that states or private organizations will take on those responsibilities.

Now try to imagine your answers to these questions: How would delegates be picked? How many would there be? Is there any way to limit what the new convention does? Should the meeting be covered by live television, and should delegates be free to publicize proceedings through social media posts?

2-1 The Problem of Liberty

The goal of the American Revolution was liberty. It was not the first revolution with that object (nor was it the last), but it was perhaps the clearest case of a people violently altering the political order, simply to protect their liberties. Subsequent revolutions had more complicated or utterly different objectives. The French Revolution in 1789 sought not only liberty, but also “equality and fraternity.” The Russian Revolution (1917) and the Chinese Revolution (culminating in 1949) chiefly sought equality and were scarcely concerned with liberty as we understand it.

In signing the Declaration of Independence in 1776, the American colonists sought to protect the traditional liberties to which they thought they were entitled as British subjects. These liberties included the right to bring their

legal cases before judges who were truly independent, rather than subordinate to the king; to be free of the burden of having British troops quartered in their homes; to engage in trade without burdensome restrictions; and, of course, to pay no taxes levied by a British Parliament in which they had no direct representation. During the 10 years or more of agitation and argument leading up to the War for Independence, most colonists believed their liberties could be protected while they remained a part of the British Empire.

Slowly but surely opinion shifted. By the time war broke out in 1775, a large number of colonists (though perhaps not a majority) had reached the conclusion that the colonies would have to become independent of Great Britain if their liberties were to be assured. The colonists had many reasons for regarding independence as the only solution, but one is especially important: they no longer had confidence in the English constitution. This constitution was not a single document, but rather a collection of laws, charters, and traditional understandings that proclaimed the liberties of British subjects. In the eyes of the colonists, these liberties were violated regularly, despite their constitutional protection. Clearly, then, the English constitution was an inadequate check on the abuses of political power. The revolutionary leaders sought an explanation of the constitution’s insufficiency, and they found it in human nature.

The Colonial Mind

“A lust for domination is more or less natural to all parties,” one colonist wrote.¹ Men will seek power, many colonists believed, because they are ambitious, greedy, and easily corrupted. John Adams denounced the “luxury, effeminacy, and venality” of English politics; Patrick Henry spoke scathingly of the “corrupt House of Commons”; and Alexander Hamilton described England as “an old, wrinkled, withered, worn-out hag.”² This was in part flamboyant rhetoric designed to whip up enthusiasm for the conflict, but it was also deeply revealing of the colonial mindset. Their belief that English politicians—and, by implication, most politicians in general—tended to be corrupt was the colonists’ explanation of why the English constitution was not an adequate guarantee of the liberty of the citizens. This opinion was to persist and, as we shall see, profoundly affect the way the Americans went about designing their own governments.

The liberties the colonists fought to protect were, they thought, widely understood. They were based not on the generosity of the king or the language of statutes but on a “higher law” embodying “natural rights” that were ordained by God, discoverable in nature and history, and essential to human progress. These rights, John Dickinson

wrote, are “born with us; exist with us; and cannot be taken away from us by any human power.”³ There was general agreement that the essential rights included life, liberty, and property long before Thomas Jefferson wrote them into the Declaration of Independence. (Jefferson changed “property” to “the pursuit of happiness,” but almost everybody else went on talking about property.)

This emphasis on property did not mean the American Revolution was thought up by the rich and wellborn to protect their interests or that there was a struggle between property owners and the propertyless. In late-18th-century America, most people (except the black slaves) had property of some kind. The overwhelming majority of citizens were self-employed—as farmers or artisans—and rather few people benefited financially by gaining independence from England. Taxes were higher during and after the war than they were before it, trade was disrupted by the conflict, and debts mounted perilously as various expedients were invented to pay for the struggle. There were, of course, war profiteers and those who tried to manipulate the currency to their own advantage, but most Americans at the time of the war saw the conflict in terms of political rather than economic issues. It was a war of ideology.

We all recognize the glowing language with which Jefferson set out the case for independence in the second paragraph of the Declaration:

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, having 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.

What almost no one recalls, but which are an essential part of the Declaration, are the next 27 paragraphs, in which Jefferson listed, item by item, the specific complaints the colonists had against George III and his ministers. None of these items focused on social or economic conditions in the colonies; all spoke instead of specific violations of political liberties. The Declaration was in essence a lawyer’s brief, prefaced by a stirring philosophical claim that the rights being violated were **unalienable**—that is, based on nature and Providence, and not on the whims or preferences of people. Jefferson, in his original draft, added another complaint—that the king had allowed the slave trade to continue *and* was inciting slaves to revolt against their masters. Congress, faced with so contradictory a charge, instead decided to include a muted reference to slave insurrections and omit all reference to the slave trade.

unalienable A human right based on nature or God.

The Real Revolution

The Revolution was more than the War of Independence. It began before the war, continued after it, and involved

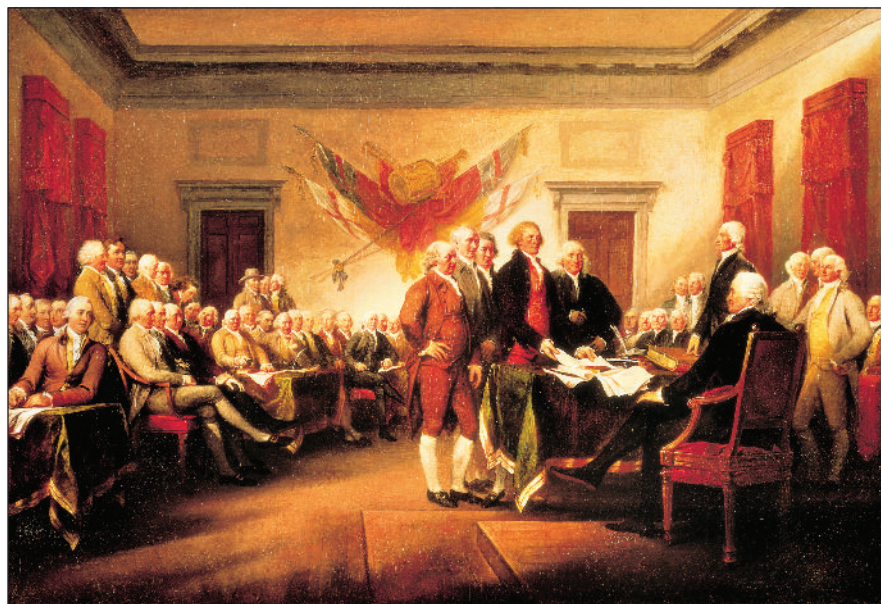


Image 2.1 Signing the Declaration of Independence, painted by John Trumbull.

more than driving out the British army by force. The *real* Revolution, as John Adams explained afterward in a letter to a friend, was the “radical change in the principles, opinions, sentiments, and affections of the people.”²⁴ This radical change had to do with a new vision of what could make political authority legitimate and personal liberties secure. Government by royal prerogative was rejected; instead, legitimate government would require the consent of the governed. Political power could not be exercised on the basis of tradition, but only as a result of a direct grant of power contained in a written constitution. Human liberty existed before government was organized, and government must respect that liberty. The legislative branch of government, in which the people were directly represented, should be superior to the executive branch.

These were indeed revolutionary ideas. No government at the time had been organized on the basis of these principles. To the colonists, such notions were not empty words, but rules to be put into immediate practice. In

1776, eight states adopted written constitutions. Within a few years, every former colony had adopted one except Connecticut and Rhode Island, two states that continued to rely on their colonial charters. Most state constitutions had detailed bills of rights defining personal liberties, and most placed the highest political power in the hands of elected representatives.

Written constitutions, representatives, and bills of rights are so familiar to us now that we don’t realize how bold and unprecedented those innovations were in 1776 for the original thirteen colonies identified in the map below (Figure 2.1). Indeed, many Americans did not think they would succeed; such arrangements either would be so strong that they would threaten liberty or so weak that they would permit chaos.

The 11 years that elapsed between the Declaration of Independence and the signing of the Constitution in 1787 were years of turmoil, uncertainty, and fear. George Washington headed a bitter, protracted war effort without anything resembling a strong national government to

Figure 2.1 North America in 1787

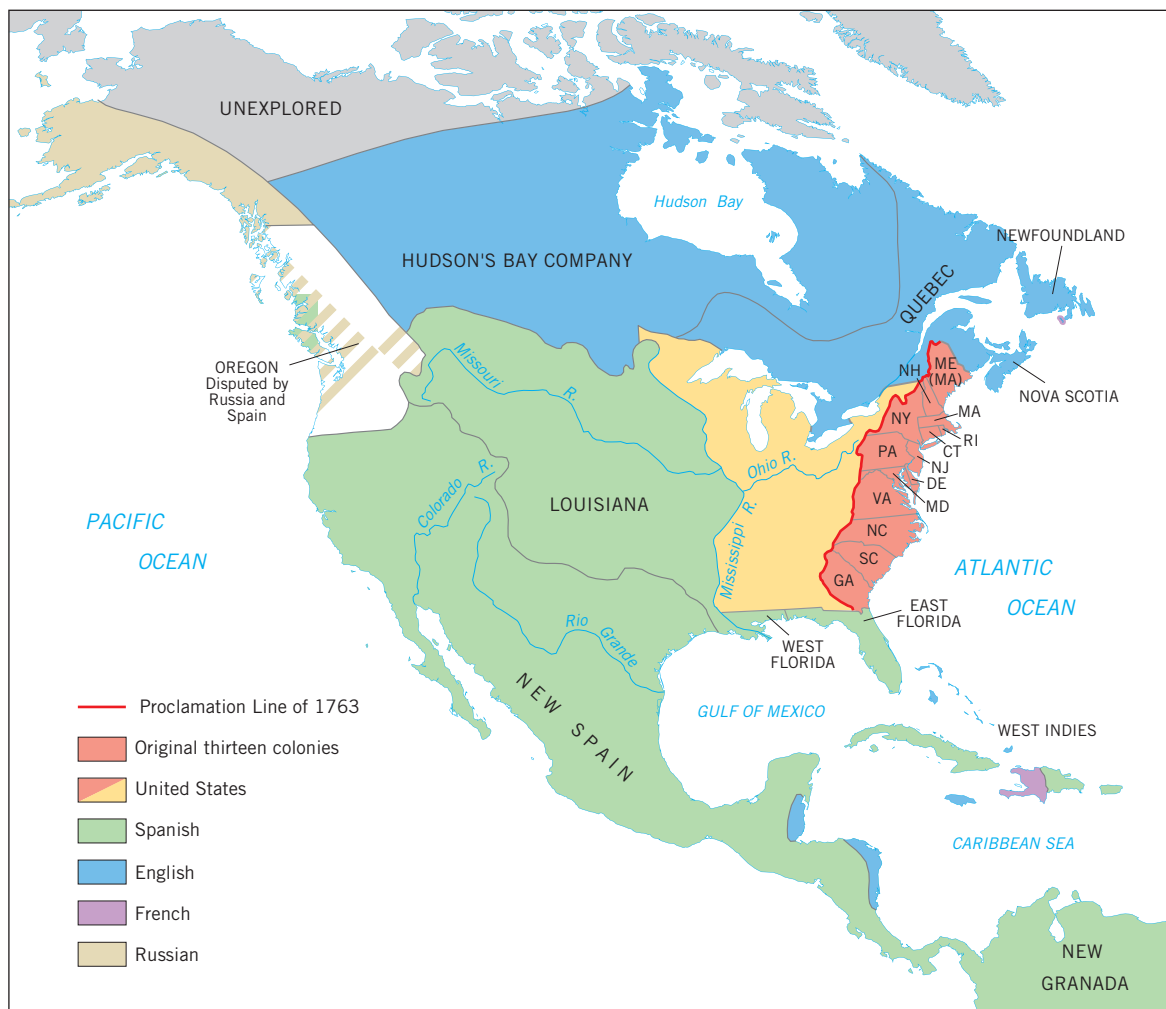
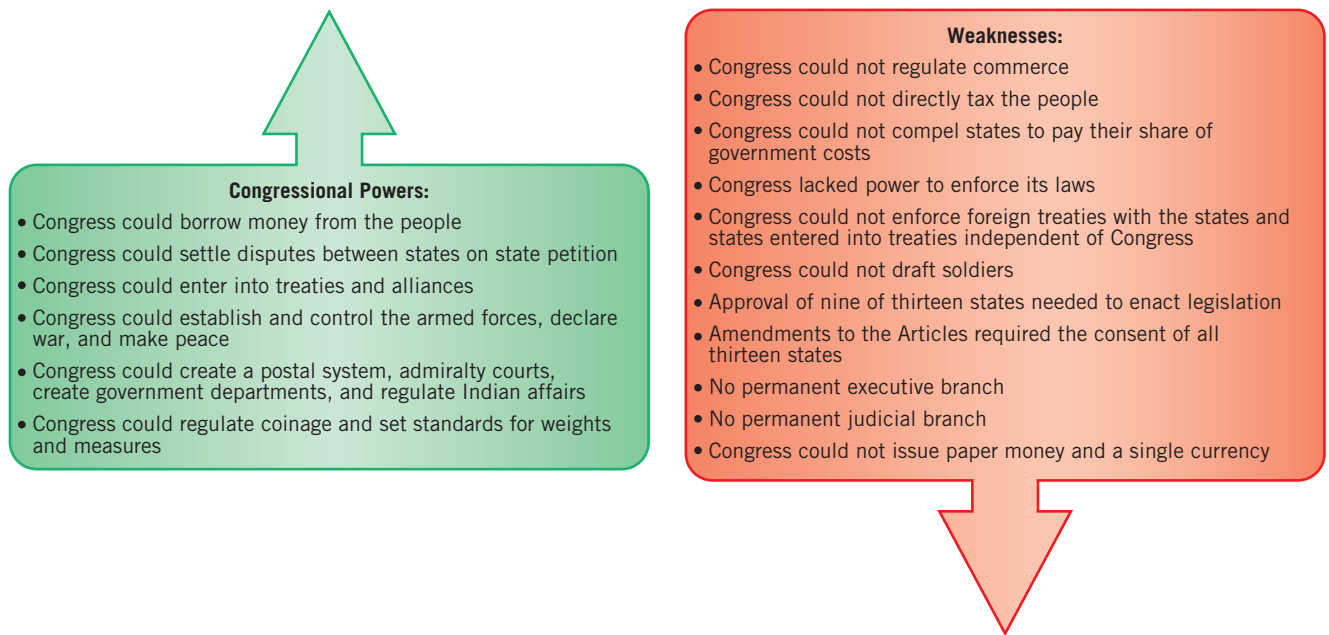


Figure 2.2 Articles of Confederation

support him. The supply and financing of his army were based on a series of hasty improvisations, most administered badly and few supported adequately by the fiercely independent states. When peace came, many parts of the nation were a shambles. At least a quarter of New York City was in ruins, and many other communities were nearly devastated. Though the British lost the war, they still were powerful on the North American continent, with an army available in Canada (where many Americans loyal to Britain had fled) and a large navy at sea. Spain claimed the Mississippi River Valley and occupied what are now Florida and California. Men who had left their farms to fight came back to discover themselves in debt with no money and heavy taxes. The paper money printed to finance the war was now virtually worthless.

Weaknesses of the Confederation

The 13 states had formed only a faint semblance of a national government with which to bring order to the nation. The **Articles of Confederation**, which went into effect in 1781, created little more than a “league of friendship” that could not levy taxes or regulate commerce. As summarized in the above chart (Figure 2.2), each state retained its sovereignty and independence, each state (regardless of size) had one vote in Congress, 9 (of 13) votes were required to pass any measure, and the delegates who cast these votes were picked and paid for by the state legislatures. Congress did have the power to make peace, and thus it was able to ratify a treaty

with England in 1783.

It could coin money, but there was precious little to coin; it could appoint key army officers, but the army was small and

depended for support on independent state militias; it was allowed to run the post office, then, as now, a thankless job that no one else wanted. In 1785, John Hancock was elected to the meaningless office of “president” under the Articles and never showed up to take the job. Several states claimed the unsettled lands in the West, and they occasionally pressed those claims with

Articles of Confederation

A weak constitution that governed America during the Revolutionary War.



Image 2.2 In 1775, British and American troops exchanged fire in Lexington, Massachusetts, the first battle of the War of Independence.

Constitutional Convention

A meeting in Philadelphia in 1787 that produced a new constitution.

system to settle these or other claims among the states. To amend the Articles of Confederation, all 13 states had to agree.

Many of the leaders of the Revolution, such as George Washington and Alexander Hamilton, believed a stronger national government was essential. They lamented the disruption of commerce and travel caused by the quarrelsome states and deeply feared the possibility of foreign military intervention, with England or France playing one state off against another. A small group of men, conferring at Washington's home at Mount Vernon in 1785, decided to call a meeting to discuss trade regulation. That meeting, held at Annapolis, Maryland, in September 1786, was not well attended (no delegates arrived from New England), and so another meeting, this one in Philadelphia, was called for the following spring—in May 1787—to consider ways of remedying the defects of the Confederation.

2-2 The Constitutional Convention

The delegates assembled at Philadelphia at the **Constitutional Convention**, for what was advertised (and authorized by Congress) as a meeting to revise the Articles; they adjourned four months later, having written a wholly new constitution. When they met, they were keenly aware of the problems of the confederacy, but far from agreement as to what should be done about those problems. The protection of life, liberty, and property was their objective in 1787, as it had been in 1776, but they had no accepted political theory that would tell them what kind of national government, if any, would serve that goal.

The Lessons of Experience

They had read ancient and modern political history, only to learn that nothing seemed to work. James Madison spent a good part of 1786 studying books sent to him by Thomas Jefferson, then in Paris, in hopes of finding some model for a workable American republic. He took careful notes on various confederacies in ancient Greece and on the more modern confederacy of the United Netherlands. He reviewed the history of Switzerland and Poland and the ups and downs of the Roman

guns. Pennsylvania and Virginia went to war near Pittsburgh, and Vermont threatened to become part of Canada. There was no national judicial

republic. He concluded that there was no model; as he later put it in one of the *Federalist* papers, history consists only of beacon lights “which give warning of the course to be shunned, without pointing out that which ought to be pursued.”⁵ The problem seemed to be that confederacies were too weak to govern and tended to collapse from internal dissension, whereas all stronger forms of government were so powerful as to trample the liberties of the citizens.

State Constitutions

Madison and the others did not need to consult history, or even the defects of the Articles of Confederation, for illustrations of the problem. These could be found in the government of the American states at the time. Pennsylvania and Massachusetts exemplified two aspects of the problem.

The Pennsylvania constitution, adopted in 1776, created the most radically democratic of the new state regimes. All power was given to a one-house (unicameral) legislature, the Assembly, the members of which were elected annually for one-year terms. No legislator could serve more than four years. There was no governor or president, only an Executive Council that had few powers. Thomas Paine, whose pamphlets had helped precipitate the break with England, thought the Pennsylvania constitution was the best in America, and in France philosophers hailed it as the very embodiment of the principle of rule by the people. Though popular in France, it was a good deal less popular in Philadelphia. The Assembly disenfranchised the Quakers, persecuted conscientious objectors to the war, ignored the requirement of trial by juries, and manipulated the judiciary.⁶ To Madison and his friends, the Pennsylvania constitution demonstrated how a government, though democratic, could be tyrannical as a result of concentrating all powers into one set of hands.

The Massachusetts constitution, adopted in 1780, was a good deal less democratic. There was a clear separation of powers among the various branches of government, the directly elected governor could veto acts of the legislature, and judges served for life. Both voters and elected officials had to be property owners; the governor, in fact, had to own at least £1,000 worth of property. The principal officeholders had to swear they were Christians.

Shays's Rebellion

But if the government of Pennsylvania was thought too strong, that of Massachusetts seemed too weak despite



GraphicaArtis/Archive Photos/Getty Images

Image 2.3 The Framers drafted the Constitution in Philadelphia during the summer of 1787.

its “conservative” features. In January 1787, a group of ex-Revolutionary War soldiers and officers, plagued by debts and high taxes and fearful of losing their property to creditors and tax collectors, forcibly prevented the courts in western Massachusetts from sitting. This became known as **Shays’s Rebellion**, after one of the officers, Daniel Shays. The governor of Massachusetts asked the Continental Congress to send troops to suppress the rebellion, but it could not raise the money or the manpower. Then he turned to his own state militia, but discovered he did not have one. In desperation, private funds were collected to hire a volunteer army, which marched on Springfield and, with the firing of a few shots, dispersed the rebels, who fled into neighboring states.

Shays’s Rebellion, occurring between the Annapolis and Philadelphia Conventions, had a powerful effect on opinion. Delegates who might have been reluctant to attend the Philadelphia meeting, especially those from New England, were galvanized by the fear that state governments were about to collapse from internal dissension. George Washington wrote a friend despairingly: “For God’s sake, if they [the rebels] have real grievances, redress them; if they have not, employ the force of government against them at once.”⁷ Thomas Jefferson, living in Paris, took a more detached view: “A little rebellion now and then is a good thing,” he wrote. “The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants.”⁸ Though Jefferson’s detachment might be explained by the fact that he was in Paris and not in Springfield, others, like Governor George Clinton of New York, shared the view that no strong central government was required. (Whether Clinton would have agreed about the virtues of spilled blood, especially his, is another matter.)

The Framers

The Philadelphia Convention attracted 55 delegates, of whom only about 30 participated regularly in the proceedings. One state, Rhode Island, refused to send anyone. The convention met during a miserably hot Philadelphia summer, with the delegates pledged to keep their deliberations secret. The talkative and party-loving Benjamin Franklin was often accompanied by other delegates to make sure that neither wine nor his delight in telling stories would lead him to divulge delicate secrets.

Those who attended were for the most part young (Hamilton was 30; Madison, 36) but experienced. Eight delegates had signed the Declaration of Independence, 7 had been governors, 34 were lawyers and reasonably well-to-do, a few were wealthy. They were not “intellectuals,” but men of practical affairs. Thirty-nine had served in the ineffectual Congress of the Confederation; a third of all delegates were veterans of the Continental Army.

Some names made famous by the Revolution were conspicuously absent. Thomas Jefferson and John Adams were serving as ministers abroad; Samuel Adams was ill; Patrick Henry was chosen to attend but refused, commenting that he “smelled a rat in Philadelphia, tending toward monarchy.”

The key men at the convention were an odd lot. George Washington was a very tall, athletic man who was the best horseman in Virginia and who impressed everyone with his dignity, despite decaying teeth and big eyes. James Madison was the very opposite: quite short with a frail body, and not much of an orator, but possessed of one of the best minds in the country. Benjamin Franklin, though old and ill, was the most famous American in the world as a scientist and writer, and always displayed shrewd judgment, at least when sober. Alexander Hamilton, the son of a French woman and a Scottish merchant who were not married, had so strong a mind and so powerful a desire that he succeeded in everything he did, from being Washington’s aide during the Revolution to serving as a splendid secretary of the treasury during Washington’s presidency.

The convention produced not a revision of the Articles of Confederation, as it had been authorized to do, but instead a wholly new written constitution creating a true national government unlike any that had existed before. That document is today the world’s oldest written national constitution. Those who wrote it were neither saints nor schemers, and the deliberations were not always lofty or philosophical—much hard bargaining, more than a little confusion, and the accidents of personality and

Shays’s Rebellion A 1787 rebellion in which ex-Revolutionary War soldiers attempted to prevent foreclosures of farms as a result of high interest rates and taxes.

Virginia Plan Proposal to create a strong national government.

time helped shape the final product. The delegates were split on many issues—what powers should be given to a central government, how the states should be represented, what was to be done about slavery, the role of the people—each of which was resolved through compromise. The speeches of the delegates (known to us from the detailed notes kept by Madison) did not explicitly draw on political philosophy or quote from the writings of philosophers. Everyone present was quite familiar with the traditional arguments and, on the whole, well read in history. Though the leading political philosophers were only rarely mentioned, the debate was profoundly influenced by philosophical beliefs, some formed by the revolutionary experience and others by the 11-year attempt at self-government.

From the debates leading up to the Revolution, the delegates had drawn a commitment to liberty, which, despite the abuses sometimes committed in its name, they continued to share. Their defense of liberty as a natural right was derived from the writings of the 17th-century English philosopher John Locke.

Unlike his English rival, Thomas Hobbes, Locke did not believe that an all-powerful government was necessary or that democracy was impossible. Hobbes had argued that in any society without an absolute, supreme ruler there is bound to be ceaseless violent turmoil—a “war of all against all.” Locke disagreed. In a “state of nature,” Locke argued, all men cherish and seek to protect their life, liberty, and property. But in a state of nature—that is, a society without a government—the strong can use their liberty to deprive the weak of their own liberty. The instinct for self-preservation leads people to want a government that will prevent this exploitation. But if the government is not itself to deprive its subjects of their liberty, it must be limited. The chief limitation, he said, should derive from the fact that it is created, and governs, by the consent of the governed. People will not agree to be ruled by a government that threatens their liberty; therefore, the government to which they freely choose to submit themselves must be a limited government designed to protect liberty.⁹

The Pennsylvania experience as well as the history of British government led the Framers to doubt whether popular consent alone would be a sufficient guarantor of liberty. A popular government may prove too weak (as in Massachusetts) to prevent one faction from abusing another, or a popular majority can be tyrannical (as in Pennsylvania). In fact, the tyranny of the majority can be an even graver threat than rule by the few. In the former case, the individual may have no defenses—one lone person cannot count on the succor of public opinion or the possibility of popular revolt.

The problem, then, was a delicate one: how to devise a government strong enough to preserve order but not so strong that it would threaten liberty. The answer, the delegates believed, was not “democracy” as it was then understood. To many conservatives in the late 18th century, democracy meant mob rule—it meant, in short, Shays’s Rebellion (or, if they had been candid about it, the Boston Tea Party). On the other hand, *aristocracy*—the rule of the few—was no solution, since the few were likely to be self-serving. Madison, writing later in the *Federalist Papers*, put the problem this way:

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. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.¹⁰

Striking this balance could not be done, Madison believed, simply by writing a constitution that set limits on what government could do. The example of British rule over the colonies proved that laws and customs were inadequate checks on political power. As he expressed it, “A mere demarcation on parchment of the constitutional limits [of government] is not a sufficient guard against those encroachments which lead to a tyrannical concentration of all the powers of government in the same hands.”¹¹

The Challenge

The resolution of political issues, great and small, often depends crucially on how the central question is phrased. The delegates came to Philadelphia in general agreement that the Articles of Confederation contained defects that ought to be remedied. Had they, after convening, decided to make their business that of listing these defects and debating alternative remedies for them, the document that emerged would in all likelihood have been very different from what in fact was adopted. But immediately after the convention had organized itself and chosen Washington to be its presiding officer, the Virginia delegation, led by Governor Edmund Randolph but relying heavily on the draftsmanship of James Madison, presented to the convention a comprehensive plan for a wholly new national government. The plan quickly became the major item of business at the meeting, and little else was debated for the next two weeks.

The Virginia Plan

When the convention decided to make the **Virginia Plan** its agenda, it had fundamentally altered the nature of its task. The business at hand was not to be the Articles and

their defects, but rather how one should go about designing a true national government. The Virginia Plan called for a strong national union organized into three governmental branches: the legislative, executive, and judicial. The legislature was to comprise two houses, the first elected directly by the people and the second chosen by the first house from among the candidates nominated by state legislatures. The executive was to be chosen by the national legislature, as were members of a national judiciary. The executive and some members of the judiciary were to constitute a “council of revision” that could veto acts of the legislature; that veto, in turn, could be overridden by the legislature. There were other interesting details, but the key features of the Virginia Plan were two: (1) a national legislature would have supreme powers on all matters on which the separate states were not competent to act, as well as the power to veto any and all state laws; and (2) at least one house of the legislature would be elected directly by the people.

The New Jersey Plan

As the debate continued, the representatives of New Jersey and other small states became increasingly worried that the convention was going to write a constitution in which the states would be represented in both houses of Congress on the basis of population. If this happened, the smaller states feared they would always be outvoted by the larger ones, and so, with William Paterson of New Jersey as their spokesman, they introduced a new plan. The **New Jersey Plan** proposed to amend, not replace, the old Articles of Confederation. It enhanced the power of the national government (though not as much as the Virginia Plan), but it did so in a way that left the states’ representation in Congress unchanged from the Articles—each state would have one vote. Thus not only would the interests of the small states be protected, but Congress itself would also remain to a substantial degree the creature of state governments.

If the New Jersey resolutions had been presented first and taken up as the major item of business, it is quite possible they would have become the framework for the document that finally emerged. But they were not. Offered after the convention had been discussing the Virginia Plan for two weeks, the resolutions encountered a reception very different from what they may have received if introduced earlier. The debate had the delegates already thinking in terms of a national government that was more independent of the states, and thus it had accustomed them to proposals that, under other circumstances, might have seemed quite radical. On June 19, the first decisive vote of the convention was taken: seven states preferred the Virginia Plan, three states the New Jersey Plan, and one state was split.

With the tide running in favor of a strong national government, the supporters of the small states had to shift their strategy. They now began to focus their efforts on ensuring that the small states could not be outvoted by the larger ones in Congress. One way was to have the members of the lower house elected by the state legislatures rather than the people, with each state getting the same number of seats rather than seats proportional to its population.

The debate was long and feelings ran high, so much so that Benjamin Franklin, the oldest delegate present (at 81 years of age), suggested that each day’s meeting begin with a prayer. It turned out that the convention could not even agree on this: Hamilton is supposed to have objected that the convention did not need “foreign aid,” and others pointed out that the group had no funds with which to hire a minister. And so the argument continued.

New Jersey Plan *Proposal to create a weak national government.*

Great Compromise *Plan to have a popularly elected House based on state population and a state-selected Senate, with two members for each state.*

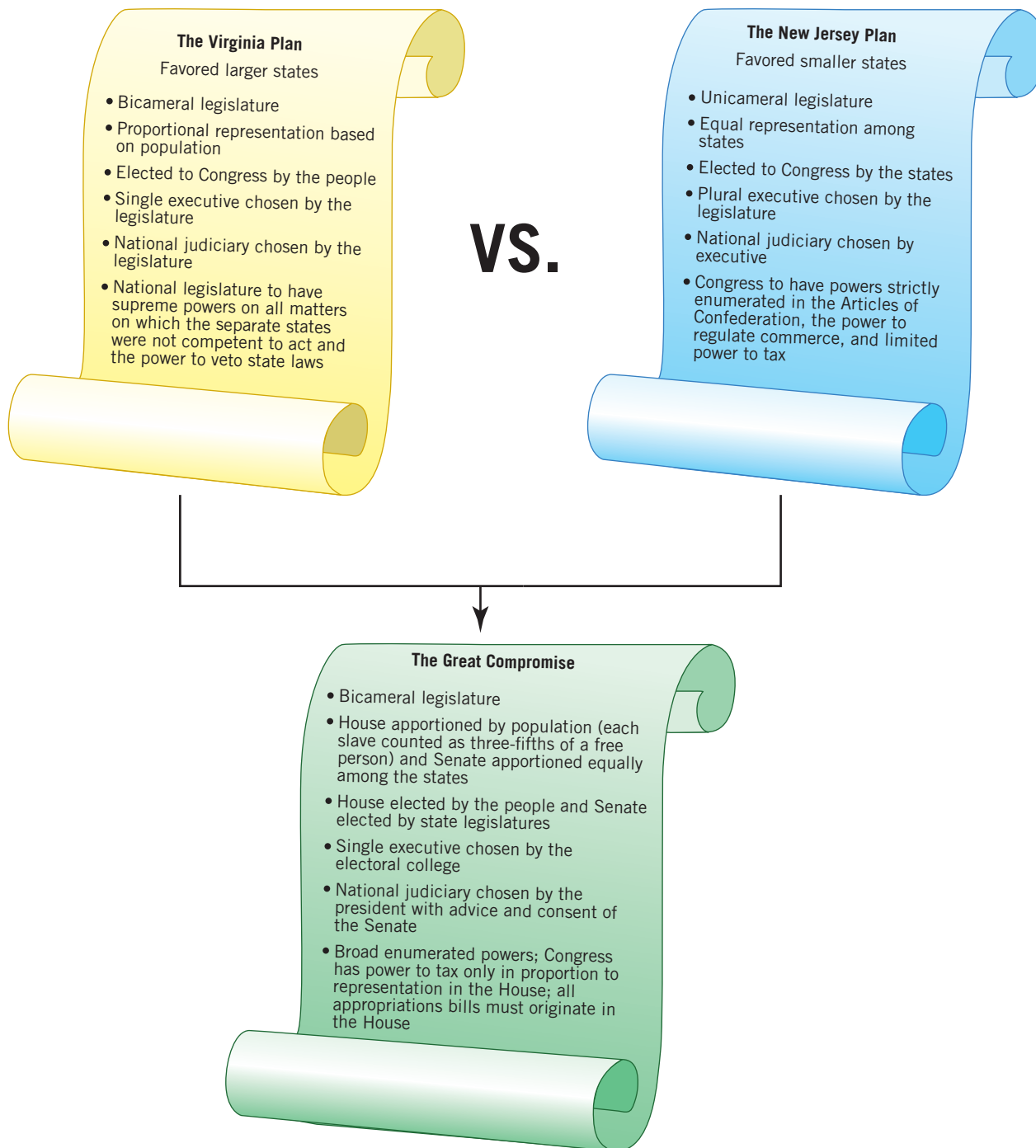


Andre Jemmy/Alamy Stock Photo

Image 2.4 The Declaration of Independence and the U.S. Constitution were developed and signed in Independence Hall in Philadelphia.

The Compromise

Finally, a committee was appointed to meet during the Fourth of July holidays to work out a compromise, and the convention adjourned to await its report. Little is known of what went on in that committee’s session, though some were later to say that Franklin played a key role in hammering out the plan that finally emerged. That compromise, the most important one reached at the convention, and later called the **Great Compromise** (or sometimes the Connecticut Compromise), was submitted to the full convention on July 5 and debated for another week and a half. The debate might have gone on even longer, but suddenly the hot weather moderated, and Monday, July 16, dawned cool and fresh after a month of misery. On that day, the plan was adopted: five states were in favor, four opposed, and two

Figure 2.3 The Virginia Plan Versus the New Jersey Plan and the Great (Connecticut) Compromise

Q How did the Great Compromise address interests of both large and small states, and how relevant are those interests to national governance and policy making today?

did not vote.* Thus, by the narrowest of margins, the structure of the national legislature was decided, drawing upon both the Virginia Plan and the New Jersey Plan, as illustrated in Figure 2.3. Its key features included the following:

- A House of Representatives consisting initially of 65 members apportioned among the states roughly

on the basis of population and elected by the people.

- A Senate consisting of two senators from each state to be chosen by the state legislatures.

The Great Compromise reconciled the interests of small and large states by allowing the former to predominate in

*The states in favor were Connecticut, Delaware, Maryland, New Jersey, and North Carolina. Those opposed were Georgia, Pennsylvania, South Carolina, and Virginia. Massachusetts was split down the middle; the New York delegates had left the convention. New Hampshire and Rhode Island were absent.

the Senate and the latter in the House. This reconciliation was necessary to ensure that a strong national government would receive support from small as well as large states. It represented major concessions on the part of several groups. Madison, for one, was deeply opposed to the idea of having the states equally represented in the Senate. He saw in that a way for the states to hamstring the national government and much preferred some measure of proportional representation in both houses. Delegates from other states worried that representation on the basis of population in the House of Representatives would enable the large states to dominate legislative affairs. Although the margin by which the compromise was accepted was razor-thin, it held firm. In time, most of the delegates from the dissenting states accepted it.

After the Great Compromise, many more issues had to be resolved, but by now a spirit of accommodation had developed. When one delegate proposed having Congress choose the president, another, James Wilson, proposed that the president be elected directly by the people. When neither side of that argument prevailed, a committee invented a plan for an “electoral college” that would choose the president. When some delegates wanted the president chosen for a life term, others proposed a seven-year term, and still others wanted the term limited to three years without eligibility for reelection. The convention settled on a four-year term with no bar to reelection. Some states wanted the Supreme Court picked by the Senate; others wanted it chosen by the president. They finally agreed to let the justices be nominated by the president and then confirmed by the Senate.

Finally, on July 26, the proposals that were already accepted, together with a bundle of unresolved issues, were handed over to the Committee of Detail, consisting of five delegates. This committee included Madison and Gouverneur Morris, who was to be the chief drafter of the document that finally emerged. The committee hardly contented itself with mere “details,” however. It inserted some new proposals and made changes in old ones, drawing for inspiration on existing state constitutions and the members’ beliefs as to what the other delegates might accept. On August 6, the report—the first complete draft of the Constitution—was submitted to the convention. There it was debated item by item, revised, amended, and finally, on September 17, approved by all 12 states in attendance. Not all *delegates* approved, however; three, including Edmund Randolph, who first submitted the Virginia Plan, refused to sign. (The full approved Constitution and subsequent amendments are reprinted at the end of this book and summarized in Figure 2.4.)

2-3 Ratification Debates

A debate continues to rage over whether the Constitution created, or was even intended to create, a democratic government. The answer is complex.

The Framers did not intend to create a “pure democracy”—one in which the people rule directly. For one thing, the size of the country and the distances between settlements would have made that physically impossible. But more importantly, the Framers worried that a government in which all citizens directly participate, as in the New England town meeting, would be a government excessively subject to temporary popular passions and one in which minority rights would be insecure. They intended instead to create a **republic**, by which they meant a government in which a system of representation operates.

republic A government in which elected representatives make the decisions.

The Framers favored a republic over a direct democracy because they believed that government should mediate, not mirror, popular views and that elected officials should represent, not register, majority sentiments. They supposed that most citizens did not have the time, information, interest, and expertise to make reasonable choices among competing policy positions. They suspected that even highly educated people could be manipulated by demagogic leaders who played on their fears and prejudices. They knew that representative democracy often proceeds slowly and prevents sweeping changes in policy, but they cautioned that a government capable of doing great good quickly can also do great harm quickly. They agreed that majority opinion should figure in the enactment of many or most government policies, but they insisted that protection of civil rights and civil liberties—the right to a fair trial; the freedom of speech, press, and religion; or the right to vote itself—ought never to hinge on a popular vote. Above all, they embraced representative democracy because they saw it as a way of minimizing the chances that power would be abused either by a tyrannical popular majority or by self-serving officeholders.

The Framers were influenced by philosophers who had discussed democracy. Aristotle defined *democracy* as the rule of the many; that is, rule by ordinary people, most of whom would be poor. But democracy, he suggested, can easily decay into an oligarchy (rule of the rich) or a tyranny (the rule of a despot). To prevent this, a good political system must be a mixed regime, combining elements of democracy and oligarchy: most people will vote, but talented people will play a large role in managing affairs.

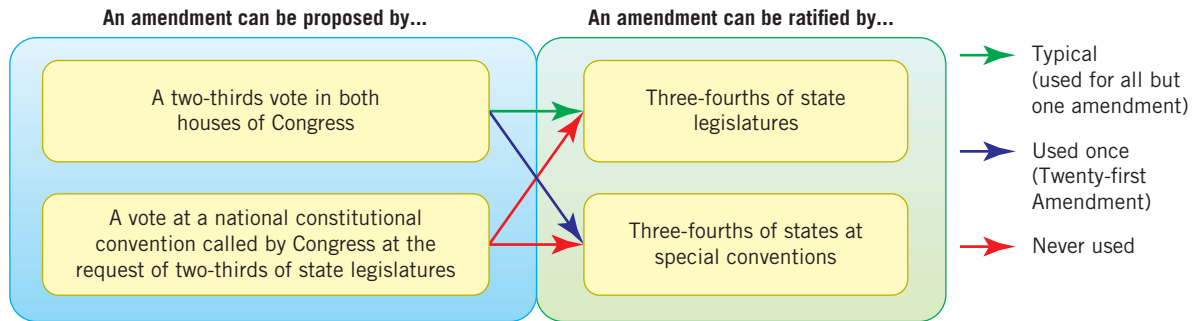
But, as we noted earlier in this chapter, the Framers were strongly influenced by John Locke, the 17th-century English writer who argued against powerful kings and in favor of popular dissent. In Locke’s *Second Treatise of Civil Government* (1690), he argued that people can exist in a state of nature—that is, without any ruler—so long as they can find enough food to eat and a way to protect themselves. But food may not be plentiful and, as a result, life may be poor and difficult.

Figure 2.4 Overview of the Constitution of the United States

PREAMBLE			
ARTICLE I.	The Legislative Branch	Amendments to the Constitution	
Section 1.	Bicameral Congress	First (1791)	Bill of Rights Free speech, press, religion, assembly Right to bear arms No quartering of troops in homes No unreasonable searches/seizures Right to due process, grand jury, no double jeopardy, self-incrimination Right to speedy and public trial, counsel Right to trial by jury in civil cases No excessive bail, fines, cruel/unusual punishment Rights not enumerated retained by people Powers not delegated to Congress or prohibited to states belong to states or people
Section 2.	Membership of the House	Second (1791)	
Section 3.	Membership of the Senate	Third (1791)	
Section 4.	Laws governing elections	Fourth (1791)	
Section 5.	Rules of Congress	Fifth (1791)	
Section 6.	Salaries and immunities of members	Sixth (1791)	
Section 7.	Passing laws	Seventh (1791)	
Section 8.	Powers of Congress	Eighth (1791)	
Section 9.	Restrictions on powers of Congress	Ninth (1791)	
Section 10.	Restrictions on powers of states	Tenth (1791)	
ARTICLE II.	The Executive Branch	Eleventh (1798)	No federal cases between state, citizen of other state
Section 1.	President and vice-president	Twelfth (1804)	Modification of electoral college rules
Section 2.	Powers of the president	Thirteenth (1865)	Abolition of slavery
Section 3.	Relations of the president with Congress	Fourteenth (1868)	States can't deprive right to due process, equal protection, privileges and immunities
Section 4.	Impeachment	Fifteenth (1870)	Right to vote can't be denied by race
ARTICLE III.	The Judicial Branch	Sixteenth (1913)	Congress can levy individual income taxes
Section 1.	Federal Courts	Seventeenth (1913)	Direct election of senators
Section 2.	Jurisdiction of courts	Eighteenth (1919)	Prohibition of liquors
Section 3.	Treason	Nineteenth (1920)	Women's right to vote
ARTICLE IV.	Relations among States	Twentieth (1933)	Dates for inauguration, Congress's session
Section 1.	Full faith and credit	Twenty-first (1933)	Repeal of prohibition
Section 2.	Privileges and immunities	Twenty-second (1951)	Presidential term limits
Section 3.	New states and territories	Twenty-third (1961)	D.C. residents' vote for president
Section 4.	Federal protection of states	Twenty-fourth (1964)	Ban on poll taxes
ARTICLE V.	Amending the Constitution	Twenty-fifth (1967)	Appointment of new vice president, presidential incompetence
ARTICLE VI.	National Supremacy	Twenty-sixth (1971)	Eighteen-year-olds' right to vote
ARTICLE VII.	Ratification procedure	Twenty-seventh (1992)	Congressional pay raises effective only after election

The human desire for self-preservation will lead people to want a government that will enable them to own property and thereby to increase their supply of food. But unlike his English rival, Thomas Hobbes, Locke argued for a government with defined and limited powers. In *Leviathan*

(1651), Hobbes had argued that people live in a “war of all against all” and so an absolute, supreme ruler was essential to prevent civil war. Locke disagreed: People can get along with one another if they can securely own their farms and live off what they produce. But for that to happen a decent

Figure 2.5 The Amendment Process

Q Why do you think the second constitutional provision for ratifying an amendment has never been used?

government must exist with the consent of the governed and be managed by majority rule. To prevent a majority from hurting a minority, Locke wrote, the government should separate its powers, with different and competing legislative and executive branches.

Thus, in 1787 the Framers tried to create a republic that would protect freedom and private property, a moderate regime that would simultaneously safeguard people and leave them alone. In designing that republic, the Framers chose, not without argument, to have the members of the House of Representatives elected directly by the people. Some delegates did not want to go even that far. Elbridge Gerry of Massachusetts, who refused to sign the Constitution, argued that though “the people do not want [i.e., lack] virtue,” they often are the “dupes of pretended patriots.” Roger Sherman of Connecticut agreed. But George Mason of Virginia and James Wilson of Pennsylvania carried the day when they argued that “no government could long subsist without the confidence of the people,” and this required “drawing the most numerous branch of the legislature directly from the people.”¹² Popular elections for the House were approved: six states were in favor, two opposed.

But though popular rule was to be one element of the new government, it was not to be the only one. State legislatures, not the people, would choose the senators; electors, not the people directly, would choose the president. As we have seen, without these arrangements there would have been no Constitution at all, for the small states adamantly opposed any proposal that would have given undue power to the large ones. And direct popular election of the president would clearly have made the populous states the dominant ones. In short, the Framers wished to observe the principle of majority rule, but they felt that, on the most important questions, two kinds of majorities were essential: a majority of the voters and a majority of the states.

The power of the Supreme Court to declare an act of Congress unconstitutional—**judicial review**—is also a way of limiting the power of popular majorities. It is not clear whether the Framers intended that there be judicial review, but there is little doubt that in the Framers’

minds the fundamental law, the Constitution, had to be safeguarded against popular passions.

They made the process for amending the Constitution easier than it had been under the Articles but still relatively difficult.

An amendment can be proposed either by a two-thirds vote of both houses of Congress *or* by a national convention called by Congress at the request of two-thirds of the states.[†] Once proposed, an amendment must be ratified by three-fourths of the states, either through their legislatures or through special ratifying conventions in each state. (Figure 2.5 summarizes the amendment process outlined in Article V of the Constitution.) Twenty-seven amendments have survived this process, all of them proposed by Congress and all but one (the Twenty-First Amendment) ratified by state legislatures rather than state conventions.

In short, the answer to the question of whether the Constitution brought into being a democratic government is yes, if by *democracy* one means a system of representative government based on popular consent. The degree of that consent has changed since 1787, and the institutions embodying that consent can take different forms. One form, rejected in 1787, gives all political authority to one set of representatives, directly elected by the people. (That is the case, for example, in most parliamentary regimes, such as the United Kingdom, and in some city governments in the United States.) The other form of democracy is one in which different sets of officials, chosen directly or indirectly by different groups of people, share political power. (That is the case with the United States and a few other nations where the separation of powers is intended to operate.)

[†]Many attempts have been made to assemble a new constitutional convention. In the 1960s, 33 states, one short of the required number, requested a convention to consider the reapportionment of state legislatures. In the 1980s, efforts were made to call a convention to consider amendments to ban abortions and to require a balanced federal budget.

judicial review The power of the courts to declare laws unconstitutional.

federalism *Government authority shared by national and local governments.*

enumerated powers *Powers given to the national government alone.*

reserved powers *Powers given to the state government alone.*

concurrent powers *Powers shared by the national and state governments.*

separation of powers *Sharing of constitutional authority by multiple branches of government.*

checks and balances *Constitutional ability of multiple branches of government to limit each other's power.*

Key Principles

The American version of representative democracy was based on two major principles: the separation of powers and federalism. In America, political power was to be shared by three separate branches of government; in parliamentary democracies, that power was concentrated in a single, supreme legislature. In America, political authority was divided between a national government and several state governments—**federalism**—whereas in most European systems authority was centralized

in the national government. Neither of these principles was especially controversial at Philadelphia.

The delegates began their work in broad agreement that separated powers and some measure of federalism were necessary, and both the Virginia and New Jersey Plans contained a version of each. How much federalism should be written into the Constitution was quite controversial, however.

Under these two principles, governmental powers in this country can be divided into three categories. The powers given to the national government exclusively are the delegated or **enumerated powers**. They include the authority to print money, declare war, make treaties, conduct foreign affairs, and regulate commerce among the states and with foreign nations. Those given exclusively to the states are **reserved powers** and include the power to issue licenses and to regulate commerce wholly within a state. Those shared by both the national and the state governments are called **concurrent powers** and include collecting taxes, building roads, borrowing money, and maintaining courts.

Government and Human Nature

The desirability of separating powers and leaving the states equipped with a broad array of rights and responsibilities was not controversial at the Philadelphia Convention because the Framers' experiences with British rule and state government under the Articles had shaped their view of human nature—that people would seek their own advantage in and out of politics, and that this pursuit of self-interest, unchecked, would lead some people to

exploit others. Human nature was good enough to make it possible to have a decent government based on popular consent, but it was not good enough to make it inevitable.

One solution to this problem would be to improve human nature. Ancient political philosophers such as Aristotle believed that the first task of any government was to cultivate virtue among the governed. Many Americans were of the same mind. To them Americans would first have to become good people before they could have a good government. Samuel Adams, a leader of the Boston Tea Party, said that the new nation must become a “Christian Sparta.” Others spoke of the need to cultivate frugality, industry, temperance, and simplicity.

But to James Madison and the other architects of the Constitution, the deliberate cultivation of virtue would require a government too strong and thus too dangerous to liberty, at least at the national level. Self-interest, freely pursued within reasonable limits, was a more practical and durable solution to the problem of government than any effort to improve the virtue of the citizenry. He wanted, he said, to make republican government possible “even in the absence of political virtue.”

Madison argued that the very self-interest that leads people toward factionalism and tyranny might, if properly harnessed by appropriate constitutional arrangements, provide a source of unity and a guarantee of liberty.

This harnessing was to be accomplished by dividing the offices of the new government among many people and giving to the holder of each office the “necessary means and personal motives to resist encroachments of the others.” In this way, “ambition must be made to counteract ambition” so that “the private interest of every individual may be a sentinel over the public rights.”¹³

If men were angels, all this would be unnecessary. But Madison and the other delegates pragmatically insisted on taking human nature pretty much as it was, and therefore they adopted “this policy of supplying, by opposite and rival interests, the defect of better motives.”¹⁴ The **separation of powers** would work not in spite of the imperfections of human nature, but because of them, through requiring the three political institutions to work together. And through **checks and balances**, each branch of government would ensure that the others did not exceed their constitutional powers. (See examples of how the three branches check each other in Table 2.1.)

So it also is with federalism. By dividing power between the states and the national government, one level of government can serve as a check on the other. This should provide a “double security” to the rights of the people: “The different governments will control each other, at the same time that each will be controlled by itself.”¹⁵ This was especially likely to happen in America, Madison thought, because it was a large country filled with diverse interests—rich and

TABLE 2.1 | Checks and Balances

The Constitution creates a system of *separate* institutions that *share* powers. Because the three branches of government share powers, each can (partially) check the powers of the others. This is the system of *checks and balances*. The major checks possessed by each branch are listed below.

I. Congress	<ol style="list-style-type: none"> 1. Can check the president in these ways: <ol style="list-style-type: none"> (a) By refusing to pass a bill the president wants (b) By passing a law over the president's veto (c) By using the impeachment powers to remove the president from office (d) By refusing to approve a presidential appointment (Senate only) (e) By refusing to ratify a treaty the president has signed (Senate only) 2. Can check the federal courts in these ways: <ol style="list-style-type: none"> (a) By changing the number and jurisdiction of the lower courts (b) By using the impeachment powers to remove a judge from office (c) By refusing to approve a person nominated to be a judge (Senate only)
II. The President	<ol style="list-style-type: none"> 1. Can check Congress by vetoing a bill it has passed 2. Can check the federal courts by nominating judges
III. The Courts	<ol style="list-style-type: none"> 1. Can check Congress by declaring a law unconstitutional 2. Can check the president by declaring actions by him or his subordinates unconstitutional or not authorized by law

In addition to these checks specifically provided for in the Constitution, each branch has informal ways of checking the others. For example, the president can try to withhold information from Congress (on the grounds of “executive privilege”), and Congress can try to get information by mounting an investigation. The exact meaning of the various checks is explained in Chapter 13 on Congress, Chapter 14 on the presidency, and Chapter 16 on the courts.

poor, Protestant and Catholic, Northerner and Southerner, farmer and merchant, creditor and debtor. Each of these interests would constitute a **faction** that would seek its own advantage. One faction might come to dominate government, or a part of government, in one place, and a different and rival faction might dominate it in another. The pulling and hauling among these factions would prevent any single government—say, that of New York—from dominating all of government. The division of powers among several governments would provide virtually every faction an opportunity to gain some—but not full—power.

The Constitution and Liberty

A more difficult question is whether the Constitution created a system of government that would respect personal liberties. In fact, that is the question that was debated in the states when the document was presented for ratification. The proponents of the Constitution called themselves the **Federalists** (though they might more accurately have been called “nationalists”). The opponents came to be known as the **Antifederalists** (though they might more accurately have been called “states’ rights advocates”).[‡]

[‡] To the delegates a truly “federal” system was one, like the New Jersey Plan, that allowed for very strong states and a weak national government. When the New Jersey Plan lost, the delegates who defeated it began using the word federal to describe their plan even though it called for a stronger national government. Thus men who began as “Federalists” at the convention ultimately became known as “Antifederalists” during the struggle over ratification.

To be put into effect, the Constitution had to be approved at ratifying conventions in at least nine states. This was perhaps the most democratic feature of the Constitution: It had to be accepted, not by the existing Congress (still limping along under the Articles of Confederation), nor by the state legislatures, but by special conventions elected by the people.

Though democratic, the process established by the Framers for ratifying the Constitution was technically illegal. The Articles of Confederation, which still governed, could be amended only with the approval of all 13 state legislatures. The Framers wanted to bypass these legislatures because they feared that, for reasons of ideology or out of a desire to retain their powers, the legislators would oppose the Constitution. The Framers wanted ratification with less than the consent of all 13 states because they knew that such unanimity could not be attained. And indeed the conventions in North Carolina and Rhode Island did initially reject the Constitution. (Figure 2.6 shows which states initially supported or opposed the Constitution.)

faction A group with a distinct political interest.

Federalists Those who favor a stronger national government.

Antifederalists Those who favor a weaker national government.