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Chapter 2: Constitutional Foundations

What Students Should Learn from This Chapter

An Imperfect Document
What were the circumstances surrounding the framing of the Constitution?

The Roots of the Constitution
What were the important traditions underlying the Constitution?

What the Framers Did
What do the various provisions of the Constitution accomplish?

The Five Principles
What are the major principles of American constitutionalism?

MYTHS & REALITIES
Is the Constitution a living document?

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Outline

I. "The Only Good Constitution Is A Dead Constitution"
   a. How should we read the Constitution?
   b. "living" vs. "dead" modes of interpretation
   c. Originalism—what is it and why does it matter?

II. An Imperfect Document
   a. What were the circumstances surrounding the framing of the Constitution?

1. The need for strong government
2. The fear of an overly strong government

   b. The setting for constitutional change

1. The problems of the Articles of Confederation
2. No effective foreign policy
3. Economic crisis
4. Shays' Rebellion

   c. The Framers

1. Diversity or the lack thereof among the Framers
2. Key players at the Constitutional Convention: Madison, Washington, Franklin

III. The Roots of the Constitution
   a. The colonial heritage

1. Self-government in the colonies
2. Organization of colonial governments

   b. The intellectual background

1. Religious influences on the Framers
2. The ideas of the Enlightenment
3. Hobbes and the idea of consent
4. Locke and the right of revolution
5. Montesquieu and the separation of powers
6. Rousseau, Paine, and popular sovereignty

   c. The onset of revolution

1. Britain tries to take control of the colonial governments
2. Declaration of Independence
3. The "American creed"
   i. Natural rights: "Life, liberty and the pursuit of happiness"
   ii. Consent: governments get their power from the people

IV. What the Framers Did
   a. Establishing legacy ("We the People")
   b. Structuring authority

1. Balancing state and national authority
   i. Confederation
   ii. Unitary government
   iii. Federation
2. Structuring authority within national government
   i. Virginia Plan
   ii. New Jersey Plan
   iii. Great Compromise: bicameral Congress

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iv. Three-Fifths Compromise: representation and slavery

3. The case of the Electoral College

c. Distributing and describing governmental powers

1. Powers in the federal system
   i. Delegated powers (powers of national government)
   ii. Concurrent powers (powers shared by federal and state governments)
   iii. Implied powers ("necessary and proper" clause)
   iv. Reserved powers (powers kept by the states)
2. Powers within national government
3. Limiting governmental powers
   i. Habeas corpus (no arbitrary arrest or detention)
   ii. Bills of attainder (no one is guilty without trial)
   iii. Ex post facto laws (no retrospective laws or punishment)
   iv. Bill of Rights (limits on power of government)
   v. Full faith and credit (laws of states must be honored by other states)
   vi. Privileges and immunities (states must treat residents of other states equally under law)

d. Allowing for change

1. Revolution
2. Amendments
3. Interpretations and constructions (How do we interpret the Constitution?)

e. Adaptability and endurance

V. The Five Principles

a. Rule of law (government officials are bound by standards of fairness, impartiality, and equality before the law)
b. Republicanism (elected officials who are answerable to the public make decisions)
c. Separation of powers (division of power among and between levels and institutions of government)
d. Checks and balances (power in one level or institution of government is balanced by power in another level or institution, by various methods)

1. Veto
2. Congressional authorization
3. Confirmation
4. Treaty ratification
5. Appropriation of funds
6. Impeachment

e. National supremacy (Article VI of the Constitution)
f. Applying the five principles

1. Originalism
2. Textualism
3. Living Constitution

VI. The Policy Connection

a. Public policy and the Constitution

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b. By What Authority?

1. All public policy needs to be rooted in constitutional authority
2. The courts as the arbiters of the constitutionality of public policy

c. Constitutional Scrutiny

1. Cannot violate civil liberties/civil rights of citizens
2. Demonstration of *compelling public interest*

d. Same-Sex Marriage

1. Full faith and credit provisions
2. Defense of Marriage Act

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Suggested Lecture Topics and Class Activities

1. Political and social lives sometimes require the trading of liberty for security. Consider how policies such as "stop and frisk" and "zero tolerance" have become loci for such debates.

2. Examine how the compromises at the heart of the Constitution set the stage for several of the systemic crises that have affected the United States over the years. (The Three-Fifths Compromise is an obvious example, but the compromise over representation might be another.)

3. The states were asked to ratify the Constitution. Eventually, each of the original thirteen did so. However, all of the ratifying conventions suggested amendments to the document. In your lecture, discuss why this happened and how the federal government reacted to these requests.

4. Ratifying the Constitution is hard. Choose a recent serious effort to amend the Constitution, such as the Equal Rights Amendment or the flag burning amendment, to demonstrate the difficulties inherent in changing the Constitution. (Consider the question of whether institutional and interest group resistance means that we will never amend the Constitution again.)

5. Since Article VI is pretty clear that the federal government is supreme and nowhere in the Constitution does it say that the states are sovereign, why do people persist in referring to the states as "sovereign"? What might the idea of state sovereignty mean in actual practice today?

6. Have students propose constitutional amendments. Then have them find out how many of their ideas have already been proposed and how far those proposed amendments got in the process.

7. Divide the students into ten or more groups and assign each group one amendment from the Bill of Rights. Ask them to provide their interpretation of the meaning of the amendment or provisions within the amendment. Discuss and then have students seek out the current judicial consensus on the provision.

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Discussion Questions

1. Was Shays' Rebellion justified? Would you agree with Thomas Jefferson that "a little rebellion now and then is a good thing"?

2. Does the Constitution uphold the key ideas of the Declaration of Independence, or does it go against some of those ideas? Does the Constitution support the "American creed"?

3. It has been said that the Electoral College is a ticking time bomb of potential disaster. Have students argue for or against this statement.

4. Why are powerful state or local leaders, such as Governor Huey Long of Louisiana (1930s), Mayor Richard Daley of Chicago (1960s), and Mayor Rudy Giuliani of New York (1990s), unable to translate that power to the federal or, in the case of the mayors, the state level?

5. It has been said that the Supreme Court's decision in *McCulloch v. Maryland* (1819), which established the idea of "implied powers" for Congress, basically places no limits on the powers of the federal government. Have students argue for or against this statement.

6. The separation of powers and the checks and balances in our Constitution have produced gridlock in Washington. What might be required to end the current impasse between the president and Congress?

7. Do recent decisions regarding same-sex marriage fit within the Five Principles?

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Website Resources

Online Library of Liberty, "Fundamental Orders of Connecticut" (1639): http://oll.libertyfund.org/pages/1639-fundamental-orders-of-connecticut

PBS, Benjamin Franklin, "Speech to Conditional Convention" (1787): http://www.pbs.org/benfranklin/pop_finalspeech.html

Yale Law School, Lillian Goldman Law Library, "Ratification of the Constitution by the State of Virginia: June 26, 1788": http://avalon.law.yale.edu/18th_century/ratva.asp

Yale Law School, Lillian Goldman Law Library, "Ratification of the Constitution by the State of Rhode Island and Providence Plantations: May 29, 1790": http://avalon.law.yale.edu/18th_century/ratri.asp

PBS, *McCulloch v. Maryland* (1819): http://www.pbs.org/wnet/supremecourt/antebellum/landmark_mcculloch.html

Constitution Society, John Locke, *Second Treatise of Government*: http://www.constitution.org/jl/2ndtreat.htm

Project Gutenberg, Thomas Hobbes, *Leviathan*: https://www.gutenberg.org/files/3207/3207-h/3207-h.htm

Congress, *The Federalist Papers*: https://www.congress.gov/resources/display/content/The+Federalist+Papers

University of Chicago Press and Liberty Fund, "The Founders' Constitution": http://press-pubs.uchicago.edu/founders/

National Archives, "History of the Constitution of the United States": http://www.archives.gov/exhibits/charters/constitution_history.html

Library of Congress, "Primary Documents in American History": http://www.loc.gov/rr/program/bib/ourdocs/Constitution.html

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Video Resources

Sunnylands Seminars: The Judicial Branch, particularly "Our Constitution: A Conversation with Justices O'Connor and Breyer," "Key Constitutional Concepts," and "A Conversation on Judicial Independence with Justices O'Connor, Kennedy, and Breyer"

America Rock, "The Preamble" and "Three Ring Government"

SchoolTube, "The Constitutional Convention of 1787": http://www.schooltube.com/video/8340c13e5ab94e3ea887/The%20Constitutional%20Convention%20of%201787-

1776 (1972)

A More Perfect Union: America Becomes a Nation (1989)

C-SPAN, "James Madison—'Father of the Constitution'": http://www.c-spanclassroom.org/Video/1852/James+Madison+quotFather+of+the+Constitutionquot.aspx

C-SPAN, "U.S Constitution Ratification Process": http://www.c-spanclassroom.org/Video/832/US+Constitution+Ratification+Process.aspx

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Test Bank: Chapter 2

1. One difference between the Articles of Confederation and the U.S. Constitution is that in the Constitution:
    a. All powers are delegated to the national government
    b. Legitimacy is based in the citizens of the nation rather than in the states*
    c. All amendments require unanimous approval of the states
    d. All authority resides in the states

Page 46, Applied

2. A president's nominee for the Supreme Court has just been rejected by a vote of the U.S. Senate. This illustrates the process of:
    a. Impeachment
    b. Judicial review
    c. Veto power
    d. Checks and balances*

Page 61, Applied

3. According to Rousseau's concept of popular sovereignty, the BEST kind of government is one that:
    a. Upholds the rule of law
    b. Reflects the "general will" of the people*
    c. Separates the legislative, executive, and judicial powers
    d. Mediates the passions of emotional majorities

Page 44, Conceptual

4. According to the Declaration of Independence, the primary purpose of government is to:
    a. Promote the values of national independence
    b. Protect its officials against revolution
    c. Secure the unalienable rights of its citizens*
    d. Defend its citizens against foreign attack

Page 45, Factual

5. According to the Supreme Court's decision in *McCulloch v. Maryland*, the necessary and proper clause gives:
    a. The states reserve power to tax federal agencies
    b. The states implied power to regulate interstate commerce
    c. Congress implied power to charter a bank*
    d. Congress delegated power to regulate interstate commerce

Page 51, Factual

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6. As designed by the Framers, the process of amending the Constitution
    a. Is elaborate and difficult to complete*
    b. Only requires action from the national level of government
    c. Has never been fully implemented since 1835
    d. Was intended to encourage the public to propose new amendments

Page 54, Conceptual

7. Among the reserved powers traditionally left to the states by the Constitution is:
    a. Setting economic policy
    b. Declaring war
    c. Managing the banking system
    d. Public education*

Page 51, Factual

8. An ex post facto law:
    a. Makes an action criminal even though it was legal when it was performed*
    b. Declares a person guilty of a crime without benefit of a trial
    c. Frees people who have been arbitrarily arrested or detained
    d. Separates civil offenses from criminal offenses

Page 52, Factual

9. Article ____ of the Constitution deals primarily with the judicial branch of government.
    a. I
    b. II
    c. III*
    d. IV

Page 52, Factual

10. Article ____ of the Constitution establishes Congress as the legislative branch.
    a. I*
    b. II
    c. III
    d. IV

Page 52, Factual

11. As a founding principle of the American constitutional system, *republicanism* refers to:
    a. A government consisting of popularly elected officials*
    b. Laws that are consistent with the beliefs of the majority of the public
    c. The separation of executive and legislative powers
    d. The supremacy of the national government over the state governments

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Page 60, Factual

12. The editorials written in support of ratification of the Constitution comprise:
    a. *The Arguments for Democracy*
    b. The Magna Carta
    c. The Bill of Rights
    d. *The Federalist Papers**

Page 59, Factual

13. If the Senate finds a government official or federal judge guilty of an impeachable offense, the official is:
    a. Reprimanded
    b. Sent to prison
    c. Censured
    d. Removed from office*

Page 63, Factual

14. The power of Congress over the courts does NOT include:
    a. Impeachment
    b. Abolishing lower courts
    c. Abolishing the Supreme Court*
    d. Creating additional lower courts

Page 63, Factual

15. Concurrent powers are those:
    a. Shared by Congress and the president
    b. Exercised by both national and state governments*
    c. Granted to the national government but denied to the states
    d. Authorized by the necessary and proper clause

Page 49, Factual

16. Different branches of the federal government share certain responsibilities and can have an impact on each other's activities. This reflects the principle of:
    a. Republicanism
    b. Checks and balances*
    c. Popular sovereignty
    d. Separation of powers

Page 61, Factual

17. Economic hardship in Massachusetts under the Articles of Confederation was so severe that it resulted in:

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a. The Boston Tea Party
b. The Land Eruption
c. The Farmers Rebellion
d. Shays' Rebellion*

Page 41, Factual

18. Enforcement of the 1964 Civil Rights Act was made possible by the broad interpretation of the term:
    a. *Rights*
    b. *Act*
    c. *Commerce**
    d. *Immunities*

Page 57, Applied

19. Executive privilege was first claimed by President _____.
    a. Nixon
    b. Clinton
    c. Roosevelt
    d. Washington*

Page 58, Factual

20. If you were arrested and imprisoned without explanation in the United States, you could seek to obtain a(n):
    a. Bill of attainder
    b. Ex post facto order
    c. Full faith and credit act
    d. Writ of habeas corpus*

Page 52, Applied

21. In 1998, the Supreme Court declared unconstitutional a law that gave the president the power to veto a portion of a bill passed by Congress. This power, held by many state governors, is called a(n) ____ veto.
    a. line-item*
    b. legislative
    c. administrative
    d. pocket

Page 61, Factual

22. In *Federalist* no. 10, Madison suggests democracies have historically:
    a. Been characterized by stability and justice
    b. Guarded the rights of minorities

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c. Been the source of turbulence and contention*
d. Enhanced the power of executives

Page 60, Conceptual

23. In balancing national and state authority, the Framers faced the necessity of:
    a. Reducing the authority of the national government
    b. Increasing the power of the state governments
    c. Preserving the traditional authority of the states while enhancing the powers of the national government*
    d. Protecting the interests of the commercial classes and increasing the size of the electorate

Page 47, Applied

24. In what year was the final draft of the Constitution given to the delegates for their acceptance or rejection?
    a. 1747
    b. 1755
    c. 1787*
    d. 1797

Page 39, Factual

25. James Madison would generally agree with all of the following statements regarding factions EXCEPT that:
    a. Their cause is rooted in human nature
    b. They cannot be eliminated
    c. They are self-serving and can be large or small
    d. They always constitute a minority of the people*

Page 59, Applied

26. When a president vetoes a bill from Congress, this action is an example of:
    a. Federalism
    b. Checks and balances*
    c. Shared powers
    d. Republicanism

Page 62, Applied

27. Of the many delegates who gathered to form the Constitution, who was elected to chair the meeting?
    a. George Washington*
    b. Benjamin Franklin
    c. Thomas Jefferson

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d. James Madison

Page 42, Factual

28. *Originalism* is a term that is relevant to:
    a. Checks and balances
    b. Bureaucracy
    c. Separation of powers
    d. Constitutional interpretation*

Page 38, Applied

29. Over half of the delegates to the Constitutional Convention were:
    a. Wealthy merchants
    b. Career politicians
    c. Members of the press
    d. Trained in the law*

Page 41, Factual

30. Proponents of the Virginia Plan believed that ____ should be the determining factor for granting representation to a national governing body.
    a. state acreage
    b. political party distribution
    c. religious affiliation
    d. a state's population*

Page 47, Factual

31. The 1787 Constitutional Convention was organized in response to the:
    a. Tyranny of the British king
    b. Request of President Washington
    c. Perceived problems of the Articles of Confederation*
    d. Publication of the Declaration of Independence

Page 41, Factual

32. The Articles of Confederation were ratified ____ after they were written in 1777.
    a. two days
    b. one week
    c. one year
    d. four years*

Page 40, Factual

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33. The Articles of Confederation allowed the national government to do all of the following EXCEPT:
    a. Make war and peace
    b. Borrow money
    c. Regulate interstate commerce*
    d. Raise a navy

Page 40, Factual

34. The Bill of Rights provides an example of the way in which the Constitution ____ the national government's power.
    a. limits*
    b. implies
    c. delegates
    d. expands

Page 50, Conceptual

35. Under the Constitution, neither the state nor the national government can:
    a. Tax exports*
    b. Tax imports
    c. Coin money
    d. Sign treaties with foreign powers

Page 50, Factual

36. The Great Compromise focused on:
    a. The drawing of state boundaries
    b. Elections and campaigns
    c. The selection of the president
    d. Representation in the legislative branch*

Page 48, Applied

37. A unicameral legislature has ____ chamber(s).
    a. one*
    b. two
    c. three
    d. four

Page 48, Factual

38. The Tenth Amendment includes the:
    a. Right to qualified representation in the case of criminal suit
    b. Right to a speedy trial by an impartial jury
    c. Implied powers

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d. Reserved powers*

Page 51, Factual

39. The Articles of Confederation created a weak federal government in part because the national government:
    a. Could not declare war
    b. Was unable to conduct effective foreign policy*
    c. Could not establish a monetary system
    d. Was unable to build a navy or an army

Page 41, Factual

40. The concept of a popular right to replace a government with one that would better defend life, liberty, and property was first expressed in:
    a. Hobbes's *Leviathan*
    b. Paine's *Common Sense*
    c. Locke's *Two Treatises on Government**
    d. Montesquieu's *The Spirit of the Laws*

Page 44, Applied

41. The Constitution has been amended ____ times since the ratification of the Bill of Rights.
    a. five
    b. nine
    c. fourteen
    d. seventeen*

Page 54, Factual

42. The constitutional concept of the separation of powers into legislative, executive, and judicial functions came from the writings of:
    a. Charles de Montesquieu*
    b. Thomas Hobbes
    c. Thomas Paine
    d. John Locke

Page 44, Applied

43. The Constitutional Convention in Philadelphia attracted ____ delegates from the states.
    a. thirteen
    b. twenty-six
    c. thirty
    d. fifty-five*

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44. The decision to establish an Electoral College for the election of the president and vice president was based on the desire to:
    a. Prevent direct election by an uninformed public
    b. Limit voting rights to the ruling elite
    c. Balance national and state interests and guarantee electoral independence from Congress*
    d. Help establish political parties

Page 48, Applied

45. The delegates at the Philadelphia Constitutional Convention were exclusively:
    a. Lawyers
    b. White and male*
    c. Landowners
    d. Men with military backgrounds

Page 41, Factual

46. The difference between a confederation and a federation is that in a confederation:
    a. Ultimate government authority rests in states*
    b. Ultimate government power is concentrated in a national government
    c. Government power and authority are shared between states and a national government
    d. Ultimate government authority rests with the people

Page 47, Conceptual

47. The doctrine of republicanism was introduced by the Framers in order to prevent:
    a. Rule by the educated elite
    b. Rule by elected officials
    c. Rule by liberals
    d. Rule by ordinary citizens*

Page 60, Conceptual

48. The fact that the Constitution is the supreme law of the land expresses the principle of:
    a. Judicial review
    b. States' rights
    c. Popular sovereignty
    d. National supremacy*

Page 64, Conceptual

49. The first ____ amendments to the Constitution constitute the Bill of Rights.
    a. five
    b. ten*

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c. fifteen
d. twenty-seven

Page 52, Factual

50. The first national Congress consisted of:
    a. Select states that had accepted the Articles of Confederation
    b. A single body in which each state had two votes
    c. States that had voted in agreement with the Framers of the Constitution
    d. A single body in which each state had one vote*

Page 48, Factual

51. The full faith and credit provisions of the U.S. Constitution would require that the state of Kansas:
    a. Grant a tax credit to U.S. service personnel
    b. Pay its debts to the U.S. government
    c. Honor a divorce granted in California*
    d. Respect freedom of religion for atheists

Page 52, Applied

52. The idea that authority should be distributed among three branches of government is the principle of:
    a. Separation of powers*
    b. Checks and balances
    c. Republicanism
    d. Federalism

Page 60, applied

53. The impeachment process involves having the ____ bring charges against a public official, who is then tried before the ____.
    a. Supreme Court; U.S. Senate
    b. U.S. Senate; U.S. House of Representatives
    c. special prosecutor; Supreme Court
    d. U.S. House of Representatives; U.S. Senate*

Page 64, Factual

54. The legitimacy of a government exists when:
    a. It has a written constitution
    b. It can make its citizens pay taxes
    c. It represents the best interests of those who are informed
    d. The people accept its right to pass and enforce laws*

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Page 46, Factual

55. The man who engaged in debates and political bargains that shaped the Constitution and who came to be known as the "Father of the Constitution" was:
    a. George Washington
    b. Benjamin Franklin
    c. Thomas Jefferson
    d. James Madison*

Page 42, Factual

56. The necessary and proper clause can be found in Article I, Section 8, of the Constitution addressing the powers granted to:
    a. The executive
    b. The judiciary
    c. The legislature*
    d. Federalism

Page 51, Factual

57. The passage of the British Stamp Act in 1765 incited the colonists to protest:
    a. Increasing postal rates
    b. Tyranny by the majority
    c. Separation of powers
    d. Taxation without representation*

Page 44, Factual

58. The period of the Enlightenment was dominated by the idea that:
    a. Religious tradition is the source of authority
    b. Human reason is the primary source of knowledge and wisdom*
    c. A combination of religion and tradition are the best approach to governance
    d. Human reason is acceptable, but godly reason is the rule

Page 43, Applied

59. The power of judicial review permits:
    a. The people to vote to recall undesirable federal judges
    b. Congress to reject the president's nominees for court positions
    c. The federal courts to declare legislative and executive acts unconstitutional*
    d. The courts to enforce executive orders contrary to the wishes of Congress

Page 63, Applied

60. The powerful words of the Preamble to the Constitution begin:
    a. "Fourscore and seven years ago"

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b. "We hold these truths to be self-evident"
c. "Congress shall make no law"
d. "We the People"*

Page 46, Factual

61. The rule of law in American government means that:
    a. Civil arguments are to be settled by law
    b. Government officials are subject to the law*
    c. The law will be the rule rather than the exception
    d. The government derives its legitimacy from its own laws

Page 59, Applied

62. The supremacy clause of the Constitution says that:
    a. State governments are supreme in the United States
    b. The president is supreme over Congress
    c. The Supreme Court decides constitutional issues
    d. The Constitution is the supreme law of the land*

Page 54, Factual

63. The suspension of the privilege of habeas corpus is limited to ____, according to Article I of the Constitution
    a. times of war
    b. times of terrorist attack
    c. times of civil strife
    d. times of invasion or rebellion*

Page 52, Factual

64. The three primary drafters of the Declaration of Independence were:
    a. Washington, Jefferson, and Adams
    b. Jefferson, Adams, and Madison
    c. Washington, Jefferson, and Madison*
    d. Jefferson, Adams, and Franklin

Page 45, Factual

65. Which president was formally brought to trial in the U.S. Senate in the impeachment process while still in office?
    a. Richard Nixon
    b. James K. Polk
    c. Bill Clinton*
    d. Andrew Jackson

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Page 63, Factual

66. Which of the following did NOT serve as a legal or intellectual reference point for the Founders in developing the U.S. Constitution?
    a. The constitutional system of Great Britain
    b. The French Revolution*
    c. English common law
    d. The Enlightenment

Page 44, Applied

67. Thomas Hobbes was the author of:
    a. *Two Treatises on Government*
    b. *Utopia*
    c. *Leviathan**
    d. *Common Sense*

Page 44, Factual

68. Under the Articles of Confederation, whatever powers the national government possessed were exercised by:
    a. The judiciary
    b. The federal government
    c. The Congress*
    d. State government

Page 40, Factual

69. What type of congress was proposed under the Virginia Plan?
    a. Democratic
    b. Republican
    c. Bicameral*
    d. Unicameral

Page 47, Factual

70. When the courts use the approach of the "living Constitution," their ruling is based on:
    a. A changeable law depending upon interpretation
    b. An adaptable view of the Constitution that considers the times*
    c. The laws of our forefathers in most circumstances
    d. The law of precedent

Page 38, Conceptual

71. Which institution was not originally established under the Constitution?
    a. The U.S. House of Representatives

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b. The U.S. Senate
c. The Court of Appeals*
d. The Supreme Court

Page 60, Factual

72. Which of the following is NOT a means by which Congress can restrict presidential power?
a. Congressional authorization
b. Confirmation procedures
c. Treaty ratification
d. Judicial review*

Page 65, Factual

73. Which of the following statements concerning government under the Articles of Confederation is incorrect?
a. There was no national judiciary
b. Each state had one vote in the legislature
c. States could send several representatives to Congress
d. The legislature was bicameral*

Page 41, Factual

74. Which powers are granted to Congress in the constitutional authorization "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers"?
a. Delegated powers
b. Implied powers*
c. Reserved powers
d. Executive powers

Page 49, Factual

75. Who of the following was NOT at the Constitutional Convention?
a. Washington
b. Franklin
c. Jefferson*
d. Madison

Page 42, Factual

76. How many sitting U.S. presidents have been removed from office by the U.S. Senate?
a. Zero*
b. One
c. Two
d. Three

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Page 63, Factual

77. Article ____ of the Constitution deals primarily with the executive branch of government.
    a. I
    b. II*
    c. III
    d. IV

Page 52, Factual

78. Which of the following is NOT an example of checks and balances?
    a. The president vetoes a bill from Congress
    b. The full faith and credit clause*
    c. The Supreme Court strikes down an executive order
    d. The Senate holds confirmation hearings for an ambassadorial nomination

Page 62, Applied

79. The section of the Constitution focusing on state powers is often referred to as the:
    a. Delegated powers
    b. Implied powers
    c. Reserved powers*
    d. Executive powers

Page 50, Factual

80. The powers granted to both the state and national governments are often referred to as the:
    a. Divergent powers
    b. Concurrent powers*
    c. Combined powers
    d. Dual powers

Page 50, Factual

81. Which of the major authors of the Declaration of Independence was also present at the Constitutional Convention?
    a. Thomas Jefferson
    b. George Washington
    c. John Adams
    d. Benjamin Franklin*

Page 42, Factual

82. Proposed constitutional amendments can be approved by:
    a. A two-thirds vote in the House and the Senate*
    b. The Supreme Court

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c. Governors in two-thirds of the states
d. The president in consultation with the Congress

Page 55, Factual

83. Constitutional amendments can be ratified by:
a. Conventions held in three-quarters of the states*
b. A positive vote from a majority of state legislatures
c. The Supreme Court
d. A three-quarters vote in the House and the Senate

Page 55, Factual

84. The myth of the timeless Constitution implies that we should attempt to interpret the Constitution:
a. Differently as society changes
b. With an eye toward how our interpretation will impact the future
c. Only as it was intended to be interpreted when it was adopted in 1787*
d. Through the lens of the universality of the human condition

Page 59, Applied

85. The adoption of the Three-Fifths Compromise was driven by issues surrounding:
a. Representation in the Senate
b. The drawing of state boundaries
c. Slavery*
d. Separation of powers

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Short-Answer ID Questions

1. Give two examples of the shortcomings inherent in the Articles of Confederation and explain how these led to the convention in Philadelphia.

2. Describe three examples of checks and balances, one for each of the three branches of the national government.

3. Give an example of a concurrent power and discuss how conflict might arise between a state and the national government when both entities try to exercise their concurrent powers simultaneously.

4. Define and explain the importance of the delegated powers.

5. Why does the Constitution forbid ex post facto laws, and is there a downside to forbidding them? If so, what?

6. What are the *Federalist Papers*, and why are they important?

7. Give an example of an application of the full faith and credit clause that is relevant to the current political climate.

8. What purpose do the implied powers serve for the national government?

9. Explain the necessity of government legitimacy and discuss what can happen when a government loses legitimacy.

10. Give an example of an application of the necessary and proper clause.

11. Why, according to the authors, is the language surrounding the reserved powers so vague?

12. Compare and contrast the ideas of originalism and textualism.

13. How would politics be altered in the United States if we adopted a unicameral legislative system at the national level? How would it stay the same?

14. Describe the process by which you could propose a constitutional amendment mandating free college tuition. How would the proposal start, and what would be required to add it to the U.S. Constitution?

15. Compare and contrast the contributions of Hobbes and Locke to the thinking at the Constitutional Convention.

16. How do you think the demographic makeup of the members at the Constitutional Convention impacted their deliberations?

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Essay Questions

1. Compare and contrast the writings and beliefs of Thomas Hobbes and John Locke.

2. Describe the government that was created by the Articles of Confederation, with specific emphasis on its structure, power, and weaknesses.

3. Discuss the facts of the case in *McCulloch v. Maryland* and explain the outcome and logic of the Court's decision.

4. Discuss three alternative approaches to the notion of a "living Constitution" that have been employed by various members of the U.S. Supreme Court.

5. Explain the difference between delegated powers and concurrent powers and provide at least two examples of each.

6. Explain the process of impeachment for public officials.

7. Identify four of the ways that constitutions can be changed and discuss which are applicable in the United States in the twenty-first century.

8. Identify and discuss the importance of three of the objectives achieved by the Declaration of Independence.

9. Outline the major features of the Great Compromise and explain each.

10. What does the phrase "rule of law" mean, and how is it present in various constitutional provisions?

11. Explain the differences among the unitary system of government, a confederation, and a federation.

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