**Module 2 Notes**

**2.01**

* There are five (5) concepts that determine what government tries to do and how it decides to do it.
	+ Freedom
	+ Order
	+ Equality
	+ Majoritarian Democracy
	+ Pluralist Democracy
* Shays’ Rebellion (1786-1787)
	+ Massachusetts in 1786, clash between farmers and merchants
	+ “It wound down in 1787 with the election of a more popular governor, an economic upswing, and the creation of the Constitution of the United States in Philadelphia.”
	+ “Following the hardships of the Revolutionary War, this merchant class worked to put trans-Atlantic trade on a firm footing and also provided political leadership. Massachusetts' two leading traders, James Bowdoin and John Hancock, held the Governor's office for the entire decade 1780-1791.”
	+ “Many of the farmers were veterans who had trudged home from the Revolution "with not a single month's pay" in their pockets, but only government certificates they had long since sold away to speculators.”
	+ Calliope Film Resources. "Shays' Rebellion." Copyright 2000 CFR. http://www.calliope.org/shays/shays2.html. 7 June 2013.
* American’s with Disabilities Act
	+ 1990 law enacted by Congress
	+ The ADA is a wide-ranging civil rights law that prohibits, under certain circumstances, discrimination based on disability. It affords similar protections against discrimination to Americans with disabilities as the Civil Rights Act of 1964, which made discrimination based on race, religion, sex, national origin, and other characteristics illegal

**2.02**

* Political culture- the shared belief of how a government should operate
* Political ideology- the aspects of what a government should do
	+ When someone refers to a group of people as liberal or conservative, they are stating that those people share a set of beliefs about what the government should be doing or not doing on issues such as the environment, the economy, and other key topics.
* Political Values Shared by Americans Obsessed with Liberty and Freedom
	+ Commitment to the individual
	+ Two-party system
	+ Regular elections
	+ “American Dream”-anyone can succeed
	+ Sense of political efficacy-citizen’s capacity to understand and influence political event
* Internal efficacy- confidence in one’s own ability to shape and take part in politics. This level has remained the same since the 1950’s.
* External efficacy- belief that the system will respond to what citizens do. This level has declined since the ‘60’s and ‘70’s.



* Political Labels in America
	+ Liberals
		- Contemporary Liberals- see government as protection for the individual against non-governmental forces (stock market, etc.)
		- Believe government should intervene in the economy to remedy the defects of the market (began with FDR).
		- Liberals believe in:
			* Affirmative education
			* Right of unions to organize
			* Politics of compassion/care for the week
			* Reduction of the inequalities of wealth
		- Types of Liberals
			* New Deal Liberals: stress economic issues. Ex. War on poverty
			* Neoliberals: have lost faith in welfare prgrams and Washington-based bureaucrats
	+ Conservatives
		- Contemporary Conservatives- believe in property rights, free enterprise, and small government (except for defense)
		- Conservatives believe in:
			* Faith in the private sector
			* Pro-business, oppose higher taxes on business
			* A minimal approach to welfare and social equality issues
			* The market, not government should distribute goods
		- Types of Conservatives
			* Religious Right: opposes abortion and pornography. Favors prayer in public schools
			* Neoconservatives: oppose New Deal/great society programs, tough stance on crime, favor the death penalty, favor military spending

**Left (Liberal)**

Liberals usually embrace freedom of choice in personal matters, but tend to support significant government control of the economy. They generally support a government-funded "safety net" to help the disadvantaged, and advocate strict regulation of business. Liberals tend to favor environmental regulations, defend civil liberties and free expression, support government action to promote equality, and tolerate diverse lifestyles.

**Libertarian**

Libertarians support maximum liberty in both personal and economic matters. They advocate a much smaller government; one that is limited to protecting individuals from coercion and violence. Libertarians tend to embrace individual responsibility, oppose government bureaucracy and taxes, promote private charity, tolerate diverse lifestyles, support the free market, and defend civil liberties.

**Centrist**

Centrists prefer a "middle ground" regarding government control of the economy and personal behavior. Depending on the issue, they sometimes favor government intervention and sometimes support individual freedom of choice. Centrists pride themselves on keeping an open mind, tend to oppose "political extremes," and emphasize what they describe as "practical" solutions to problems.

**Right (Conservative)**

Conservatives tend to favor economic freedom, but frequently support laws to restrict personal behavior that violates "traditional values." They oppose excessive government control of business, while endorsing government action to defend morality and the traditional family structure. Conservatives usually support a strong military, oppose bureaucracy and high taxes, favor a free-market economy, and endorse strong law enforcement.

**Statists (Big Government)**

Statists want government to have a great deal of power over the economy and individual behavior. They frequently doubt whether economic liberty and individual freedom are practical options in today's world. Statists tend to distrust the free market, support high taxes and centralized planning of the economy, oppose diverse lifestyles, and question the importance of civil liberties.

**2.03**

* “Models” of Democracy
	+ Majoritarian model of democracy- the classical theory of democracy in which government by the people is interpreted as government by the majority of the people
	+ Pluralist model of democracy- an interpretation of democracy in which government by the people is taken to mean government by the people operating through competing interest groups
* John Locke
	+ Lockean Theory- The theory of positive freedom states that people gladly abide by rules of society in order to enjoy the freedoms that society provides and protects.
* Key Terms
	+ Majority rule- the principle-basic to procedural democratic theory-that the decision of a group must reflect the preference of more than half of those participating; a simple majority
	+ Minority rights- the benefits of government that cannot be denied to any citizens by a majority decision
	+ Elite theory- the view that a small group of people actually makes most of the important government decisions
	+ Political equality- equality in political decision making; one vote per person, with all votes counted equally
	+ Procedural democratic theory- a view of democracy as being embodied in a decision-making process that involves universal participation, political equality, majoritarian rule, and responsiveness
	+ Substantive democratic theory- the view that democracy is embodied in the substance of government policies rather than in the policy making procedure

**2.05**

* George Washington
	+ The statesman, soldier, and unifier. Concerned with preserving the union and order
* John Adams
	+ The intellectual leader of the conservative federalists
* Alexander Hamilton
	+ A political economist-favoring business and government cooperation
* Thomas Jefferson
	+ The nation’s first political philosopher to hold high office. Author of the Declaration of Independence
* James Madison
	+ Concerned deeply with liberty. Author of the Bill of Rights and “Father of the Constitution”

**The Colonial Period**

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| **Date** | **Event** | **Special Importance** |
| April 1775 | American Revolution begins at Lexington and Concord, Mass. |   |
| June 1775 | George Washington assumes control of Continental forces |   |
| July 1776 | Declaration of Independence approved | Author: Thomas Jefferson |
| November 1777 | Articles of Confederation adopted by the Continental Congress |   |
| March 1781 | Articles ratified by the states |   |
| October 1781 | British defeated at Yorktown |   |
| April 1784 | Congress ratifies peace treaty with British |   |
| Late 1786 | Shays Rebellion | Catalyst for framers to consider **order**, as well as liberty |
| May 1787 | Constitution Convention begins in Philadelphia | The framers meet secretly—to avoid outside entanglements. |
| September 1787 | Constitution for United States adopted by Convention |   |
| June 1788 | Constitution for United States ratified by nine states |   |
| Early 1789 | First National Elections |   |
| March 1789 | United States Congress meets for the first time in New York. | Note—NY |
| April 1789 | George Washington inaugurated as first president | Present inaugurations are Jan. 20 (after the Nov. election) at noon. |
| September 1789 | John Jay becomes the first Chief Justice of the Supreme Court. | \*A writer of the Federalist Papers with Hamilton and Madison |
| September 1789 | Congress proposes the Bill of Rights |   |
| December 1791 | The Bill of Rights is ratified |   |

\*Remember the Federalist Papers were written to persuade for ratification of the Constitution.

**2.06-**

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| The Constitution was not the first script for the United States. The first script was the Articles of Confederation, a fragile "League of Friendship." The weaknesses of this document led to the writing of the Constitution.**Created at the Second Continental Congress November 17 , 1777****Congress had the authority to:*** Declare war
* Enter into treaties
* Fix uniform standards of weights and measures
* Create a postal system
* Borrow money
* Regulate coinage
* Establish and control the Armed Forces
* Regulate Indian affairs

**Weaknesses of the Articles:*** No power to taxThis resulted in Congress pleading with the states to provide money for war and to carry on the affairs of the nation.
* No provision for an independent leadership positionThis was a deliberate omission because the colonists feared another monarchy - but still left the nation without a leader.
* Lack of national supremacy in treaty makingThe national government, as well as the 13 states, could make individual treaties with other nations.
* No checks and balancesArticles conjoined all three branches into one Congress—**Unicameral**.
* Changing the Articles was nearly impossibleThe Articles could not be amended without unanimous consent of the congress and all state legislatures.
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| **What happened next?*** The Annapolis Convention, 1786: called for a convention to amend the Articles.
* The Philadelphia Convention, 1787: was supposed to only amend the Articles, instead they wrote a whole new Constitution.
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**2.07-**

The Framers met in Philadelphia from May 25–September 17, 1787.

"...to devise such further provisions as shall appear to them necessary to render the Constitution of the Federal Government adequate to the exigencies of the Union" ~ Alexander Hamilton

The framers intended to fix the Articles of Confederation, but instead wrote a new Constitution.

**The Fears of the Framers:**

* Monarchy
* State fear of centralization
* Zealots—like Daniel Shays and others

**The Genius of the Framers:**

* Bicameralism
	+ Two Houses: the Senate and the House of Representatives developed out of the Connecticut Compromise.
* Formal Controls
	+ Staggered terms—two years for a House member, six years for a Senator; one-third elected in Senate every two years. There is never a time when all politicians are new.
	+ House—originally, number of members not capped. House representatives were appointed for every 30,000 people living in the state. In 1929, membership capped at 435, with seats reapportioned after every census. Single-member districts, winner-take all representation.
	+ States (guided by the Constitution) determine election qualifications.
	+ Both houses must agree on every detail of every bill for it to become law.
* Informal Controls
	+ Partisan politics
	+ Effects of campaign contributions
	+ Cross-pressure from other member of Congress, and the president
	+ State voting laws
	+ Effects of the committee system
* Federalism
	+ Power and policymaking is shared between the national and constituent parts (ie. the states).
* Separation of Powers
	+ A term coined by the Enlightenment philosopher, Baron de Montesquieu in the 18th century, the separation of powers is the theory rooted in British democracy including three different branches of government that work independently with specific areas of responsibilities. These three branches are the legislative, the executive and the judicial branches and their powers are literally “separate.” The theory stems from the idea that when power is granted, it is human nature to abuse that power. Therefore, to prevent tyranny, with a separation of powers, the three branches of the government have distinct responsibilities including the power to make law, execute the law and to interpret the law respectively.
	+ These powers cannot be assumed, transferred, or altered.
	+ Allocation of constitutional authority to each branch.
* Checks and Balances
	+ As stated above, once the separation of powers is established, parameters become necessary to ensure that the three branches of government would not abuse their powers.
	+ According to James Madison in Federalist #10, the system of checks and balances is designed to control rival factions. Therefore the Constitution grants powers to each branch that enables each branch to check the actions of the other two.



**Judicial Review**

The doctrine of judicial review was established as a result of the **1803 Marbury v. Madison Supreme Court** decision. In order to understand the court ruling, one must know the story of the "midnight appointments". In 1801, outgoing President John Adams made numerous judicial appointments in the last hours of his administration. His intention was to have members of his political party, the **Federalists**, fill the judicial branch. In his haste, Adams did not have all of the commissions delivered in time. When Thomas Jefferson took over the office of the presidency, he ordered the Secretary of State, James Madison, to not deliver William Marbury his commission to the justice of the peace in the District of Columbia. Marbury sued Madison, demanding that the commission be delivered. In the written decision, Chief Justice John Marshall wrote that the **Judiciary Act of 1789** conflicted with the constitutional power in **Article III** of the Constitution granting original jurisdiction, thus declaring the Judiciary Act of 1789 "unconstitutional.". The result is judicial review, meaning, Marshall's decision states that the Constitution grants the Supreme Court the power declare null and void any law that violates the Constitution.

Why is **Marbury V Madison** such a critical case? Most scholars agree that judicial review can be "inferred" from Article III of the Constitution. However, without an expressed power the parameters in which the judicial branch could work were rather ambiguous. Therefore, with the Marbury decision, Marshall clearly established the judicial branch as the last line of defense for the voice of the people. Meaning, if a law is deemed unconstitutional, the law was not the will of the people in the first place.

\***Judicial review is the power of the court to declare an existing law unconstitutional.**

\*Judicial review is not mentioned in the Constitution, but the Supreme Court asserted it in *Marbury v. Madison* (1803). The Court has the right to interpret both the laws and the Constitution.

**2.08-**

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| **Preamble**The Preamble is the opening statement of the Constitution. The purposes of our government are presented in the Preamble.**Purposes:****To Establish Justice and Insure Domestic Tranquility**—Government manages conflict and maintains order. Government is like a**social contract** among people who agree to allow themselves to be regulated and taxed in exchange for protection for their lives and property.**To Provide for the Common Defense**—National security is a primary responsibility of the U.S. Government.**To Promote the General Welfare**—Government provides public goods for individuals such as clean air, national parks, highways. Also, government may provide income, housing, or health care for the poor, elderly, disabled, or disadvantaged.**To Secure the Blessings of Liberty**—Democratic governments have a special responsibility of protecting individual liberties by ensuring that all people are treated equally before the law. No one is above the law.**Articles I–VII**These Articles make up the "body" of the Constitution. Each Article deals with a specific topic. For example, Article I details the Legislative Branch of our government.**Article I—The Legislative Article**This is the longest and most detailed article in the Constitution and deals with Congress. |

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| **Section 2** | * About the House of Representatives
* Qualifications to be a member of the House of Representatives
* Apportionment
* Impeachment Power
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| **Section 3** | * About the Senate
* Qualifications to be a member of the Senate
* Impeachment Trials
 |
| **Section 4** | * Congressional Elections
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| **Section 5** | * Powers and Duties of the House
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| **Section 6** | * Rights of the Members
* Salary
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| **Section 7** | * Bills and Resolutions
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| **Section 8** | * Powers of Congress. This is a list of everything Congress can do. The following chart is taken directly from Section 8 and should be studied:

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| The Congress shall have Power **To lay and collect Taxes,** Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States; | To **define and punish Piracies and Felonies committed on the high Seas**, and Offences against the Law of Nations; |
| To **borrow Money** on the credit of the United States; | **To declare War**, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water; |
| To **regulate Commerce** with foreign Nations, and among the several States, and with the Indian Tribes; | To **raise and support Armies**, but no Appropriation of Money to that Use shall be for a longer Term than **two Years**; |
| To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States; | To provide and maintain a **Navy;** |
| To **coin Money**, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures; | To make Rules for the Government and Regulation of the land and naval Forces; |
| To provide for the Punishment of**counterfeiting** the Securities and current Coin of the United States; | To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions; |
| To establish**Post Offices and post Roads;** | To provide for **organizing, arming, and disciplining, the Militia,** and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress; |
| To promote the **Progress of Science and useful Arts**, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries; | To exercise exclusive Legislation in all Cases whatsoever, over such **District (not exceeding ten Miles square)** as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And |
| To constitute **Tribunals inferior to the Supreme Court;** | **To make all Laws which shall be necessary and proper for carrying into Execution** the foregoing Powers, and all other Powers vested by thisConstitution in the Government of the United States, or in any Department or Officer thereof. |

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| **Section 9** | * Powers denied to Congress
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| **Section 10** | * Powers denied to the States
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| **Article 2: The Executive Article**This article deals with the President. Note that the Constitution never speaks about Political Parties or specific Cabinet positions.

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| **Section 1** | * Nature and Scope of Presidential Power
* Terms of office
* Electoral College (the way we vote for president of the United States)
* Qualifications
* Presidential Death and Disability
* Salary
* Oath of Office
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| **Section 2** | * Powers and Duties of the President
* Commander in Chief of the Army
* Power to Make Treaties (with Consent of the Senate)
* State of the Union
* Impeachment
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**Article 3: The Judicial Article**This article deals with the powers of the Courts. It is very vague as laws in this country are established on the basis of judicial review.

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| **Section 1** | * Judicial Power, Courts, and Judges
* Supreme Court
* Inferior Courts
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| **Section 2** | * Jurisdiction
 |
| **Section 3** | * Treason
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**Article 4: Interstate Relations**This article deals with the States of the Union

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| **Section 1** | * Full Faith and Credit Clause
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| **Section 2** | * Extradition
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| **Section 3** | * Admission of New States
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| **Section 4** | * Republican Form of Government
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**Article 5: The Amending Power**This section explains how the Constitution may be amended or changed.**Article 6: The Supremacy Act**The federal government is supreme over the state governments.**Article 7: Ratification**Lastly, the manner in which this Constitution shall be adopted by each of the states is explained.**The Amendments (1–27)**Amendments are changes to the original Constitution.The fact that we can change our Constitution allows it to be functional to our lives today even though it was written over 200 years ago!**The first ten (10) amendments are more commonly known as the Bill of Rights.**All ten of these amendments were added so that the Constitution would be approved by our founding fathers back in 1787. The Bill of Rights lists freedoms and protections that all citizens have and that the government cannot take away.

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| **Amendment I** | Religion, Speech, Press, Assembly, Petition (1791) |
| **Amendment II** | Right to Bear Arms (1791) |
| **Amendment III** | Quartering of Troops (1791) |
| **Amendment IV** | Search and Seizure (1791) |
| **Amendment V** | Grand Jury, Double Jeopardy, Self-incrimination, Due Process (1791) |
| **Amendment VI** | Criminal Prosecutions - Jury Trial, Right to Confront and to Counsel (1791) |
| **Amendment VII** | Common Law Suits - Jury Trial (1791) |
| **Amendment VIII** | Excess Bail or Fines, Cruel and Unusual Punishment (1791) |
| **Amendment IX** | Non-Enumerated Rights (1791) |
| **Amendment X** | Rights Reserved to States (1791) |
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| **Amendment XI** | Suits Against a State (1795) |
| **Amendment XII** | Election of President and Vice-president (1804) |
| **Amendment XIII** | Abolition of Slavery (1865) |
| **Amendment XIV** | Privileges and Immunities, Due Process, Equal Protection, Apportionment of Representatives, Civil War Disqualification and Debt (1868) |
| **Amendment XV** | Rights Not to Be Denied on Account of Race (1870) |
| **Amendment XVI** | Income Tax (1913) |
| **Amendment XVII** | Election of Senators (1913) |
| **Amendment XVIII** | Prohibition (1919) |
| **Amendment XIX** | Women's Right to Vote (1920) |
| **Amendment XX** | Presidential Term and Succession (1933) |
| **Amendment XXI** | Repeal of Prohibition (1933) |
| **Amendment XXII** | Two Term Limit on President (1951) |
| **Amendment XXIII** | Presidential Vote in DC (1961) |
| **Amendment XXIV** | Poll Tax (1964) |
| **Amendment XXV** | Presidential Succession (1967) |
| **Amendment XXVI** | Right to Vote at Age 18 (1971) |
| **Amendment XXVII** | Compensation of Members of Congress (1992) |

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**2.09**

Over time, changes have been made to the script in order to keep it working. That is why the Constitution is often referred to as a "living" document. These changes are called the amendments to the Constitution. There are 27 amendments in total.

The Advanced Placement test will expect you to know all of the Amendments - especially the first 10, known as the Bill of Rights. Let's focus on these 10 amendments.

**The following are the major rights and topics included in each of the first 10 amendments:**

1. Freedom of Religion, Press, Speech, Assembly, and Petition
2. Right to Bear Arms
3. Quartering of Soldiers
4. Search and Seizure
5. Indictments, Self-Incrimination, Double Jeopardy, Due Process, Eminent Domain
6. Criminal Court Procedures including Speedy and Public Trial, Impartial Jury, Confront Witness, Counsel
7. Trial by Jury in Civil Trials
8. Excessive Bail, Cruel and Unusual Punishment
9. Rights Retained by the People
10. Reserved Powers of the States

Even after hours of discussion, debate, and compromise, the draft of the Constitution completed in Philadelphia was still opposed by many of the delegates. As the process of ratifying the Constitution began, two groups formed: the **Federalists** who supported the Constitution and the **Anti-Federalists** who were against ratification. The main Anti-Federalist arguments were that the Constitution:

* Gave too much power to the national government (at the expense of the states).
* Lacked a bill of rights, outlining individual rights and protections.
* Gave too much power to the Congress through the “necessary and proper clause.”
* Put too much power in the executive branch.

Among these points, the one most persuasive with the people was the lack of a bill of rights. This is simply because the Americans had just been through a war to defend their rights and they certainly would not want a national government that would have the power take those hard-won rights away again. Thus, the focus of the Anti-Federalist campaign against ratification was the lack of a bill of rights.

The Federalists could respond to each of the Anti-Federalist arguments against the Constitution. To the complaints of Congress or the executive branch having too much power, they pointed out how the separation of powers and the system of checks and balances keeps any single branch from dominating the others. Regarding the lack of a bill of rights, they said that listing rights might be actually be dangerous; rights not listed might then be violated simply because they were not specified. Since all rights cannot be listed, it would be best to list none at all.

The Federalists were more organized in their campaign to get the Constitution ratified. Three key Federalists: Alexander Hamilton, John Jay, and James Madison, wrote the **Federalist Papers** as a means to persuade the voters of New York to vote for ratification. These papers had a huge impact both before and after ratification. Two key papers, Federalist 10 and 51, are often discussed on the AP Exam and are covered in your text and later in the course. The main point of both of these papers written by Madison was to defend large republics by arguing in part that they would not lead to a "tyranny of the majority" because smaller factions would arise to combat the ill effects of majority rule.

By June 1788, ratification was within reach; nine states had ratified and only one more was needed. In order to achieve this, the Federalists agreed that once Congress met, it would draft a bill of rights. As a member of the first House of Representatives, **James Madison** led the development of the first ten amendments, which were added to the Constitution in 1789. While the Bill of Rights **was not** originally part of the Constitution, it is often treated as such, and has proven to be extremely important in protecting the rights of the people.

**2.10**

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| **The Amendment Process**A formal Amendment is a change to the Constitution's actual written words. The framers created four ways to do this. They followed the principle of federalism in creating these methods. |

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|   | **Method 1** | **Method 2** |
| **Propose** | Congress proposes—2/3 vote in both houses | National Convention proposes—called by Congress at the request of 2/3 the state legislatures |
| **Ratify** | State legislatures ratify—3/4 of the states must ratify | State Convention ratifies—3/4 of the Conventions must ratify |

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| Let us look at some failed amendments to see why it is so difficult to amend the Constitution.**I. The District of Colombia Voting Amendment**This Amendment, first introduced in 1978, would have given Washington, D.C., residents representation in the House and Senate. Why would this have trouble passing?* Proponents charge taxation without representation.
* Opponents see Washington, D.C., as too liberal, urban, and democratic.
* Only eight percent of registered voters in Washington, D.C., are Republicans.
* How much does the rest of the nation care about voting rights in Washington D.C.?

Only 16 states ratified this amendment, and it expired in 1985.**II. The Equal Rights Amendment (ERA)**The ERA, first introduced in 1923, had widespread support from Congress, parties, presidents, and various organizations, especially the National Organization of Women (NOW).The opposition came from Phyllis Schlafly, a conservative political activist and her Eagle Forum organization. They claimed that with the passage of ERA, women would:* be forced to join the military in combat roles
* be forced to join the labor force, even if they chose to stay home
* lose advantages in domestic law/ labor codes

**NOW** called for a boycott of cities in nonratifying states.The amendment fell three states short of ratification and expired in 1982.**2** |

**2.12**

Federalism is when governmental power is constitutionally divided between national and constituent (state) governments. Distribution of power cannot be altered easily.

Courtesy of the United States Department of the Interior

**United States**

1 national government
50 state governments
About 83,000 local governments
As American citizens, we are affected by several levels of government.

**Three Systems of Government**

1. **Unitary Government**: In this type of government, power and policymaking occurs at the central level. An example of this would be a dictatorship.
2. **Confederate Government**: In this type of government, power is decentralized. While the central government does have some authority, ultimate power and policymaking is concentrated at the constituent parts. An example of this was the government created under the Articles of Confederation. Here the states had most of the power and a very weak central government was able to maintain very little control. The weaknesses inherent in the Articles resulted in the creation of the Constitution and our current federal government.
3. **Federal Government**: In this type of government, power and policymaking is shared between the national and constituent parts. For example, in the United States today, the federal government and the states each has the ability to make laws and tax. However, in the case of the US, the Constitution has precedent when there is a conflict between the two based on the Article VI: Supremacy Clause of the Constitution.

**Why Federalism?**

1. **Federalism allows unity without uniformity**
No need to enforce a single national standard—we do not have to agree nationally on every single issue—for example, education, capital punishment, divorce, gun control. All hot issues can be decided at the state level.
2. **Federalism checks the growth of tyranny**Americans equate federalism with freedom.
**Examples:** Madison, Federalist #10—*"the major cause of faction is the unequal distribution of property, a second cause being the inevitable diversity of group opinions. Governments must be designed to control and channel faction rather than prevent it."*When one party loses control at the national level, it is still likely to hold office at the other levels. The party can regroup, develop new policies and new leaders, then continue to challenge the party in power at the national level. (From 1860–1932 the Democratic party, though unsuccessful nationally, was dominant in the South…changed with Reagan coalition.)
3. **Federalism inhibits the formation of a single interest majority**The size of the nation and the many interests that are in it are an obstacle to the formation of a single-interest majority. However, even if such majorities were to form, having it work through a federal system would make it very difficult.
4. **Federalism encourages experimentation**Judge Brandeis saw states as **laboratories for public policy**. If programs succeed they can be adopted and sculpted by other states…or by the national government. If they fail, no one else will try it that way, and the negative effects are limited.
**Example:** Georgia, first state to let 18-year-olds vote…became an Amendment to the Constitution.
California pioneered pollution control, the rest of the states follow their policy.
5. **Federalism keeps government close to the people**Provides numerous areas for decision-making.
States/localities involve citizens in large quantities. (Not through voting)

Compare and Contrast the Federal Systems Under the Articles of Confederation and the U.S. Constitution

|  |  |
| --- | --- |
| 1st Circle contents  | **Title: Articles of Confederation**DecentralizedEach State Government hold greater powerEvidence: State CurrencyState Taxing AuthorityState Militia/MilitaryTreaty Making and Foreign PolicyNo Independent Leadership Position |
| 2nd Circle Contents  | **Title: Constitution**CentralizedFederal Government holds greater powerEvidence: Federal/Uniform CurrencyTaxing AuthorityNational MilitaryCongress given power to make treatiesIndependent Leadership Position (President) |
| Contents that overlap | Shared State and Federal Authority  |

**2.13**



Let's look at some various views and terms associated with federalism.

**Dual federalism**: The layer-cake metaphor

Citizens cutting into the political system will find clear differences between the state and national powers, functions, and responsibilities.

**Cooperative federalism**: The marble cake metaphor

Citizens cutting into the political system at any point will find national and state powers, functions and responsibilities mixed and intermingled.

**Grants- in Aid**

In the second half of this century the federal government has used monetary incentives as means of sharpening its relationship with the states. Many types of grants exist today.

* Categorical Grants: A grant targeted for a specificpurpose.

Example: HIV awareness program targeted at students age 11–14 who are below the poverty line, living in the inner-city.

* Block Grants: A grant awarded for general purposes—allowing much discretion in spending of the grant money.

Example: Elementary Education

**Judicial Enforcement**

The other way the Federal government shapes policy within the states is through judicial and legislative interpretation.

[Heart of Atlanta Hotel v. US](http://www.law.umkc.edu/faculty/projects/ftrials/conlaw/heartofatlanta.html%22%20%5Ct%20%22_blank): This Supreme Court case basically upheld the use of interstate commerce as an argument in the desegregation of housing - and hotels. Read this case online by clicking on the title.

Voting Rights Act of 1965: Dissatisfaction with the speed of desegregation stirred support for Lyndon B. Johnson's bill to place electoral processes under federal control. This outlawed discriminatory voter-registration tests, therefore opening voter registration to ethnic minorities and made the poll tax unconstitutional.

**2.14-**

**The Blood Border**

The locals called it our “Blood Border.” It was a stretch of flat country due east of Beaumont, Texas, down Interstate 10 to the Louisiana state line. White crosses dotted the highway along the westbound lanes. In 1993, 18-year-olds could still legally drink alcoholic beverages in Louisiana, despite the fact that the minimum drinking age was 21 elsewhere in the country. July 1996 marked the last round, when the Louisiana Supreme Court brought the state in line with the rest of the nation.

Our federal system of government explains both Louisiana's lonely stand and the drive toward uniformity. The U.S. Constitution divides power between the national and state governments. Except for Prohibition (18th Amendment), regulating liquor sales and setting minimum drinking ages have been the sole responsibility of the states. But over the years, the national government has found ways to extend its influence into areas beyond those originally defined by the Constitution.

Back in 1981, many states allowed people younger than 21 to purchase and consume alcoholic beverages. In 1984, however, an action taken in Washington D.C., marked the beginning of the end of legalized drinking for those younger than 21. Did Congress establish a national drinking age? No, at least not directly. Congress simply added a provision to a highway bill. Under that provision, states would lose 5 percent of their federal highway funds, and 10 percent every year thereafter, if they allowed the purchase or consumption of alcohol by those younger than 21. States would have to change their own laws or risk losing federal funds. This was a roundabout way to achieve a national objective. Why did Congress not just set a national law? Congress lacks the power to act directly in this area.

The national government became concerned about underage drinking because Mothers Against Drunk Driving (MADD) and other interest groups fought hard to increase the public awareness of the dangers of driving drunk. The National Transportation Safety Board estimated that 1,250 lives could be saved by raising the drinking age. Campaigning for that change state by state would have been slow. So long as some states allowed teens to drink, young people would drive across state borders. The borders between states would become bloody borders—it remained so in East Texas—strewn with victims of teenage drinking and driving.

The bill was signed by President Ronald Reagan. Some states fought the bill—in court. Read [South Dakota v. Dole](http://caselaw.findlaw.com/scripts/getcase.pl?court=US&vol=483&invol=203" \t "_blank), where the 7–2 majority argued that the law was a “relatively mild encouragement to the states to enact higher minimum drinking ages than they would otherwise choose.” The Highway Act of 1984 (and its successor, the 1986 National Minimum Drinking Age Act) shows how states and the federal government can interact. Congress did not challenge the constitutional power of the states, but used its own power to tax and spend (Article 1, Section 8, Clause 1) to encourage the states to implement a national standard. [Janda, Berry, Goldman](http://uspolitics.org/%22%20%5Ct%20%22_blank)

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| **Two Examples of Unfunded Mandates**As you can see by the “Blood Border” example, the federal government has ways to make the states comply with its wishes. Another way is through **unfunded mandates**. Explore these different forms of mandates. |
| 1. **Mandated Medicaid coverage to all poor children, 1990**When the federal government mandated that Medicaid coverage would be provided to all poor children, it did not provide funding to the states to pay for this massive program. As a result, state Medicaid and welfare rose about 66 percent ($68 billion) between 1995 and 1999, at the same time that federal discretionary spending declined slightly. To pay for these mandates state officials faced stark choices: shift scarce resources by reducing or eliminating programs, or raise taxes.
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| 1. **Americans With Disabilities Act (ADA), 1990**

The Americans with Disabilities Act prohibits discrimination against those with disabilities. Those with disabilities are guaranteed equal opportunity in terms of employment, government services, transportation, and access to public accommodations.The legislation aimed to end discrimination and eliminate barriers that cordoned off the disabled from mainstream America. While these are laudable objectives, the national government did not foot the bill for the changes it mandated. State and local governments already constrained by tight budgets were forced to fund these well-intentioned but expensive renovations. Further, because equal access is open to interpretation due to the wording of the law, legal battles and disputes arose over what state and local governments needed to provide. |  |