CHAPTER 2

THE CONSTITUTION

CHAPTER OUTLINE

I. The Origins of the Constitution (pp. 27-34)
   A. A constitution is a nation’s basic law.
   B. The Road to Revolution
   C. Declaring Independence: The Declaration of Independence
   D. The English Heritage: The Power of Ideas
      1. Natural rights are the rights inherent in human beings, not dependent on governments.
      2. Consent of the governed means the people must agree on who their rulers will be.
      3. Limited government means there must be clear restrictions on what rulers may do.
   E. Jefferson’s Handiwork: The American Creed
   F. Winning Independence
   G. The “Conservative” Revolution

II. The Government That Failed: 1776-1787 (pp. 34-37)
   A. The Articles of Confederation
   B. Changes in the States
   C. Economic Turmoil
   D. Shays’ Rebellion
   E. The Aborted Annapolis Meeting

III. Making a Constitution: The Philadelphia Convention (pp. 37-39)
   A. Gentlemen in Philadelphia
   B. Philosophy into Action
      1. Human nature
      2. Political conflict (Factions arise from sources of conflict.)
      3. Objects of government
      4. Nature of government

IV. The Agenda in Philadelphia (pp. 39-44)
   A. The Equality Issues
      1. Equality and Representation of the States
         a. The New Jersey Plan had each state equally represented in Congress.
b. The Virginia Plan made state representation in Congress based on population.
c. The Connecticut Compromise created two houses of Congress.

2. Slavery was settled through the three-fifths compromise.
3. Political Equality

B. The Economic Issues
C. The Individual Rights Issues
1. The Constitution says little about personal freedoms.
2. Article I prohibits suspension of the writ of habeas corpus.

V. The Madisonian Model (pp. 44-48)
A. Thwarting Tyranny of the Majority
   1. Limiting Majority Control
   2. Separating Powers (Under separation of powers, the three branches of government are relatively independent of each other and share powers.)
   3. Creating Checks and Balances (Under checks and balances, each branch of government requires the consent of the others for many of its actions.)
   4. Establishing a Federal System
B. The Constitutional Republic (A republic is a system based on the consent of the governed in which representatives of the public exercise power.)
C. The End of the Beginning

VI. Ratifying the Constitution (pp. 48-52)
A. Federalists and Anti-Federalists
   1. Federalists supported the Constitution and Anti-Federalists opposed it.
   2. The Federalist Papers were a series of articles supporting the Constitution.
   3. The Bill of Rights is the first 10 amendments to the Constitution that restrain the national government from limiting personal freedoms.
B. Ratification

VII. Constitutional Change (pp. 52-59)
A. The Formal Amending Process: Two stages include proposal and ratification.
B. The Informal Process of Constitutional Change
   1. Judicial Interpretation (In Marbury v. Madison, 1803, the Supreme Court claimed for itself the power of judicial review, giving courts the right to decide whether the actions of government are in accord with the Constitution.)
   2. Changing Political Practice: Examples include political parties and the electoral college.
   3. Technology
   4. Increasing demands on policymakers
C. The Importance of Flexibility
VIII. Understanding the Constitution (pp. 59-62)
   A. The Constitution and Democracy
   B. The Constitution and the Scope of Government

IX. Summary (p. 62)

LEARNING OBJECTIVES

After studying Chapter 2, you should be able to:

1. Discuss the importance of the English philosophical heritage, the colonial experience, the Articles of Confederation, and the character of the Founders in shaping the agenda of the Constitution writers.

2. Identify the important principles and issues debated at the Constitutional Convention and describe how they were resolved.

3. Explain the Madisonian model of limiting majority control, separating powers, and creating checks and balances.

4. Understand the conflict between the Federalists and Anti-Federalists over the ratification of the Constitution.

5. Describe the formal and informal processes by which the Constitution is changed in response to new items on the policy agenda.

6. Evaluate the Constitution in terms of democracy and its impact on policymaking.

The following exercises will help you meet these objectives:

Objective 1: Discuss the importance of the English philosophical heritage, the colonial experience, the Articles of Confederation, and the character of the Founders in shaping the agenda of the Constitution writers.

   1. Make a list of the major grievances of the colonists under British rule.
2. What are the major components of John Locke’s political philosophy and how did they influence Thomas Jefferson’s writings?

3. Draw a schematic diagram of the American government under the Articles of Confederation.

4. Make a list of the reasons why the Articles of Confederation failed.

5. Briefly describe the general philosophical views of the Founders on the following issues:
   - Human nature:
   - Political conflict:
   - Objects of government:
   - Nature of government:
Objective 2: Identify the important principles and issues debated at the Constitutional Convention and describe how they were resolved.

1. What were the three major equality issues at the Constitutional Convention and how were they resolved?
   1.
   2.
   3.

2. What were the major economic problems addressed at the Constitutional Convention and how were they resolved?

3. Why did the Founders believe it was not necessary to address individual rights issues specifically in the Constitution?

Objective 3: Explain the Madisonian model of limiting majority control, separating powers, and creating checks and balances.

1. Draw a schematic diagram of the Madisonian model of government.

2. Define the term “constitutional republic.”
Objective 4: Understand the conflict between the Federalists and Anti-Federalists over the ratification of the Constitution.

1. Complete the following table summarizing the major differences between the Federalists and the Anti-Federalists on the issues of civil liberties, power of the states, and the economy.

<table>
<thead>
<tr>
<th>Issues</th>
<th>Federalists</th>
<th>Anti-Federalists</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil Liberties</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Power of the States</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Economy</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2. Why did the Anti-Federalists believe the new Constitution was a class-based document?

Objective 5: Describe the formal and informal processes by which the Constitution is changed in response to new items on the policy agenda.

1. What is meant by the “unwritten constitution”?

2. Describe the different ways in which a formal constitutional amendment might be adopted.

3. The text examines four ways the Constitution changes informally. List these ways, define them, and give an example for each.
Objective 6: Evaluate the Constitution in terms of democracy and its impact on policymaking.

1. List and explain the five constitutional amendments that expanded the right to vote.

2. In what ways does the Constitution expand and diminish the scope of government?

KEY TERMS

Identify and describe:

Constitution
Declaration of Independence

natural rights

consent of the governed

limited government

Articles of Confederation

Shays’ Rebellion

U.S. Constitution

factions

New Jersey Plan

Virginia Plan

Connecticut Compromise

writ of habeas corpus
separation of powers

checks and balances

republic

Federalists

Anti-Federalists

Federalist Papers

Bill of Rights

Equal Rights Amendment

Marbury v. Madison

judicial review

Compare and contrast:
natural rights and consent of the governed
Articles of Confederation and U.S. Constitution

New Jersey Plan, Virginia Plan, and Connecticut Compromise

separation of powers and checks and balances

limited government and republic

Federalists and Anti-Federalists

*Marbury v. Madison* and judicial review

**Name that term:**

1. A nation’s basic law.

_________________________

2. The first constitution of the United States.

_________________________

3. A view that contrasts sharply with the divine right of kings.

_________________________

4. A series of armed attacks on courthouses in 1787 to protest farm foreclosures.

_________________________
5. Today these would be called interest groups or parties.

6. This enables persons detained by authorities to secure an immediate inquiry into the causes of their detention.

7. This is a system of government based on the consent of the governed in which representatives of the public exercise power.

8. A series of articles published under the name “Publius.”

9. The first 10 amendments to the Constitution.

10. This amendment failed to acquire the necessary support from three-fourths of the state legislatures.

11. Not found in the Constitution, this power was given to the courts in the case of Marbury v. Madison.

USING YOUR UNDERSTANDING

1. Try your hand at sketching out a new constitution for the contemporary United States. Be sure to indicate key governmental institutions and their functions. Also, include a bill of rights in your constitution. Keep in mind today’s high-tech politics and the current policy agenda. Briefly discuss how the twentieth-century constitution you envision is similar to or different from the eighteenth-century Constitution of the Founders. Evaluate how well the Founders did in terms of these similarities or differences.
2. Locate the written constitution of your state or that of another modern democratic system, such as France, Germany, or Japan. In reading the document or parts of it, look for similarities or differences with the American Constitution. Take note of the governmental institutions it creates, the functions they perform, and whether or not something comparable to the Bill of Rights is included. Describe briefly what you have found. Use this exercise to write a term paper comparing different types of constitutions and their effectiveness.

REVIEW QUESTIONS

Check ☑ the correct answer:

1. Which of the following statements is FALSE?
   □ a. A constitution is a nation’s basic law.
   □ b. A constitution is an unwritten accumulation of traditions and precedents.
   □ c. A constitution allocates power within government.
   □ d. A constitution sets neutral rules of the game of politics.

2. During the colonial period, the British king and Parliament
   □ a. were involved in nearly every aspect of colonial life.
   □ b. confined themselves to governing America’s foreign policy and trade.
   □ c. allowed the colonists a limited number of representatives in Parliament.
   □ d. put strict limits on American freedom.

3. (bonus) The motion for declaring the United States as free and independent was made by
   □ a. Thomas Jefferson.
   □ b. Benjamin Franklin.
   □ d. John Adams.

4. Which of the following concepts is inconsistent with the political philosophy associated with John Locke?
   □ a. natural rights
   □ b. the divine right of kings
   □ c. limited government
   □ d. the sanctity of property
5. John Locke held that people should revolt when
   □ a. injustices become deeply felt.
   □ b. transient issues emerge.
   □ c. government no longer has their consent.
   □ d. both a. and c.

6. The American Revolution was fought because the colonists felt the need for great social, economic, and political changes.
   □ True
   □ False

7. Our first constitution was the Articles of Confederation.
   □ True
   □ False

8. Most governmental authority in the early American experience rested with
   □ a. state legislatures.
   □ b. local townships.
   □ c. the Continental Congress.
   □ d. voluntary alliances.

9. The Articles of Confederation established the
   □ a. presidency.
   □ b. Senate and the House of Representatives.
   □ c. Supreme Court.
   □ d. Continental Congress.

10. The Continental Congress did not have the power to
    □ a. tax.
    □ b. issue securities.
    □ c. maintain a military.
    □ d. print money.

11. Which of the following did NOT occur under the Articles of Confederation?
    □ a. Shays’ Rebellion
    □ b. a power shift in the states away from the elite
    □ c. an aborted meeting at Annapolis
    □ d. sweeping policies favoring creditors over debtors
12. Shays’ Rebellion was
   - a. a battle in the Revolutionary War.
   - b. an attack on courthouses to prevent foreclosure proceedings.
   - c. a constitutional debate.
   - d. a colonial newspaper.

13. Which of the following does NOT, in general, describe the “Gentlemen in Philadelphia”?
   - a. college educated
   - b. wealthy
   - c. western
   - d. successful

14. James Madison believed that factions would check themselves.
   - True
   - False

15. The philosophy of the Founders was based in part on
   - a. the faith that self-restraint was part of human nature.
   - b. a belief that political conflict is unrelated to the distribution of wealth in society.
   - c. a view that the principal object of government is the preservation of property.
   - d. the idea that the separation of powers is not needed in balanced government.

16. Which of the following was NOT one of the key equality issues debated at the Constitutional Convention?
   - a. representation of the states in Congress
   - b. equal opportunity for women
   - c. slavery
   - d. political equality

17. Representation of the states in Congress was settled at the Constitutional Convention with the
   - b. three-fifths compromise.
   - c. New Jersey Plan.
   - d. Virginia Plan.
18. Regarding the issue of slavery, the delegates to the Constitutional Convention agreed
   □ a. to abolish slavery.
   □ b. not to count slaves in determining representation in Congress.
   □ c. to sanction slavery officially.
   □ d. to limit future importing of slaves.

19. Delegates to the Constitutional Convention left it up to the states to decide who could vote in national elections.
   □ True
   □ False

20. One of the major economic issues that the writers of the Constitution felt they needed to address was
   □ a. tariffs erected by the states.
   □ b. virtually worthless paper money forced on creditors in some states.
   □ c. the inability of the Continental Congress to raise needed money.
   □ d. all of the above

21. Which of the following statements is TRUE?
   □ a. The writers of the Constitution believed that the national economy was in good shape.
   □ b. Economic issues were nonexistent at the writing of the Constitution.
   □ c. The power of Congress to make economic policy is carefully spelled out in the Constitution.
   □ d. The Constitution writers were men of little wealth.

22. The original Constitution says very little about personal freedoms.
   □ True
   □ False

23. A writ of habeas corpus
   □ a. enables persons detained by authorities to secure an immediate inquiry into the causes of their detention.
   □ b. allows for the punishment of people without a judicial trial.
   □ c. allows for people to be punished or have their penalties increased for acts that were not illegal or not punishable when committed.
   □ d. narrowly defines and outlines strict rules of evidence for conviction of treason.
24. The principle of separation of powers resulted from the fact that the Constitution writers feared the possibility of a tyranny of the majority.
  □ True
  □ False

25. The Madisonian model of government is based on the idea that
  □ a. as much of government as possible should be beyond the direct control of a majority.
  □ b. the power of government’s different institutions should be separated.
  □ c. a system of checks and balances is needed in government.
  □ d. all of the above

26. In the Madisonian model of government, majority rule is accomplished by the election of the
  □ a. Senate.
  □ b. House of Representatives.
  □ c. president.
  □ d. Supreme Court.

27. The president’s veto power is an example of
  □ a. checks and balances.
  □ b. majority rule.
  □ c. presidential supremacy.
  □ d. judicial review.

28. The Madisonian system
  □ a. created a form of direct democracy.
  □ b. had a liberal bias toward change.
  □ c. created a republic based on the consent of the governed.
  □ d. made change virtually impossible.

29. The final version of the Constitution was read aloud at a public meeting in Philadelphia.
  □ True
  □ False

30. (bonus) Immediately after the Constitution was signed, the delegates to the convention
  □ a. returned to their rooms.
  □ b. adjourned to a tavern.
  □ c. attended religious services.
  □ d. composed the national anthem.
31. The *Federalist Papers* were published under the name
   □ a. “Philadelphiensis.”
   □ b. “Montezuma.”
   □ c. “Agrippa.”
   □ d. “Publius.”

32. The Anti-Federalists were an unpatriotic and un-American group.
   □ True
   □ False

33. Which of the following was NOT an Anti-Federalist argument against the ratification of the Constitution?
   □ a. a charge that it was a class-based document
   □ b. a claim that it would weaken the power of the states
   □ c. a claim that the Bill of Rights was unnecessary
   □ d. a charge that it would benefit creditors

34. The Constitution was ratified by
   □ a. state conventions.
   □ b. a general election.
   □ c. state legislatures.
   □ d. a referendum.

35. The unwritten constitution
   □ a. is a body of tradition, practice, and procedure.
   □ b. is represented by the Bill of Rights.
   □ c. does not affect the spirit of the Constitution.
   □ d. does not encompass political parties.

36. An amendment to the Constitution can be ratified either by the legislature of three-fourths of the states or by special conventions called in three-fourths of the states.
   □ True
   □ False

37. Taken as a whole, the amendments to the Constitution make it
   □ a. more democratic.
   □ b. elite and class-oriented.
   □ c. less egalitarian.
   □ d. more focused on economic issues.
38. The Equal Rights Amendment failed in part because of the system of checks and balances.
□ True
□ False

39. The Constitution does not formally provide for
□ a. the two-party system.
□ b. the role of television in politics.
□ c. binding members of the electoral college to the preference of voters.
□ d. all of the above

40. The case of Marbury v. Madison
□ a. firmly established the power of judicial review.
□ b. forced the delivery of court commissions.
□ c. gave Congress the right to review the judiciary.
□ d. diminished the power of the Supreme Court.

41. The writers of the Constitution
□ a. favored the formation of a two-party system.
□ b. intended there to be no popular vote for the president.
□ c. required presidential electors to pledge in advance to vote for the candidate who won their state’s popular vote.
□ d. established the electoral college as a rubber stamp for the popular vote.

42. The roles of political parties and members of the electoral college are examples of constitutional change through political practice.
□ True
□ False

43. Which of the following statements regarding the U.S. Constitution is FALSE?
□ a. The U.S. Constitution is a very flexible document.
□ b. The U.S. Constitution is the oldest functioning constitution.
□ c. The U.S. Constitution is very long compared to other constitutions.
□ d. The only court provided for by the U.S. Constitution is the Supreme Court.

44. The Constitution is in many ways an undemocratic, even anti-democratic, document.
□ True
□ False
45. Which of the following statements regarding elections and the Constitution is FALSE?

☐ a. One of the central themes of American history has been the gradual democratization of the Constitution.

☐ b. The original Constitution was characterized by numerous restrictions on direct voter participation.

☐ c. The original Constitution offers numerous guidelines on voter eligibility.

☐ d. Five of the 17 constitutional amendments passed since the Bill of Rights have focused on the expansion of the electorate.

46. The separation of powers and the system of checks and balances promote

☐ a. the politics of bargaining.

☐ b. compromise.

☐ c. playing one institution against another.

☐ d. all of the above

ESSAY QUESTIONS

1. What are the historical origins of the American national government? What is the English heritage? How was the Declaration of Independence shaped by the philosophy of John Locke?

2. What philosophical views did the delegates to the Constitutional Convention share? How did they influence the nature of the Constitution?

3. How did the colonial experience shape the policy agenda at the Constitutional Convention? What issues comprised the agenda and how were they resolved?

4. What is the Madisonian model of government? How is it reflected in the structure of American government? What issues or problems does it raise?

5. Explain the process by which the Constitution was ratified. What were the major arguments raised against its ratification? How were some of these issues resolved?

6. What are the formal and informal processes by which the Constitution is changed? Include a discussion of the formal amendment process and the unwritten constitution in your answer.

7. In what ways was the original Constitution both democratic and undemocratic? How has the Constitution become democratized throughout American history?