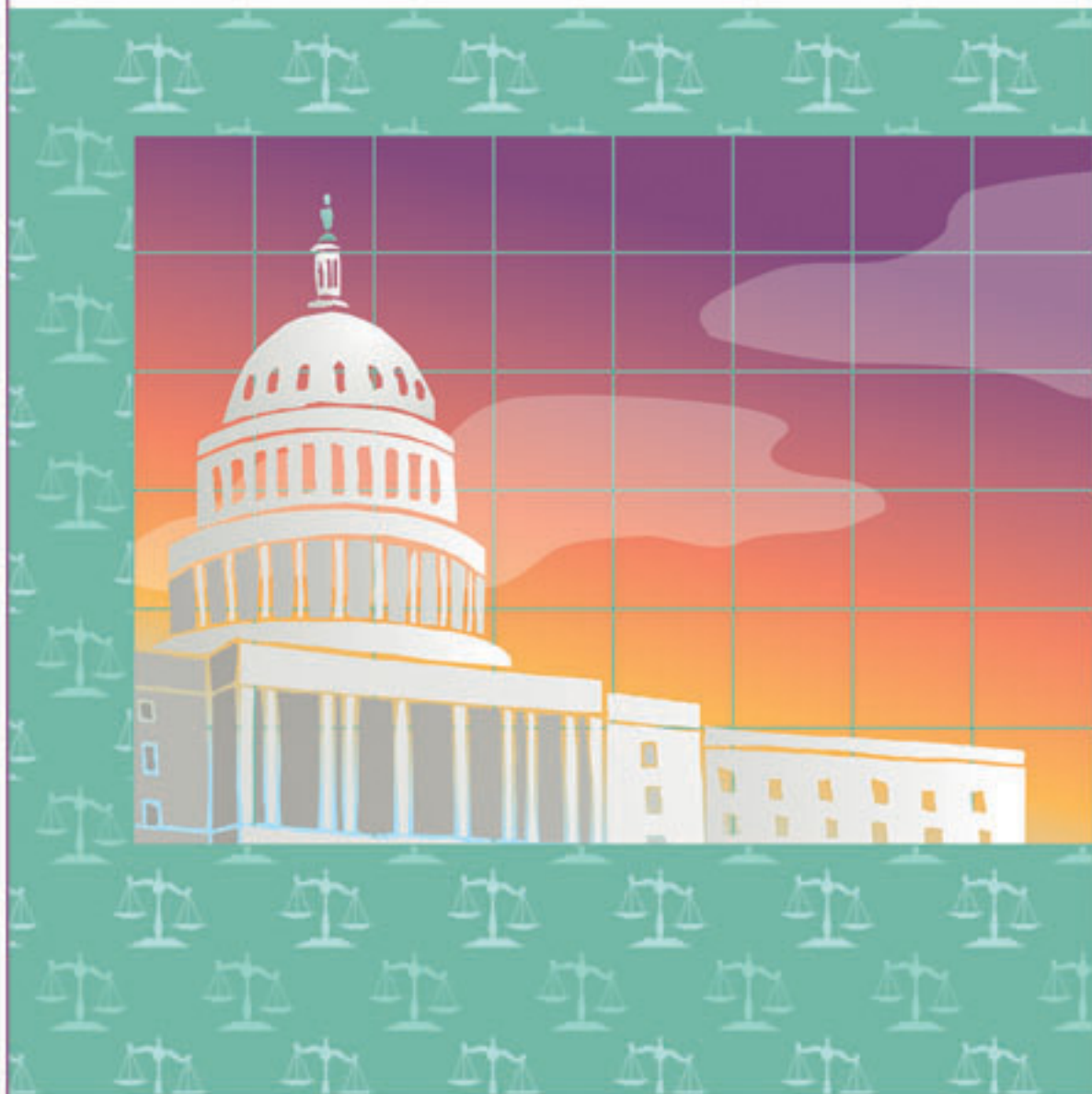


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GOVERNMENT ACTIVATORS



Foundations of U.S. Government

Government Activators

Foundations of U.S. Government



About the author

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Welcome to *Government Activators!*

Cooperative active-learning lessons take students deep into the nuts and bolts of U.S. government as they participate in activities such as simulating negotiations between a society's leaders and its people for basic rights, role-playing Cabinet secretaries aiding the president with real-life issues, and trying a Bill of Rights case in a moot Supreme Court. Each lesson includes a historical background essay, a graphic organizer, activity-specific handouts, word banks, complete procedures, and multiple assessments.

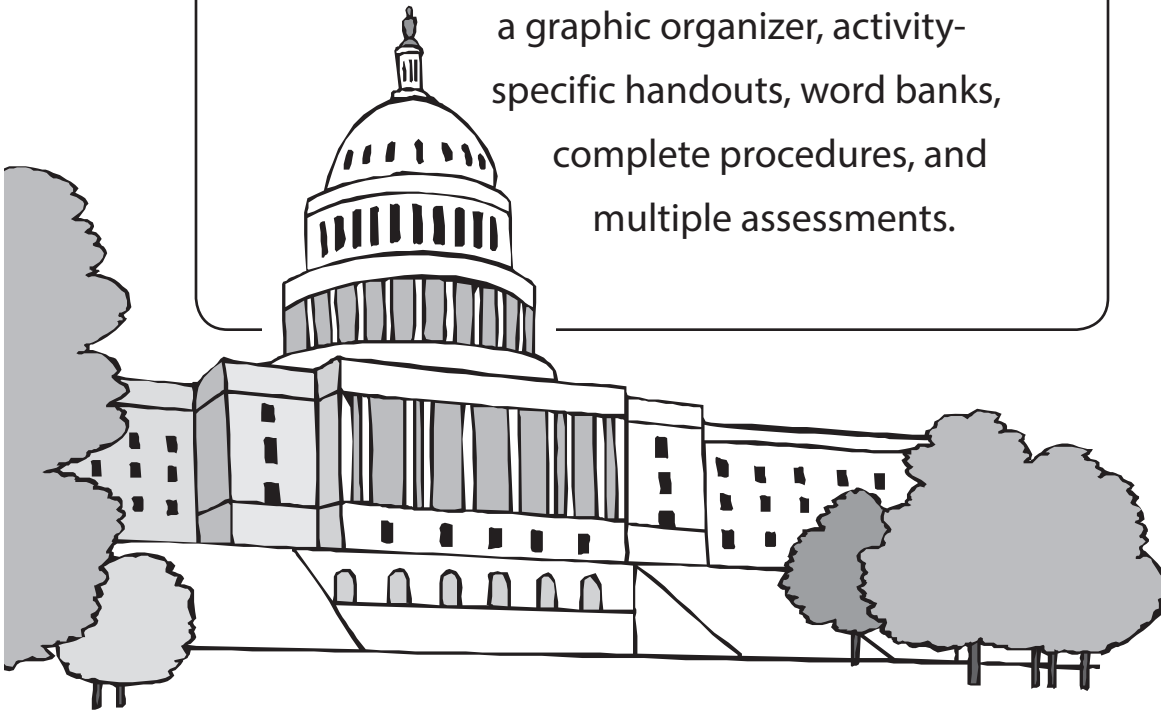


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Purpose and Overview

Government Activators consist of ten lessons on the history and operation of the United States government. These lessons provide exciting experiences in “participatory government” for your students. Students will find themselves drawn into the study of civics and government and actively engage in lessons that become compellingly real for them. The first three lessons explore the early roots of American constitutionalism and government, examining how British heritage was translated into American democracy. The next five lessons look at the structure and operation of the three branches of government, the checks and balances between them, and how the concept of federalism establishes dual sovereignty between state and federal entities. The last two lessons examine the history and application of the Bill of Rights, looking back into the past to explain important fundamental rights as they are practiced today.

Activators possess three common elements:

1. The presentation of key academic concepts in civics and history that enhance and expand textbook learning
2. Multiple activities that can stand alone or be used in sequence to provide an in-depth examination of broad concepts and give teachers flexibility in instruction
3. Appeal to a broad range of learning styles—including visual, auditory, and kinesthetic—in order to allow students of different abilities to actively participate in their learning

Format

Each Activator highlights a key concept and presents it in four modular learning activities:

- A background reading and study of key words and terms
- A setup or content-building activity
- A main activity
- Debrief and assessment

Teaching Tools

Each Activator contains the following teaching tools:

- Historical Background Essay
- Word Bank
- Setup or Content-Building Activity
- Main Activity
- Assessment Methods

Historical Background Essay

Each lesson begins with a **historical background essay** that provides context and presents the key concepts of the lesson's main theme. Each essay contains focus questions and a graphic organizer for which answers can be found in the text. An answer key is provided at the back of the book. Information from the essay also provides important information for successfully completing the main activity.

Word Bank

Each lesson contains a **list of important words and terms** highlighted in bold in the historical background essay.

Setup or Content-Building Activity

The **first activity** in each unit builds on the points covered in the historical background essay and helps generate a solid understanding of concepts explored in the main activity.

Main Activity

Each **main activity** presents either full-class or small-group activities that engage every student. Methods include simulations, case studies, role plays, and presentations. These activities examine the fundamental concepts behind current issues of concern in U.S. government and civics and provide students opportunities to present them in innovative ways.

Assessment Methods

Each Activator incorporates authentic **assessments** and also contains **debriefing questions** constructed to help students conceptualize main points and prepare them for the assessment exercise. Two assessment options are available to accommodate a wide range of student abilities. Detailed rubrics are included when appropriate.

How to use Government Activators

Government Activators were designed to supplement your regular civics/ government curriculum. Because the Activators are modular, they can be used in a variety of ways. Some can serve as review units that show the connection between history and fundamental principles in U.S. government. Other Activators can be used to bridge students' learning between principles of government and the application of these principles in the real world.

Teaching Options

Many Activators include “Teacher Tips” which give further suggestions or options on how to conduct each lesson. Study the Teacher Tips carefully and decide which one or combination will work best with your students, schedule constraints, classroom configurations, and administrative support.

Grouping Students

Government Activators promote the idea of students actively participating in their learning. They also allow the teacher to have students take greater responsibility for their learning. Consider the following as potential options when using U.S. Activators in your classroom:

- **Student Facilitators:** Before you begin using the Activators, you may consider selecting four or five student facilitators to present some of the units. Allow each facilitator three or four days to prepare for his or her Activator. Meet with the facilitators before they present the Activators in order to review your standards and expectations for the units. Grant enough latitude so that students may apply their talents—and their time—fully. You might consider having a student “co-present” the unit with you.
- **Small-Group Responsibility:** Before you begin using the Activators, divide your class into small groups and have each group prepare to present one of the lessons. Allow each group three or four days to get ready. Meet with each group before and after the presentation of each Activator in order to review your standards and expectations. Have students pick roles or assign roles to each student so that each presents a different part of the activators.

Purpose and Overview



The Roots of American Democracy

Activator 1

Unit Description

In this activator, students engage in a negotiation between the leaders and the people of an imaginary country. The country is transitioning from a more autocratic government to one where individual rights are protected. The leaders want to maintain order and stability; the people want the leaders to honor their rights. Both groups want to make sure that essential services are provided. During this unit, students will gain an understanding of how the roots of American democracy developed over nearly five centuries of British history and how those roots apply to the relationship between the people's rights and the government's authority.

Before You Begin

Read through the lesson plan and familiarize yourself with the teaching sequence and materials. Consider your students' abilities and needs, available class time, and your curriculum requirements in selecting the activities.

Make Copies

You may need to reproduce the items in this list of masters, depending on the activities you have chosen. Keep in mind that the activities may dictate the number of copies you will need.

- **Background Essay**—one for each student
- **Background Essay Graphic Organizer**—one for each student
- **Demands of the People**—one for each member of the People's negotiating team and each Mediator
- **Demands of the Leaders**—one for each member of the Leaders' negotiating team and each Mediator
- **Mediator's Instructions**—one for each Mediator

Word Bank

(words and terms appear in the **Background Essay**)

- feudalism
- common law
- Magna Carta
- rule of law
- constitution
- Parliament
- divine right
- Petition of Right
- martial law
- limited government
- English Bill of Rights
- petition
- individual rights

Introduce the Unit

Explain to students that the authors of the Declaration of Independence and the framers of the Constitution didn't invent the fundamentals of American democracy. These men studied British history and selected the most important principles to establish the foundation and help shape the government of the United States. In this activity, students put some of these principles into practice. They form small groups, each with three subgroups: one represents the Leaders of a government, one represents the People, and a third group serves as Mediators. The Leaders and People state their positions and negotiate to gain as much power (for the leaders) or rights (for the people) as they can. The Mediators help them come to an agreement.

Daily Directions

Day 1: Provide Historical Context

Use the **Background Essay**, **Graphic Organizer**, and **Word Bank** to provide students with historical context for the activity. As necessary, discuss what students learned from the essay and **Graphic Organizer**. The **Graphic Organizer** can help you check for understanding and be used as part of students' assessment. Students should use their completed **Graphic Organizer** during the main activity.

Prepare the Activity

Make copies of all the handouts needed. Draw a schematic on the front board or create a display copy like the one below.

Day 2: Activity Instructions

Students work in small mediation sessions to come to an agreement between the leaders and the people. These sessions go on simultaneously.

Divide students into small heterogeneous groups of eight. Assign or have students assign to themselves the following roles:

- The People (3 students)
- The Leaders (3 students)
- The Mediators (2 students)

Change your room's configuration to accommodate the simulation. Have students quickly move desks, chairs, and tables.

Distribute the student handouts for each group as follows:

- The People—**Demands of the People**
- The Leaders—**Demands of the Leaders**
- The Mediators—**Mediator's Instructions, Demands of the People, Demands of the Leaders"**

Preparing for the Mediation

Briefly review the instructions for all three groups. You might also consider meeting with each Mediator to review their role and provide helpful hints to ensure a successful negotiation session. As student complete their priority form, go around the room to help students as needed. The times for the sessions are suggestions only to help students stay on task. If negotiations are

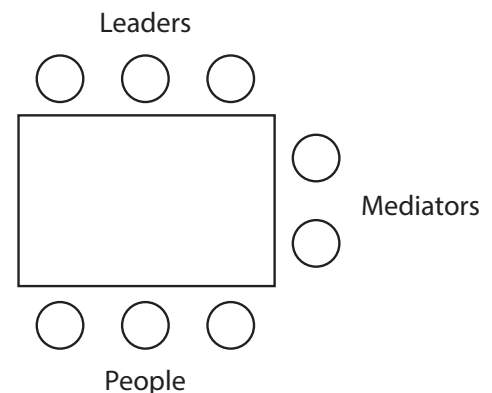


Teaching tip

This can be done as homework or as an in-class activity.



Small group



10–15 minutes



Daily Directions

The Roots of American Democracy

productive and you have enough time, they may go beyond these time limits. Also, at the end the items of agreement have to coincide.

Begin the Mediation



35 minutes

Before the groups begin their sessions, mention to students that although they are representing a particular group, they should keep an open mind and listen to all sides. All three groups (the People, the Leaders, and the Mediators) must realize that they must reach some sort of an agreement. The alternative would be anarchy or civil war, which wouldn't benefit anyone.

When students are ready to begin their negotiation session, have them follow this procedure:

Part 1: The Negotiations Begin



10 minutes

- The People go first and present their position, stating their nine demands in order.
- The Leaders then present their position and state their nine demands in order.
- The Mediators then review which three demands are at the lowest priority for both sides and can be eliminated.

Part 2: Caucus Session



5 minutes

- The People and the Leaders of each group meet separately in caucus, review the six remaining demands, and see which ones they would be willing to give up.
- The Mediators meet to look for possible trade-offs with the remaining six demands for both sides (explained on their sheet).

Part 3: Final Round of Negotiations



20 minutes

- The People and Leaders meet with the Mediators.
- The People make their final offer of their top six demands.
- The Leaders make their final offer of their top six demands.
- The Mediators work with groups to identify any demands either side would be willing to give up, or if either side has proposals to modify any of the demands.

Debrief

10 minutes



Option A

Debrief the entire class by asking the Mediators to report their group's results back to the class. Point out which demands were important to both sides at the beginning and note any differences the negotiating groups had. Review the list of demands the sides agreed upon and the categories. Did students representing the People preserve their rights? Do they feel they have a good balance between rights and order and essential services? If they could change anything, what would it be?

Assessment: Have Mediators turn in their reports for assessment. Have the students in the two negotiating groups write a paragraph on whether they feel this process of negotiating differences offers a good method for arriving at a compromise, and why.

Option B

Debrief the class with Option A questions above.

Assessment: Have the Mediators turn in their reports and write a paragraph on the result of the negotiation session, what they would have done differently if they had been negotiating either as a Leader or a member of the People, and why this would have been more effective. Have the students from the two negotiating teams individually write an essay on whether their final agreement had a good balance between protecting their rights and maintaining order and essential services, and why. If they could change anything, what would it be?

Checklist

Make sure the Mediators' essays include the following:

- All parts of the Mediator's form completed
- A summary of the results of the negotiation session
- What they would have done differently had they been either a Leader or one of the People, and why they believe this approach would have been more effective

Make sure the negotiating team members' essays include the following:

- An analysis summarizing the results of their negotiation session
- An explanation of whether they believe the final agreement was a good balance between protecting their rights and maintaining order and essential services
- Reasons to support their conclusions
- Recommendations for change, if appropriate, or reasons for no change needed



Whole class

Roots and Principles of American Democracy

Historical Background Essay

American democracy has deep roots in British history. The people who would eventually write the Declaration of Independence and the Constitution drew heavily from English government to form the structure and operation of the American government. During the Middle Ages, English society operated under a system of **feudalism**. Feudalism was structured like a pyramid, with the monarchy at the top controlling all the land, resources, and the military. In the middle were the lords or barons, people with large landholdings and small armies. At the bottom of the pyramid were the peasants.

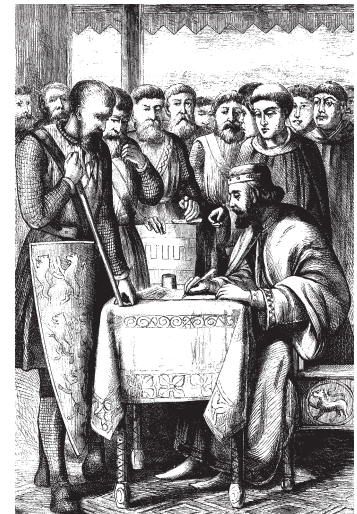
Since the country was large, the lords helped the monarch rule the population. They pledged their loyalty and service to the monarch and agreed to help defend the country. In exchange, they received portions of land and the support of the monarch to control it. Over time, this group managed to establish certain rights related to their lives and property. The protection of these rights was considered the "**common law**." The monarch's and the lords' armies protected the peasants and allowed them to live on the land to grow food. In exchange, the peasants proclaimed their total loyalty—along with money and/or a portion of their crops—to their lord and their monarch. However, the peasants had no armies, no land, and no claim to any rights.

Feudalism worked well, as long as all sides followed the rules. It was generally believed that such a system kept order, provided the essential services needed to survive, and, in the case of the lords, established certain rights. Most monarchs and lords exercised their power with impunity, feeling that a firm hand would help them carry out their responsibilities more easily. However, as a result, the peasants often were abused for the sake of expediency.

Occasionally, monarchs would abuse the rights of their lords. In the early 13th century, England's lords were displeased with their monarch King John because they felt he had wronged them. Unlike the peasants of England, who had little or no power, the lords had substantial power to force the king into an agreement. King John needed funds to fight wars in France, funds that came from taxes gathered by the lords. They threatened to withhold those funds unless the king agreed to honor their rights. When he tried to collect the taxes himself, they threatened rebellion. Reluctantly, he submitted to an agreement.

In 1215, King John signed the **Magna Carta** (meaning "Great Charter") which articulated the rights of the lords and limited the power of the monarch: No taxes could be imposed without consent of the council of lords. The monarch could not seize property without paying a fair price for it. People arrested could not be put in jail without a trial. The punishment for violating the law had

to be in line with the offense. The monarch could not take people's property without fair compensation. From the Magna Carta came several fundamental principles which the framers of the U.S. government incorporated, such as the **rule of law**, which established that no one was above the law, not even a monarch. Another concept was the value of a written charter, or a **constitution**, which outlined the rights of citizens and responsibilities of government.



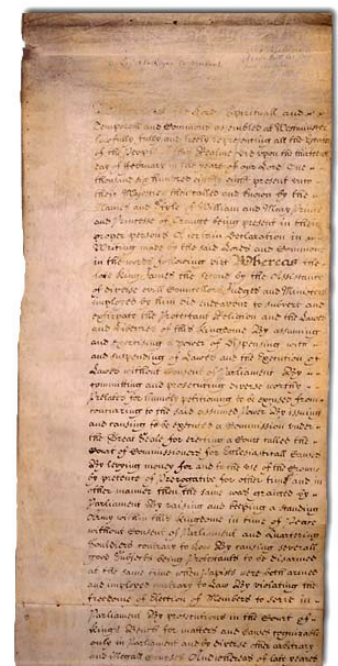
After the Magna Carta, the lords of England formed **Parliament**, which became a law-making body to help the monarch run the country. During the 15th and 16th centuries, as the Renaissance spread throughout Europe, new technologies helped the peasants become more self-sufficient and less dependent on the monarch and lords to provide food and protection. Gradually, they were able to negotiate with the king and lords and demand that their rights be honored too. The system of feudalism diminished and common people were allowed more participation in the government. Parliament, now composed both of lords and common people, made sure the monarch obeyed the traditional laws that honored citizens' rights.

In 1628, Parliament encountered another monarch who they felt abused citizens' rights. King Charles I, like his father James I, believed in **divine right**, the idea that a monarch's power came from God, granting absolute, unlimited authority. King Charles believed he was given this high level of authority in order to rule the kingdom effectively. As a result, he took actions that violated the rights established in the Magna Carta. Like King John, Charles needed funds to wage wars and protect the country; Parliament controlled the government's funds. If the king wanted his money, he would have to honor citizens' rights. To ensure that he did, Parliament forced the king to agree to the **Petition of Right**, which limited the power of the king by asking, and not demanding, that he honor the rights stated in the Magna Carta. The king could not tax without consent nor imprison people without a trial. In addition, the Petition of Right stated that the king couldn't house soldiers in people's homes without their consent or declare **martial law** when there was no war or danger to the kingdom. The Petition of Right taught the framers of the U.S. government about the principle of **limited government**, affirming that the king's power was not absolute.

King Charles followed the Petition of Right for a while, but later resumed his abuse of

authority after he had received his funds from Parliament. By 1648, Parliament had had enough, and civil war broke out. The army Parliament raised defeated the king's forces and arrested him. He was tried, sentenced to death, and executed in 1649. Parliament proved once and for all that a king's power wasn't absolute. The people could stop a monarch from abusing their rights and, if necessary, end that monarch's rule. After a period of civilian rule, Parliament reinstated the monarchy under King Charles's son Charles II in 1660.

James II, Charles's younger brother, succeeded him and proclaimed his authority under the doctrine of divine right. Parliament acted quickly: It expelled the king to France and established a new monarchy under William and Mary of the Netherlands, who were next in the line of succession to the English throne. However, this time Parliament imposed conditions, issuing the **English Bill of Rights**, which established the power of Parliament over the monarchy. The document stated the monarch could not suspend laws without Parliament's consent. Freedom of speech was protected during sessions of Parliament, which would be held frequently. English citizens would have the right to **petition**, or appeal to the government, and could elect their representatives to Parliament. The English Bill of Rights also prohibited the monarch from maintaining an army during peacetime without Parliament's consent. In all, the document required the monarch uphold the **individual rights** of English citizens.



Name: _____ Date: _____

Graphic Organizer: Roots of American Democracy Background Essay

Below are the three main documents that make up Britain's constitution. In the appropriate boxes, identify the restrictions on the power of the monarch.

English document		Restrictions on the power of the monarch	
Magna Carta	1.		
	2.		
	3.		
	4.		
	5.		
Petition of Right	1.		
	2.		
	3.		
	4.		
English Bill of Rights	1.		
	2.		
	3.		
	4.		
	5.		
	6.		
	7.		

Mediator's Instructions

Mediation Activity

You have been called upon to mediate the dispute between the Leaders and the People. As a Mediator, your task is to get the two sides to come to an agreement that will settle their dispute and allow the country to retain its peace and stability. Periodically, remind both sides that these negotiations are important and that both sides have much to gain if they can reach a settlement, as well as a lot to lose if they can't.

Before the negotiations begin, both sides will meet separately to prioritize their demands. While they do this, review both lists of demands to become familiar with each side's positions and to understand their circumstances. Look for demands on both sides that are similar or conflicting, as well as for any demands that might be modified or rewritten to partially meet the needs of both sides. Remember, as a Mediator you should suggest, not dictate, areas of agreement. Listen carefully to the reasons each side gives for its position and try to suggest alternatives that each side might agree to. Record the proceedings on the "Mediator's Report" page.

Negotiations Format

Part 1: The Negotiation Begins (10 minutes)

- The People's representatives will present first, stating their nine demands. The Leaders' representatives will listen and not interrupt. You may take notes indicating which demands are most important to the People.
- Next, the Leaders' representatives will present their demands. The People's representatives will listen and not interrupt.
- You will then review each group's demands and help eliminate the lowest-priority demands on both sides.

Part 2: Caucus Session (5 minutes)

- Each side will meet away from the negotiation table, review the six remaining demands, and identify which, if any, they are willing to give up completely or partially. While they meet, look for demands that can be modified to meet some of each side's demands without forcing either to give up all their power.

Part 3: Final Round of Negotiations (20 minutes)

- The People present their final six demands.
- The Leaders present final six demands.
- Ask both groups if there are any demands either side would be willing to give up, or if either side has a proposal to modify any of the demands.
- Try to help the two sides to come to a final agreement either on all demands made and/or modifications of demands. Identify any demands still not agreed upon (if any) and the reasons why.

Debriefing Session

- Report on the results of the negotiations, explaining which demands the two sides were able to agree to and the reasons why. Use the "Mediator's Report" form to record the proceedings and results.
- The teacher will debrief the class with questions.

Name: _____

Date: _____

Mediator's Report

Top three demands the Leaders thought most important:

1. _____
2. _____
3. _____

Top three demands the People thought most important:

1. _____
2. _____
3. _____

List the demands the two sides agreed upon and indicate whether the demands were for attaining order (AO), essential services (ES), or rights (R).

Demands Agreed Upon	Category (AO, ES, or R)

Why did the two sides agree to these demands?

Demands of the Leaders

Mediation Activity

Opening statement: “We are the leaders of the country. We gained this position because we have maintained order and provided for the basic needs of the people for a long time. The monarch has been granted this authority through divine right. We control the army, and it is at our command to do whatever we feel is necessary. We have agreed to meet with you, the People, to negotiate our differences.”

Privately, you realize the situation is serious, and you want to avoid a rebellion; the People have said they are serious about their demands. However, you want to make sure you retain as much of your power as possible. You have control of the army and all the land and water supplies, but you know you can’t operate the country and stay in power without the support of a majority of the people, so you have to negotiate a deal.

Instructions: First, meet with your Leaders’ group, review the list of demands, and prioritize them (see “Priorities” handout). Next, meet with the People in the negotiation session and follow the steps below.

Negotiations Format

Part 1: The Negotiation Begins (10 minutes)

- The People’s representatives will present first, stating their nine demands. During this time you should listen, but not interrupt. You may take notes indicating which demands the People consider the most important.
- Next, you will present your demands. The People’s representatives will listen and not interrupt.
- The Mediators will review each group’s demands and help eliminate the lowest-priority demands on both sides.

Part 2: Caucus Session (5 minutes)

- Away from the negotiation table, meet together with your group to review the six remaining demands and identify any you are willing to give up completely or partially. Look for demands that can be modified to meet some of the People’s demands without giving up all your power.

Part 3: Final Round of Negotiations (20 minutes)

- The People present their final six demands.
- You present your final six demands.
- The Mediators will ask both groups if there are any demands either side would be willing to give up, or if either side has a proposal to modify any of the demands.
- Come to a final agreement either on all demands made and/or modifications of demands. Identify any demands the two sides still disagree on (if any) and state the reasons for the disagreement(s).

Debriefing Session

- The Mediators of each negotiating group will present the results of the negotiations, explaining which demands the two sides were able to agree to, and which demands (if any) they couldn’t agree to and the reasons why.
- The teacher will debrief the class with questions.

Name: _____

Date: _____

Priorities for the Leaders

These are a list of things you need to rule the country. Review the list of demands below and rank them in order, placing a number 1 next to the demand that is most important to you, a number 2 next to the secondmost important demand, and so on. Prioritize all nine demands. You will have to give up some of these demands, but you can also negotiate to modify or rewrite some of these demands so that you keep some of the power but agree to some of the People's demands.

Maintaining Order in the Land

_____ The Leaders can use the army to enforce the law in the country whenever they want.

_____ The Leaders can put anyone in prison if they suspect them of violating the laws of the country.

_____ The Leaders can punish people who do not perform special services.

Providing Essential Services

_____ The Leaders own the land and can use it at any time for their own purposes.

_____ The Leaders can tax the people any time they feel the government needs funds.

_____ The Leaders can place soldiers in people's homes in order to save on the cost of housing them and to help maintain order.

Rights

_____ The Leaders can punish anyone any way they choose.

_____ The monarch has the power of divine right and can take any action he/she feels is needed.

_____ The Leaders do not have to ask for the People's permission to rule the country the way they see fit.



Demands of the People

Mediation Activity

Opening statement: “We represent the people of this country. We are loyal to you, our leaders, and appreciate the benefits you have given us. We understand you are very powerful, but we feel you have violated our rights. Our rights are very important to us, and we will not stand by and let them get abused. We have agreed to meet with you, the leaders, to negotiate our differences.”

Privately, you realize the situation is serious and you want to avoid a crackdown by the Leaders, who have said they will punish anyone who disobeys the law. However, you want to make sure you can achieve as many of your demands as possible. You have the support of nearly all the people in the country, but you can’t hold out forever: many people will be willing to give up their rights if their basic needs aren’t met, so you have to negotiate a deal.

Instructions: First, meet with your People’s group, review the list of demands, and prioritize them (see “Priorities” handout). Next, meet with the Leaders in the negotiation session and follow the steps below.

Negotiations Format

Part 1: The Negotiation Begins (10 minutes)

- You will present first, stating your nine demands. During this time the Leaders will listen, but not interrupt.
- The Leaders will then present their demands. During this time, you will listen but not interrupt. You may take notes indicating which demands the Leaders consider the most important.
- The Mediator will then review each group’s demands and help eliminate the lowest-priority demands on both sides.

Part 2: Caucus Session (5 minutes)

- Away from the negotiation table, meet together to review the six remaining demands and identify any you are willing to give up completely or partially. Look for demands that can be modified to meet some of the Leaders’ demands without giving up all your rights.

Part 3: Final Round of Negotiations (20 minutes)

- Present your final six demands.
- The Leaders will then present their final six demands.
- The Mediators will ask both groups if there are any demands either side would be willing to give up, or if either side has a proposal to modify any of the demands.
- Come to a final agreement either on all demands made and/or modifications of demands. Identify any demands the two sides still disagree on (if any) and state the reasons for the disagreement(s).

Debriefing Session

- The Mediators of each negotiating group will present the results of the negotiations, explaining which demands the two sides were able to agree to, and which demands (if any) they couldn’t agree to and the reasons why.
- The teacher will debrief the class with questions.

Name: _____

Date: _____

Priorities for the People

These are a list of things you need in order to live well in the country and protect your rights. Review the list of demands below and rank them in order, placing a number 1 next to the demand that is most important to you, a number 2 next to the secondmost important demand, and so on. Prioritize all nine demands. You will have to give up some of these demands, but you can also negotiate to modify or rewrite some of these demands so that you keep some of the power but agree to some of the Leaders' demands.

Maintaining Order in People's Lives

- _____ The Leaders cannot declare martial law in times of peace.
- _____ The Leaders cannot put people in prison unless they have been tried by their peers and sentenced in court.
- _____ The Leaders cannot punish people who choose not to perform special services.

Providing Essential Services

- _____ The Leaders cannot take people's property without paying a fair price.
- _____ The Leaders cannot tax citizens without the consent of the people.
- _____ The Leaders cannot house troops in people's homes.

Honoring People's Rights

- _____ Any punishments given out by the Leaders must be according to the degree of the offense.
- _____ The Leaders must obey the same laws as the people.
- _____ The Leaders cannot deny people the right to petition or be represented in the government.



Principles of American Democracy

Activator 2

Unit Description

Students role-play members of the Second Continental Congress gravely concerned about the declining state of affairs between the colonies and the British Crown. Representing different constituencies in colonial society, students look back on over ten years of conflict (1765–1776), examine the merits of British actions, and discuss whether the colonies should become independent. Students will gain an understanding of the historical roots and principles of American democracy and how British violations of these principles led to the Declaration of Independence.

Before You Begin

Read through the lesson plan and familiarize yourself with the teaching sequence and materials. Consider your students' abilities and needs, available class time, and your curriculum requirements in selecting the activities.

Make Copies

You may need to reproduce the items in this list of masters, depending on the activities you have chosen. Keep in mind that the activities may dictate the number of copies you will need.

- **Historical Background Essay**—*one for each student*
- **Background Essay Graphic Organizer**—*one for each student*
- **Independence or Not?**—*one for each student*
- **Seven British Actions**—*one for each group*

Word Bank

(words and terms appear in the **Background Essay**)

- check (on power)
- colonial assembly
- The Enlightenment
- principles of government
- sovereign
- social contract
- separation of powers
- social custom
- enfranchised
- mercantilism

Introduce the Unit

Explain to students that colonial charters set up business ventures in the North America, with Parliament overseeing the operations. The complexities of governing were left to the colonists themselves. Parliament was busy running an empire, competing with France and Spain for dominance on the high seas and attempting to preserve and expand England's global reach. For nearly 150 years, the colonists developed their own brand of democracy that, like Britain's, was based on principles of English governance and the political philosophies of the Enlightenment, clarifying the relationship between the government and the people.



Daily Directions

Day 1: Provide Historical Context

Use the **Background Essay**, **Graphic Organizer**, and **Word Bank** to provide students with historical context for the activity. (This can be done as homework or as an in-class activity.) As necessary, discuss what students learned from the essay and graphic organizer. The graphic organizer can help you check for understanding and be used as part of students' assessment. Students should use their completed graphic organizer during the main activity.

Prepare the Activity

Make copies of all the handouts needed. Draw a schematic on the front board or create a display copy like the one below.

Day 2: Activity Instructions

In this activity, students role-play delegates to the Second Continental Congress representing five different societal groups in colonial America. The groups' task is to examine the actions of the king and Parliament between 1765 and 1776 and determine if their basic rights as Englishmen have been violated. After each group has presented their evidence, they vote on whether they believe the colonists should declare independence.

Divide students into five committees representing different constituencies in colonial America:

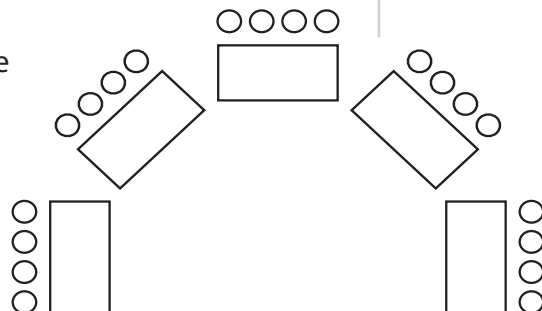
- French and Indian War veterans
- Tories (British sympathizers)
- Colonial merchants
- Western expansionists
- Sons of Liberty

Have students create nameplates for their committee to be placed on their desks or table.

Change your room's configuration to accommodate the simulation. Have students quickly move desks, chairs, and tables.



Small group



**30–45 minutes****Opening statements and analyzing the actions of the king and Parliament**

Distribute the handout **Independence or Not?** to all students in each committee. Have them review the background and “Points to Make” section and as a group develop an opening statement, making sure that they cover all the points.

Teaching tip

All members of the committee



are responsible for completing the assignment. The Reader and Recorder will need to help assist the Researcher and Analyzer in identifying the documents’ provisions and principles.

Assign or have students assign the following roles within their groups according to the instructions on their handout:

- Reader
- Researcher
- Analyzer
- Recorder

Using information from the historical background essay and the **Graphic Organizer**, each group needs to

- review the actions of the British king and Parliament between 1765 and 1774
- determine if any British actions violated any principles of government and explain why
- support or reject each British action and explain its reasons
- record its data in the **Seven British Actions** handout

As the individual groups work, go around the room to make sure they are accurate in their analyses and properly identify the correct document and provision of English law, as well as the correct principle of democracy. On some of the actions, they might find that more than one document has been violated and therefore more than one provision can be cited.

**Whole Class****Day 3: Debating *Independence or Not?***

To put drama and suspense into the activity, have all student committees present their analyses on one British action before going on to the next. This will give students the sense of an escalating situation as each action becomes more severe.

Each group makes its opening statement.

Next, have each group summarize its findings on whether it felt the British actions violated their rights as British subjects. Groups should also identify the principles of democracy they felt had been violated. Each group should state and explain whether it supports or rejects the British actions.

After all groups have presented, take a final vote of the “Second Continental Congress” on whether the colonies should declare independence.

Debrief

10–15 minutes for discussion and assigning assessment piece



Return all students to the full class, but keep them in their subcommittee groups and review the following questions. Anyone in the subcommittees can respond.

- Which actions by Parliament and the king violated the colonists’ right to sovereignty? (*The Declaratory Acts*)
- Which actions by Parliament and the king violated the colonists’ right to life, liberty, and property? (*The Stamp Act, the Townshend Act, the Boston Massacre, the Massachusetts Government Act, the Quartering Act*)
- Responding as yourself and not your colonial character, explain whether or not you feel the British were justified in each of the following actions: (*Answers will vary.*)
 - Establishing the Proclamation Line
 - Taxing the colonists only through Parliament
 - Bringing troops into Boston to restore order
 - Imposing martial law in Boston
 - Taking control of the colonial legislature
 - Quartering British troops in people’s homes

Option A

Assessment: Have students write an analysis essay examining their colonial character’s response to each British action and whether or not they themselves agree with those responses. In their analysis, they should invoke the principles of government and explain why they feel their character’s response was different or not different from their own.



Individual

Option B

Assessment: Have students examine the text of the Declaration of Independence. Ask them to identify which passages reflect the principles of the Enlightenment. Have them put this information into an essay that addresses the statement: “The framers of the Declaration of Independence drew extensively from principles of the Enlightenment.”

Rubric

Evaluate the students' essays with the following rubric:

Category	4	3	2	1
Organization	Information is very well organized with well-constructed paragraphs and sentences.	Information is organized with well-constructed paragraphs	Information is organized but some paragraphs and/or sentences are not well constructed.	The information appears disorganized.
Mechanics	No grammatical, spelling, or punctuation errors	Almost no grammatical, spelling, or punctuation errors	A few grammatical, spelling, or punctuation errors	Many grammatical, spelling, or punctuation errors
Option A	The essay completely examines the colonial character's response to all British actions and incorporates the principles of government in its analysis.	The essay examines the colonial character's response with most of the British actions and adequately incorporates the principles of government in its analysis.	The essay examines the colonial character's response with some of the British actions and incorporates some of the principles of government in its analysis.	The essay examines the colonial character's response to only a few of the British actions and incorporates a few of the principles of government in its analysis.
Option B	The essay aligns all of the principles of the Enlightenment with the corresponding excerpts from the Declaration of Independence.	The essay aligns three of the four principles of the Enlightenment with the corresponding excerpts from the Declaration of Independence.	The essay aligns two of the four principles of the Enlightenment with the corresponding excerpts from the Declaration of Independence.	The essay aligns fewer than two of the four principles of the Enlightenment with the corresponding excerpts from the Declaration of Independence.

Government principles of the Enlightenment	Excerpts from the Declaration of Independence
The people are sovereign.	"We hold these truths to be self evident that all men are created equal..."
The people possess the rights to life, liberty, and property.	"...with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness..."
Government is a contract between the people and the governed.	"...That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed..."
The people have the right to take back the power given to government.	"...That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government..."

Principles of American Democracy

Historical Background Essay

When Britain settled in North America in the early 1600s, it issued charters for each colony that outlined the rights of Englishmen and the powers of government. It took 10 to 12 weeks for information to travel the 3000-mile distance between Britain and the colonies. The charters didn't always provide answers or directions as to what the colonists should do in a given situation. As a result, they had to devise ways to govern themselves.

By the early 1700s, the American colonies had developed governments with executive, legislative, and judicial branches. The king appointed the colonial governor, who served as the executive. The governors had substantial power to rule in the name of the king and enforce the law and maintain order. Most colonies had two-house legislatures with an upper house appointed by the governor and a lower house, or assembly, elected by the colony's voters. The colonial legislatures decided whether to levy local taxes. Some of the revenue from these taxes paid the governor's salary, which placed a **check** on his power: if the **colonial assembly** felt the governor was abusing his authority, they could vote not to pay him.

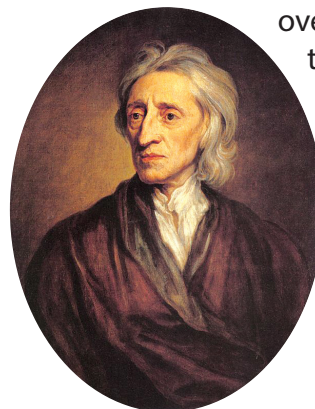
Colonies applied many ideals of the **Enlightenment** to the practice of government in America. From the writings of John Locke, Charles de Montesquieu, and Jean-Jacques Rousseau came four basic **principles of government**:

- People possess the rights to life, liberty, and property—no one individual or government can take a person's rights away without a reason as defined by law.
- The people are **sovereign** and have power over the government. No one can be subjected to the power of another without their consent.

- To ensure government doesn't interfere with the people's rights, a **social contract** with government is established under which the people agree to honor and obey the laws of the government and the government agrees to keep order, provide basic needs, and protect the people's rights.
- Since government can be prone to abuse its power, it's best to invoke the principle of a **separation of powers**, dividing the government into executive, legislative, and judicial branches with checks on the power of each branch.
- Since the people are sovereign, they have the right to take back the government's power if it has not obeyed these principles and protected their rights. This can be done by electing different government officials, voting for a new government, or, if need be, starting a revolution.

It's important to point out that the benefits of democracy did not extend to all colonists. **Social custom** and law recognized that only white, male landowners were **enfranchised** to vote. In most colonies, women's rights were limited, as their

husbands had ultimate control over their children and their property. Slavery eliminated any rights for blacks, who composed nearly 20 percent of the population. Some free blacks owned property and ran businesses, but in most cases had no right to vote.



John Locke

The British Crown and Parliament oversaw national affairs and handled all international affairs, including exclusive trade with the British Empire and defense against foreign threats. The British government also managed relations with the Native American tribes. Through the system of **mercantilism**, Britain provided a market for colonial products and rarely interfered with colonial government. However, after the French and Indian War (1756–1763), things changed. Britain had accumulated a vast debt defending the North American colonies and taking over French territory. Parliament's logic was, since the war was fought to defend the colonies, it was only right that they help pay the costs of that defense.

consent—the colonists had no **representation** in Parliament. Britain exerted its authority, and over the ten years between 1765 to 1775, the resistance escalated into armed insurrection. In 1776, the American colonies declared their independence from Great Britain. To members of Parliament, the Declaration of Independence amounted to an act of treason; however, they regarded the Continental Army as a mere nuisance. For the Americans, it was the beginning of a long journey.

FRENCH AND INDIAN WAR



MAP OF THE SCENE OF OPERATIONS.

Over the period from 1765 to 1775, the British Parliament passed a series of tax and enforcement laws designed to help pay the costs of the recent war and solidify its control over colonial affairs. Very soon after passing the first of these laws, Parliament received a very firm and definite “no” from the colonists. It wasn’t the taxes colonists objected to, but the method of being taxed without their

Name: _____ Date: _____

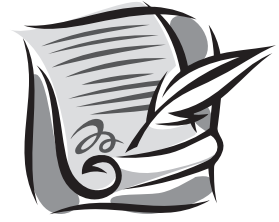
Graphic Organizer: Principles of American Democracy

In your own words, explain the ideas the founders of the U.S. government learned from the Enlightenment philosophers.

Idea about government		Explanation
People's rights		
People's relationship to the government		
The social contract between the people and the government.		
The structure of government		
Actions the people can take if the government violates the social contract		

Independence or Not?

Frontier Residents



Background: The year is 1776. You are a member of the Second Continental Congress. For the past ten years, the British Parliament has passed many laws in the aftermath of the French and Indian War. Some of your fellow colonists question whether these laws are just. Your work is very important and will determine whether the colonies remain in the British Empire or declare their independence.

Points to Make

- You're a proud colonial frontiersman who has risked your life and fortune.
- The British taxes are justified to pay for the war and protect the colonies.
- British troops should remain in the colonies for protection and keeping order.
- The Proclamation Act will help sort out confusing land claims and protect settlers.
- Rabble-rousers or French spies are instigating much of the resentment toward British laws.

Directions: After reading the background and role description above, work in your group to develop an opening statement for the session of the Continental Congress. Be sure to include all the points above in your statement.

Writing the opening statement: You will need to elaborate on the statements above. It would be a good idea to follow up on the statements with answers to questions like "who?," "why?," or "how?," in order to provide details and important information. You can consult your textbook for further details. Open your statement with, "We represent (*name of group*), and we feel..."

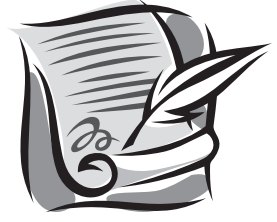
1. After you have written your statement, assign group members the following roles:
 - Reader—read all documents for the group
 - Researcher—look through notes and materials to find answers to questions
 - Analyzer—all members of the group participate in analyzing the issue
 - Recorder—one or two members record discussions on paper

All members of the committee are responsible for completing the assignment. The Reader and Recorder will assist the Researcher and Analyzer in identifying the principles.

2. Review the "Seven British Actions" handout. Analyze each action separately using your notes from the historical background reading and determine the following:
 - Did any of the British actions violate any of the principles of government? Explain.
 - Do you feel the action by the British was justified? Explain.
 - Do you support or reject this action by the British government? Why or why not?
3. Once you have analyzed all seven actions, prepare your statement for the session of the Continental Congress:
 - Present your analysis on each of the British actions (from Step 3 above).
 - State whether you support the colonies staying in the British Empire or think they should declare independence. Explain your reasons for your position.

Independence or Not?

Tories (British Sympathizers)



Background: The year is 1776. You are a member of the Second Continental Congress. For the past ten years, the British Parliament has passed many laws in the aftermath of the French and Indian War. Some of your fellow colonists question whether these laws are just. Your work is very important and will determine whether the colonies remain in the British Empire or declare their independence.

Points to Make

- You are a loyal British subject living in the colonies, and believe that all colonists should act as loyal British subjects as well.
- Colonial charters don't allow colonial assemblies to supersede Parliament.
- Members of Parliament represent the interests of the colonists in government and have every right to make laws for the good of the colonists and the Empire.
- The colonies are better off staying in the British Empire. They have too much to lose if they declare independence.

Directions: After reading the background and role description above, work in your group to develop an opening statement for the session of the Continental Congress. Be sure to include all the points above in your statement.

Writing the opening statement: You will need to elaborate on the statements above. It would be a good idea to follow up on the statements with answers to questions like "who?," "why?," or "how?," in order to provide details and important information. You can consult your textbook for further details. Open your statement with, "We represent (*name of group*), and we feel..."

1. After you have written your statement, assign group members the following roles:
 - Reader—read all documents for the group
 - Researcher—look through notes and materials to find answers to questions
 - Analyzer—all members of the group participate in analyzing the issue
 - Recorder—one or two members record discussions on paper

All members of the committee are responsible for completing the assignment. The Reader and Recorder will assist the Researcher and Analyzer in identifying the principles.

2. Review the "Seven British Actions" handout. Analyze each action separately using your notes from the historical background reading and determine the following:
 - Did any of the British actions violate any of the principles of government? Explain.
 - Do you feel the action by the British was justified? Explain.
 - Do you support or reject this action by the British government? Why or why not?
3. Once you have analyzed all seven actions, prepare your statement for the session of the Continental Congress:
 - Present your analysis on each of the British actions (from Step 3 above).
 - State whether you support the colonies staying in the British Empire or think they should declare independence. Explain your reasons for your position.

Independence or Not?

Colonial Merchants



Background: The year is 1776. You are a member of the Second Continental Congress. For the past ten years, the British Parliament has passed many laws in the aftermath of the French and Indian War. Some of your fellow colonists question whether these laws are just. Your work is very important and will determine whether the colonies remain in the British Empire or declare their independence.

Points to Make

- General taxes on imports throughout the empire are necessary to protect the colonies.
- Taxes placed on specific goods that tax only the colonists are wrong.
- Since the French and Indian war has ended, there is no need for a large contingent of British troops to remain in the colonies.
- Only the colonial assemblies have the right to directly tax the colonists.

Directions: After reading the background and role description above, work in your group to develop an opening statement for the session of the Continental Congress. Be sure to include all the points above in your statement.

Writing the opening statement: You will need to elaborate on the statements above. It would be a good idea to follow up on the statements with answers to questions like “who?,” “why?,” or “how?,” in order to provide details and important information. You can consult your textbook for further details. Open your statement with, “We represent (*name of group*), and we feel...”

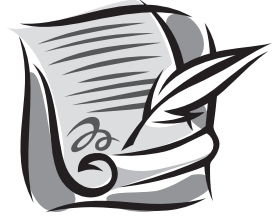
1. After you have written your statement, assign group members the following roles:
 - Reader—read all documents for the group
 - Researcher—look through notes and materials to find answers to questions
 - Analyzer—all members of the group participate in analyzing the issue
 - Recorder—one or two members record discussions on paper

All members in the committee are responsible for completing the assignment. The Reader and Recorder will assist the Researcher and Analyzer in identifying the principles.

2. Review the “Seven British Actions” handout. Analyze each action separately using your notes from the historical background reading and determine the following:
 - Did any of the British actions violate any of the principles of government? Explain.
 - Do you feel the action by the British was justified? Explain.
 - Do you support or reject this action by the British government? Why or why not?
3. Once you have analyzed all seven actions, prepare your statement for the session of the Continental Congress:
 - Present your analysis on each of the British actions (from Step 3 above).
 - State whether you support the colonies staying in the British Empire or think they should declare independence. Explain your reasons for your position.

Independence or Not?

Western Expansionists



Background: The year is 1776. You are a member of the Second Continental Congress. For the past ten years, the British Parliament has passed many laws in the aftermath of the French and Indian War. Some of your fellow colonists question whether these laws are just. Your work is very important and will determine whether the colonies remain in the British Empire or declare their independence.

Points to Make

- You feel a large contingent of British soldiers is necessary to protect the colonies.
- However, you don't believe the British have the right to prevent colonists from settling in the west.
- You are becoming more concerned with British interference in colonial affairs, such as taxing goods and placing restrictions on colonial assemblies.
- The colonies have been governing themselves for nearly 100 years just fine.

Directions: After reading the background and role description above, work in your group to develop an opening statement for the session of the Continental Congress. Be sure to include all the points above in your statement.

Writing the opening statement: You will need to elaborate on the statements above. It would be a good idea to follow up on the statements with answers to questions like "who?," "why?," or "how?," in order to provide details and important information. You can consult your textbook for further details. Open your statement with, "We represent (*name of group*), and we feel..."

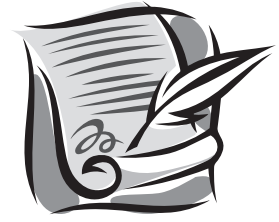
1. After you have written your statement, assign group members the following roles:
 - Reader—read all documents for the group
 - Researcher—look through notes and materials to find answers to questions
 - Analyzer—all members of the group participate in analyzing the issue
 - Recorder—one or two members record discussions on paper

All members in the committee are responsible for completing the assignment. The Reader and Recorder will assist the Researcher and Analyzer in identifying the principles.

2. Review the "Seven British Actions" handout. Analyze each action separately using your notes from the historical background reading and determine the following:
 - Did any of the British actions violate any of the principles of government? Explain.
 - Do you feel the action by the British was justified? Explain.
 - Do you support or reject this action by the British government? Why or why not?
3. Once you have analyzed all seven actions, prepare your statement for the session of the Continental Congress:
 - Present your analysis on each of the British actions (from Step 3 above).
 - State whether you support the colonies staying in the British Empire or think they should declare independence. Explain your reasons for your position.

Independence or Not?

Sons of Liberty



Background: The year is 1776. You are a member of the Second Continental Congress. For the past ten years, the British Parliament has passed many laws in the aftermath of the French and Indian War. Some of your fellow colonists question whether these laws are just. Your work is very important and will determine whether the colonies remain in the British Empire or declare their independence.

Points to Make

- British taxes and laws passed since the French and Indian War violate colonists' rights.
- The British have no right to interfere with colonial governments.
- You have supported boycotts of British goods and feel that action more than anything will change Parliament's mind; if it doesn't, then the colonies must consider independence.

Directions: After reading the background and role description above, work in your group to develop an opening statement for the session of the Continental Congress. Be sure to include all the points above in your statement.

Writing the opening statement: You will need to elaborate on the statements above. It would be a good idea to follow up on the statements with answers to questions like "who?," "why?," or "how?," in order to provide details and important information. You can consult your textbook for further details. Open your statement with, "We represent (*name of group*) and we feel..."

1. After you have written your statement, assign group members the following roles:
 - Reader—read all documents for the group
 - Researcher—look through notes and materials to find answers to questions
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 - Recorder—one or two members record discussions on paper

All members in the committee are responsible for completing the assignment. The Reader and Recorder will assist the Researcher and Analyzer in identifying the principles.

2. Review the "Seven British Actions" handout. Analyze each action separately using your notes from the historical background reading and determine the following:
 - Did any of the British actions violate any of the principles of government? Explain.
 - Do you feel the action by the British was justified? Explain.
 - Do you support or reject this action by the British government? Why or why not?
3. Once you have analyzed all seven actions, prepare your statement for the session of the Continental Congress:
 - Present your analysis on each of the British actions (from Step 3 above).
 - State whether you support the colonies staying in the British Empire or think they should declare independence. Explain your reasons for your position.

Name: _____

Date: _____

Seven British Actions

Proclamation Act (1763): Soon after the British signed the peace treaty with France, Parliament passed the Proclamation Act. This act temporarily prohibited colonists from crossing the Appalachian Mountains and settling in the rich Ohio valley and other areas in the West. The British government claimed the law was intended to protect settlers from Indian tribes who had not agreed to peace, and to sort out confusing land claims of several different colonies. The British claimed the act would only be temporary.

- a. Identify whether a principle(s) of the Enlightenment was violated and explain. _____

- b. Was the British action justified? Explain. _____

- c. Do you support or reject this action by the British government? Why or why not? _____



Stamp Act (1765): Parliament passed the Stamp Act to raise revenue to pay for debts incurred during the French and Indian War. The law applied a direct tax on printed material such as newspapers, official documents, and playing cards. A stamp had to be purchased to show proof of having paid the tax.

- a. Identify whether a principle(s) of the Enlightenment was violated and explain. _____

- b. Was the British action justified? Explain. _____

- c. Do you support or reject this action by the British government? Why or why not? _____

Declaratory Acts (1766): Parliament declared that the “colonies in America have been, are, and of right ought to be, subordinate unto and dependent upon the imperial crown and parliament of Great Britain.” It further stated that the king and Parliament had full power and authority to make laws that would bind the colonies and its peoples as subjects of the British Crown, and that any laws passed in the colonies that conflicted with the laws of Parliament were null and void.

- a. Identify whether a principle(s) of the Enlightenment was violated and explain. _____
- b. Was the British action justified? Explain. _____
- c. Do you support or reject this action by the British government? Why or why not? _____

Townshend Act (1767): Parliament passed the Townshend Act, which taxed glass, lead, paper, paint, and tea—all products that had to be imported. The tax was a tariff paid by shippers, with the cost passed along to consumers as an indirect tax. The act also set up customs courts to enforce laws against smuggling. These courts were not always open to the public and had no juries. To ensure that suspected smugglers were punished, some customs officials brought unsubstantiated charges against the accused and compelled witnesses to testify against them. People were imprisoned under these conditions.

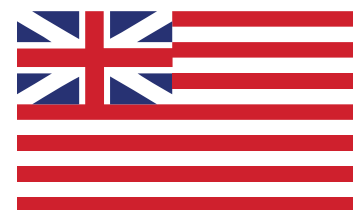
- a. Identify whether a principle(s) of the Enlightenment was violated and explain. _____
- b. Was the British action justified? Explain. _____
- c. Do you support or reject this action by the British government? Why or why not? _____

Boston Massacre (1770): To address the continued unrest among colonists (especially in Boston, Massachusetts) and to enforce smuggling laws and collect tax revenue, Parliament ordered troops sent to Boston. The troops' presence created a sense of martial law. In March 1770, a group of Bostonians came to one of the customs houses to protest the troops stationed there. They threw snowballs and rocks. The soldiers panicked and shot into the crowd, killing five colonists.

- a. Identify whether a principle(s) of the Enlightenment was violated and explain. _____
- b. Was the British action justified? Explain. _____
- c. Do you support or reject this action by the British government? Why or why not? _____

"Tea Act" (1773): The East India Company had fallen into financial difficulty. Parliament passed a law known as the "Tea Act" designed to revive the company's profits. Now the East India Company would be allowed to sell tea directly to colonial merchants, but with a tax that would eventually be passed along to consumers. This repealed the English tax on tea and eliminated British and American tea wholesalers from selling any tea. The act made the cost of tea cheaper than ever before, even lower than smuggled tea from other countries.

- a. Identify whether a principle(s) of the Enlightenment was violated and explain. _____
- b. Was the British action justified? Explain. _____
- c. Do you support or reject this action by the British government? Why or why not? _____



East India Company Flag

“Coercive Acts” (1774): To quell rising colonial protests and punish the city of Boston for harboring fugitives from justice, Parliament passed a series of laws known as the “Coercive Acts.” Colonists soon called them the “Intolerable Acts.” They provided for the following:

- The Boston Port Act closed Boston harbor to all ships until the town paid for the tea destroyed in the Boston Tea Party.
 - The Administration of Justice Act authorized the governor to transfer the trials of British soldiers and officials accused of crimes outside of Boston in order to ensure that they received a fair trial.
 - The Massachusetts Government Act gave the colonial governor (whom the king appointed) the power to dissolve colonial councils and replace elected representatives with council members also appointed by the king.
 - The Quartering Act ordered colonial citizens to house British troops in their homes, boarding establishments, and warehouses or barns—without compensation. This law gave possession of the colonists’ property to the British army.
- a. Identify whether a principle(s) of the Enlightenment was violated and explain. _____
- b. Was the British action justified? Explain. _____
- c. Do you support or reject this action by the British government? Why or why not? _____



The Experiment of American Democracy

Activator 3

Unit Description

In this lesson, students will gain a sense of how the United States government is an experiment in democracy. They explore the attempts of the government under the Articles of Confederation to address post-Revolutionary War problems. Students role-play members of four congressional committees, analyzing the problems facing the young United States after the war. They weigh several options against the powers available to the government under the Articles and determine what, if anything, can be done to address the problems. As their deliberations proceed, congressional members are kept up to date on a rebellion in western Massachusetts that threatens to stop the state government from operating and may spread to neighboring states.

Before You Begin

Read through the lesson plan and familiarize yourself with the teaching sequence and materials. Consider your students' abilities and needs, available class time, and your curriculum requirements in selecting the activities.

Make Copies

You may need to reproduce the items in this list of masters, depending on the activities you have chosen. Keep in mind that the activities may dictate the number of copies you will need.

- **Historical Background Essay**—*one for each student*
- **Background Essay Graphic Organizer**—*one for each student*
- Committee Reports
 - **Treasury**—*one copy for each student on the Treasury Committee*
 - **Commerce**—*one copy for each student on the Commerce Committee*
 - **Foreign Relations**—*one copy for each student on the Foreign Relations Committee*
 - **Interstate Relations**—*one copy for each student on the Interstate Relations Committee*

Word Bank

(words and terms appear in the **Background Essay**)

- enfranchised
- charters
- Articles of Confederation
- constitution
- unanimous consent
- inflation
- favored-nation trading status
- dumping
- tariffs
- Barbary Coast
- insurrection
- secession

Introduce the Unit

Begin the activity by familiarizing students with the Articles of Confederation, the first constitution of the United States. Explain to students that this government was set up as a loose organization of independent states. Forming a government like this reflected the view held by most people that they were citizens of their state first and Americans second. Next, explain to students that Articles of Confederation purposefully did not give the national much power, hoping to avoid creating a too-powerful central government like that they experienced under Great Britain. However, Americans soon discovered that the Articles didn't give the government enough power to address the tremendous problems facing the country after the Revolutionary War.

Daily Directions

Day 1: Provide Historical Context

Use the **Background Essay**, **Graphic Organizer**, and **Word Bank** to provide students with historical context for the activity. As necessary, discuss what students learned from the essay and graphic organizer. The graphic organizer can help you check for understanding and be used as part of students' assessment. Students should use their completed graphic organizer during the main activity.

Prepare the Activity

Make copies of all the handouts needed. Draw a schematic on the front board or create a display copy like the one below.

Day 2: Activity Instructions

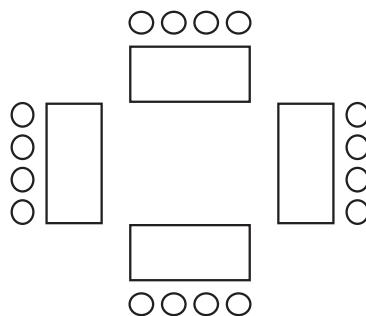
In this activity, students role-play members of congressional committees trying to grapple with the problems facing the country. They meet in several sessions of Congress taking place during the winter of 1786–1787. Set up the room like the schematic below.

Divide the class into four groups that represent the four committees listed below, and assign each group to one of the committees. Each committee examines one of the major problems facing the country after the Revolutionary War:

- Treasury Committee
- Commerce Committee
- Foreign Relations Committee
- Interstate Relations Committee

Have students create nameplates for their committee to be placed on their desks or table.

Change your room's configuration to accommodate the simulation. Have students quickly move desks, chairs, and tables.



Teaching tip

This can be done as homework or as an in-class activity.



Small group

*Whole Class*

Distribute the relevant **Committee Reports** handout to each student. Briefly set the stage for students, explaining to them that they have to find ways to address the problems facing the country. Make sure that each committee has their copies of the **Historical Background** and **Graphic Organizer**.

Briefly review the committees' instructions for what they need to do to prepare for the Committee Report sessions. After that, provide time for students to examine the problems and the viability of the options offered.

Day 3: Full Congressional Session—Committee Reports

When the committees have finished their analysis and selected their options, they will meet with the full class and present their findings. You can play the role of the president of the Congress to facilitate the proceedings. Start with the Treasury Committee and continue with the other groups, all of which

- summarize the problems facing the country
- state all the options offered, review the one they selected, and provide reasons for their choice
- give their assessment on how successful they think the option would be under the current government
- identify other option(s) they feel might have a greater impact if enacted

At the conclusion of the committee reports, ask students to vote on a proposal that "a meeting be held in May of 1787 to consider the issues facing the United States of America and amend the Articles of Confederation to make it more effective in addressing the problems of the Union."

*Small group*

Debrief

Have students meet in groups of three to discuss the following questions:

- How did you feel about the options given to try to solve the problems examined by your committee?
- No one likes taxes, but they are essential to operating a government. Discuss how the power to tax would have addressed many of the problems facing the country under the Articles of Confederation.
- Explain why the framers of the Articles of Convention gave the central government very limited power. Do you think this was a smart move at the time? Explain.



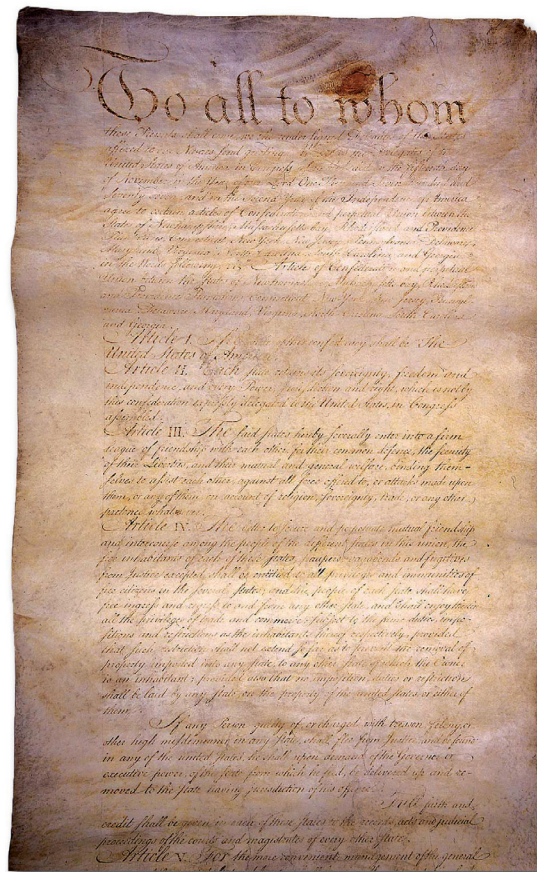
Individual

Option A

After debriefing the entire class, ask students to individually write a short essay summarizing their committee's report, including the problems they faced and the options they chose to address the problems. They should also comment on why the options were ineffective and what powers the government needed to successfully address the problems.

Option B

After debriefing the class, ask students to write an essay that addresses the following question: "The leaders of the United States government under the Articles of Confederation needed to experiment more with government in order for the nation to succeed." Students should describe the problems explored by all four committees, explain why the government as it was constructed under the Articles of Confederation could not adequately address the problem, and describe the areas where more experimentation was needed for the country to succeed.



Rubric

Evaluate the students' essays with the following rubric:

Category	4	3	2	1
Organization	Information is very well organized with well-constructed paragraphs and sentences.	Information is organized with well-constructed paragraphs	Information is organized but some paragraphs and/or sentences are not well constructed.	The information appears to be disorganized.
Mechanics	No grammatical, spelling, or punctuation errors	Almost no grammatical, spelling, or punctuation errors	A few grammatical, spelling, or punctuation errors	Many grammatical, spelling, or punctuation errors
Option A	The essay completely explains the problem facing the committee, lists all the options available, explains their ineffectiveness, and identifies and fully explains the powers needed to successfully address the problem.	The essay generally explains the problem facing the committee; lists some of the options available, generally explains their ineffectiveness, and identifies and adequately explains the powers needed to successfully address the problem.	The essay explains some of the problem facing the committee, lists a few of the options available and explains their ineffectiveness, and mentions one of the powers needed to successfully address the problem.	The essay doesn't adequately explain the problem facing the committee, lists and explains the ineffectiveness of one or two of the options available, and fails to explain what powers were needed to successfully address the problem.
Option B	The essay fully describes the problems facing all four committees, explains why the government under the Articles of Confederation was unable to successfully address the problems, and describes what further experimentation was needed for the country to succeed.	The essay generally describes the problems facing all four committees, explains why the government under the Articles of Confederation was unable to successfully address the problems, and describes what further experimentation was needed for the country to succeed.	The essay describes some of the problems facing all four committees, explains why the government under the Articles of Confederation was unable to successfully address the problems, and describes what further experimentation was needed for the country to succeed.	The essay doesn't adequately describe the problems facing all four committees, does not explain why the government under the Articles of Confederation was unable to successfully address the problems, and fails to describe what further experimentation was needed for the country to succeed.

The Experiment of American Democracy

Historical Background Essay

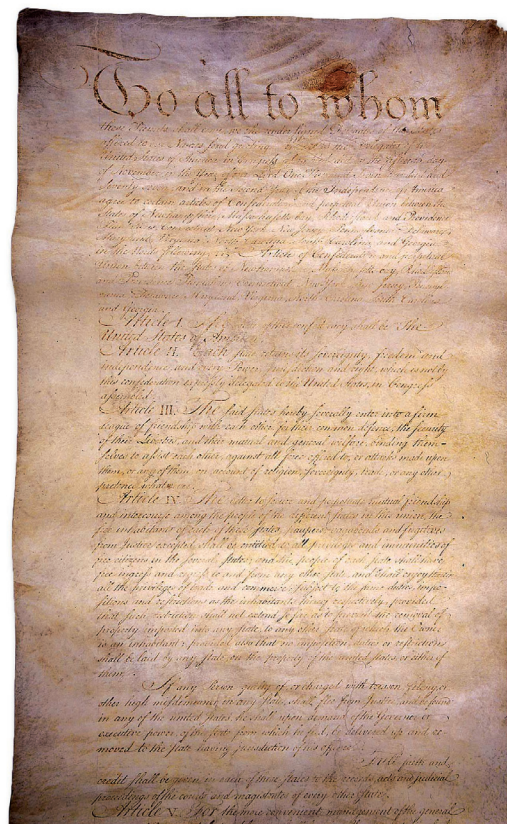
American democracy is an ongoing experiment; we keep adjusting and making changes. For example, take the right to vote: When the first presidential election took place in 1789, only white males over the age of 21 years were **enfranchised** (allowed to vote). This eliminated women, slaves, free blacks, and all Native Americans, meaning that less than 40 percent of the adult population was even eligible to vote in America's first election. As the times changed, people's understanding of what democracy meant changed as well. Gradually, more people earned the right to vote: African Americans in 1865, women in 1920, and 18-, 19-, and 20-year-olds in 1971.

In the events leading up to the war for independence, many Americans felt the British government was abusing their rights as English subjects. When petition and negotiations failed, colonial leaders decided to change the government completely. The colonies rejected their **charters** (documents that legally established the colonies under the authority of the British government) with England and formed state governments of their own. To manage the war for the entire nation, the Continental Congress created the **Articles of Confederation**. This, America's first **constitution**, established the United States of America as a "firm league of friendship" between the 13 separate and independent states.

The negative experience with England's distant government led the framers of the Articles of Confederation to distrust a powerful central government. Under the Articles, most of the authority to govern would be placed with the state governments, which were smaller and could be monitored more easily by the people. All laws passed had to have a nine-state (or nearly a 70 percent) majority. The central government was responsible for establishing standards for weights and measures; could appoint high-ranking military officers; could print and borrow money (which could lead to inflation, especially if it couldn't pay its debt); could declare war and raise an army and navy, but couldn't tax to raise funds for pay for essential services, operate an army and navy, or pay off the war debt; and

could make treaties with foreign governments, but without the ability to tax, couldn't pay for a military to enforce the treaties. Government under the Articles had no authority to enforce federal court decisions and was denied the power to regulate how the states traded with foreign countries and themselves. To amend the Articles to give the central government more power required the **unanimous consent** of all 13 states.

For over 150 years, the colonies had enjoyed the protection of the British army and navy, which had paved the way for western exploration nearly all the



The Articles of Confederation

way to the Mississippi River. Colonists had made a decent living selling their goods to all parts of the vast British Empire. They had benefitted from British laws, the most democratic in the world at the time. Now all this was gone and Americans were on their own. They soon found that the government they had established under the Articles of Confederation—a government that was supposed to provide the freedoms and liberties they had fought so hard to obtain—was not working.

At war's end, the United States faced problems in four major areas. First, the national treasury was nearly broke. The country was \$60 million in debt, some owed by the federal government and some owed by the states. It was crucial that the country pay its debt in order to continue to do business with other countries. Since Congress didn't have the power to tax, it had to rely on the goodwill of the individual states to make voluntary contributions to the national treasury to help pay the debt. While Congress could print more money, this could result in **inflation** because as more money was brought into circulation, it became worth less. Prices for goods and services would increase further, weakening the economy.

The second problem was with commerce. Having lost its " **favored-nation trading status**" with England (which allowed America equal trade privileges), the United States became vulnerable to open and often hostile trade competition. England continued to trade with the United States but restricted American ships from unloading at some ports in the British Empire, causing a loss in income for U.S. merchants. England also imported cheap goods to the United States. While this was great for consumers, it hurt home industries that could not compete with the less expensive goods. This "**dumping**" of cheap imports threatened to put many American companies out of business. The Articles denied the government the power to impose **tariffs** (taxes on imported or exported goods) on

less expensive imports to make them more competitive with domestic goods.

The third problem was in foreign affairs, where the United States didn't have the clout to negotiate with foreign governments. Britain, Spain, and even France—an ally during the war—constantly harassed American merchant ships on the high seas. Spain closed down the port of New Orleans, virtually cutting off exports down the Mississippi River. Congress had no way to pay for an army or navy to defend its trading interests. Pirates off the **Barbary Coast** of North Africa had been preying on European and American shipping for decades. Most European countries simply paid the ransom for the ships and crews. However, this proved more difficult for the United States, which could not even pay off its war debts. When ransoms couldn't be paid, the American crews were sold into slavery.

The fourth problem was within the country itself. Individual states operated as independent countries, not a unified nation. They bickered with fellow states over control of waterways and borders. Some states printed their own paper money, which led to inflation. Some states established treaties with foreign governments, neglecting to consider the interests of other states. On more than one occasion, citizens in several states threatened **insurrection** (rebellion) or **secession** (withdrawing from the United States). One such incident occurred with Shays's Rebellion in Massachusetts, which involved a band of tax-burdened farmers who tried to save their farms from foreclosure and avoid imprisonment for unpaid debts by taking over the state courts.

Name: _____ Date: _____

Graphic Organizer: Roots and Principles of American Democracy

1. List the powers granted and denied the federal government under the Articles of Confederation.

Powers granted		Powers denied

2. List and describe the problems facing the United States after the War for Independence.

Treasury problems	Commerce problems	Foreign affairs problems	Interstate problems

Committee Reports

Treasury Committee

Committee Instructions:

1. Develop a committee report from the “specifics” section below to explain the problems the country faces.
2. Review the options available to address the problem.
3. Discuss with your committee members which options would best address the problem.
Check the graphic organizer listing the powers granted and denied under the Articles of Confederation to see if Congress has the power to take the action you selected.
4. Prepare a report that identifies the option you selected and your reasons for selecting it. Also, identify any other option or options you feel might better address the problem if the federal government had that power, and the reasons why.
5. When finished with your report, present your findings to the full Congress.

Committee Report Specifics

After the War for Independence, the nation is in debt for services and loans it received during the war. The total debt stands at nearly 60 million dollars:

- \$28 million owed by the national government to its citizens and businesses that loaned Congress money
- \$11 million owed to foreign governments who loaned money or provided services to the war effort
- \$20 million owed by the individual 13 states to their citizens or the national government to pay for goods and services obtained during the war

The debt must be paid if the United States is to have any credibility with other nations of the world. If the country cannot pay its debts to creditors, both foreign and domestic, banks will refuse to do business with the central government or the individual states. Paying off the debt will also make it easier for the United States to borrow money from foreign countries and its own citizens.

Options for Congress to address the nation's credit problems:

1. Make another request to the states to pay off their debts.
2. Pass a law to tax the states.
3. Print more money to pay off the debt.
4. Ask the French and other creditor nations for an extension or to forgive the debt payment.
5. Pass a tariff law to tax imports.
6. Any other option the committee can think of

Present your committee's findings in the following manner:

- Summarize the problems facing the country.
- State all the options offered, review the one you selected, and give your reasons for selecting it.
- Provide your assessment of how successful you feel this option would be, given the current powers allowed the government under the Articles of Confederation.
- Identify any other option or options that you feel might have greater impact if enacted.

Committee Reports

Commerce Committee

Committee Instructions:

1. Develop a committee report from the “specifics” section below to explain the problems the country faces.
2. Review the options available to address the problem.
3. Discuss with your committee members which options would best address the problem.
Check the graphic organizer listing the powers granted and denied under the Articles of Confederation to see if Congress has the power to take the action you selected.
4. Prepare a report that identifies the option you selected and your reasons for selecting it. Also, identify any other option or options you feel might better address the problem if the federal government had that power, and the reasons why.
5. When finished with your report, present your findings to the full Congress.

Committee Report Specifics

While it was a British colony, the United States enjoyed “favored-nation trading status.” It now finds itself competing with much more powerful countries, and all parts of the United States are suffering:

- The South now has to compete with rice produced in other parts of the world. Many times, England has cut the price of its rice exports to eliminate competition from U.S. rice growers.
- New England and the Mid-Atlantic states are barred from exporting fish and lumber to the British West Indies and can’t import sugar, molasses, or rum for sale in the United States. England will allow only British ships to carry American products to the empire, which negatively affects American merchant and shipbuilding industries.
- European businesses ship vast amounts of finished goods to America at prices well below those set by American manufacturers of the same goods. This hurts American businesses, which can’t compete. However, Americans love the lower prices, especially in these inflationary times.

Domestically, there is a shortage of hard currency (gold and silver), which makes business transactions difficult. Some states have restored to printing their own paper money, but with no real wealth to back it up. The result has been a rise in inflation, and in some cases merchants and banks will not accept the U.S. paper currency.

Options for Congress to address the nation’s trade and commerce problems:

1. Pass tariffs on foreign goods.
2. Pass laws placing trade restrictions on European ships coming into the country.
3. Pass a law to regulate foreign trade to the United States.
4. Request that the states not print their own paper money.
5. Any other option the committee can think of

Present your committee’s findings in the following manner:

- Summarize the problems facing the country.
- State all the options offered, review the one you selected, and give your reasons for selecting it.
- Provide your assessment of how successful you feel this option would be, given the current powers allowed the government under the Articles of Confederation.
- Identify any other option or options that you feel might have greater impact if enacted.

Committee Reports

Foreign Relations Committee

Committee Instructions:

1. Develop a committee report from the “specifics” section below to explain the problems the country faces.
2. Review the options available to address the problem.
3. Discuss with your committee members which options would best address the problem.
Check the graphic organizer listing the powers granted and denied under the Articles of Confederation to see if Congress has the power to take the action you selected.
4. Prepare a report that identifies the option you selected and your reasons for selecting it. Also, identify any other option or options you feel might better address the problem if the federal government had that power and the reasons why.
5. When finished with your report, present your findings to the full Congress.

Committee Report Specifics

The United States is experiencing a rough greeting from the major powers of Europe. Diplomatic efforts to improve trade relations with England and Spain have been unsuccessful:

- England has refused to open many of its colonial ports—especially in the West Indies—to American trade. It’s difficult to negotiate a treaty with Britain that doesn’t hurt the states one way or the other.
- America’s request that England stop its policy of “dumping” low-cost goods in American ports has gone unanswered.
- The Spanish have brazenly closed parts of the Mississippi River (currently under their control) to American citizens, and have levied an exorbitant tax at the port at New Orleans on American barges that come into port.
- Pirates off the coast of the North African Barbary States have captured American ships and have held their crews for ransom. If the ransoms aren’t paid, the crews are sold into slavery. Leaders of the Barbary States have denied any involvement in the piracy, but have offered to protect American ships for a price.

Many citizens fear the United States will forever remain a third-rate power if it doesn’t retaliate. America needs to be able to place trade restrictions on countries that hurt its commercial trade. The country also needs a first-rate military to use force when necessary.

Options for Congress to address the nation’s foreign relations problems:

1. Build and pay for a large navy to protect American shipping in the Mediterranean Sea and create a strong presence on the Mississippi to open up river trade to New Orleans.
2. Declare war on Spain for control of the Mississippi.
3. Pay more protection money to the Barbary States to protect American shipping.
4. Pass import taxes and trade restrictions against hostile European countries.
5. Any other option the committee can think of

Present your committee’s findings in the following manner:

- Summarize the problems facing the country.
- State all the options offered, review the one you selected, and give your reasons for selecting it.
- Provide your assessment of how successful you feel this option would be, given the current powers allowed the government under the Articles of Confederation.
- Identify any other option or options that you feel might have greater impact if enacted.

Committee Reports

Interstate Relations Committee

Committee Instructions:

1. Develop a committee report from the “specifics” section below to explain the problems the country faces.
2. Review the options available to address the problem.
3. Discuss with your committee members which options would best address the problem.
Check the graphic organizer listing the powers granted and denied under the Articles of Confederation to see if Congress has the power to take the action you selected.
4. Prepare a report that identifies the option you selected and your reasons for selecting it. Also, identify any other option or options you feel might better address the problem if the federal government had that power and the reasons why.
5. When finished with your report, present your findings to the full Congress.

Committee Report Specifics

The United States under the Articles of Confederation is not very united:

- Several states are arguing over border and trade disputes. Federal courts have heard the cases and issued judgments, but often the states refuse to obey them.
- Some states are levying taxes on goods coming in from other states. They do this in order to raise the price of the imports, thus protecting their home industries selling similar products. This is stifling the economies of the importing states because they can't trade beyond their borders.
- State legislatures are passing laws that infringe on the property rights of Tories (British sympathizers during the Revolutionary War). This directly violates the Treaty of Paris and could cause England to retaliate.

America is finding it more and more difficult to stand united. The states have more authority than the federal government, but don't work cooperatively. Citizens in several states have seriously considered seceding from the Union. Several states have experienced rebellions. The country is becoming increasingly vulnerable to breaking apart.

Options for Congress to address the nation's foreign relations problems:

1. Encourage states to cooperate more among with another for their mutual benefit.
2. Support the federal courts' decisions with military action, if necessary.
3. Pass laws to control interstate trade.
4. Prohibit states from taxing other states.
5. Any other option the committee can think of

Present your committee's findings in the following manner:

- Summarize the problems facing the country.
- State all the options offered, review the one you selected, and give your reasons for selecting it.
- Provide your assessment of how successful you feel this option would be, given the current powers allowed the government under the Articles of Confederation.
- Identify any other option or options that you feel might have greater impact if enacted.

The Legislative Branch

Activator 4

Unit Description

In this unit, students will gain an understanding of the process the U.S. Congress uses to create laws. Students identify a problem, write a bill to address the problem, and debate the merits of the bill for approval or rejection in a mock congress.

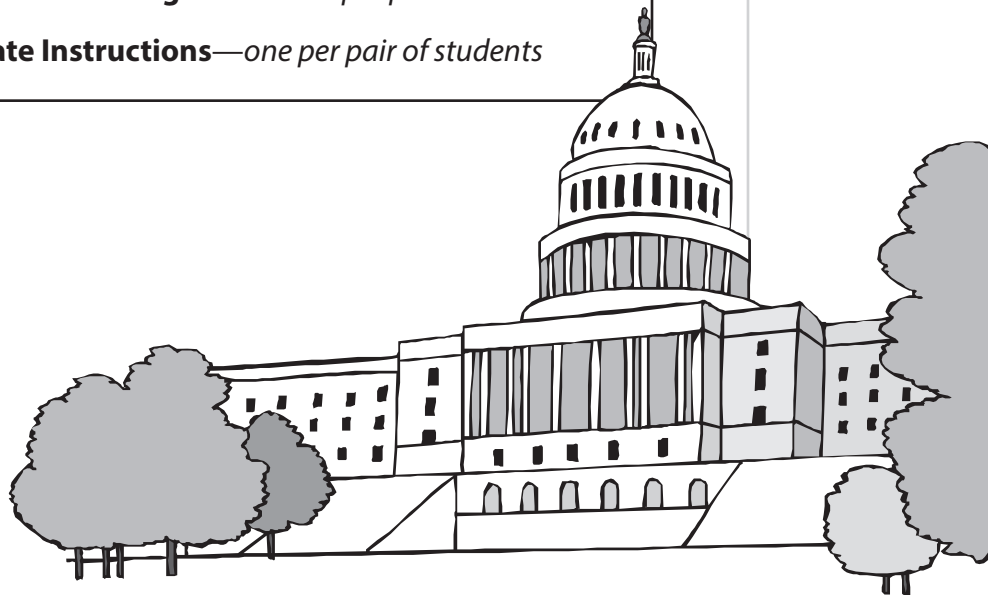
Before You Begin

Read through the lesson plan and familiarize yourself with the teaching sequence and materials. Consider your students' abilities and needs, available class time, and your curriculum requirements in selecting the activities.

Make Copies

You may need to reproduce the items in this list of masters, depending on the activities you have chosen. Keep in mind that the activities may dictate the number of copies you will need.

- **Historical Background Essay**—*one for each student*
- **Background Essay Graphic Organizer**—*one for each student*
- **Topics for Bills**—*one per pair of students*
- **Sample Bills**—*one per pair of students*
- **Instructions for Writing a Bill**—*one per pair of students*
- **Floor Debate Instructions**—*one per pair of students*



Word Bank

(words and terms appear in the **Background Essay**)

- apportioned representation
- bicameral
- writ of habeas corpus
- bills of attainder
- ex post facto law
- constituents
- committee
- subcommittee
- hearings
- amendments
- mark-up
- rules committee
- Speaker of the House
- Senate Majority Leader
- Senate Minority Leader
- filibuster
- cloture
- conference committee

Introduce the Unit

Introduce this activity by reminding students that Article I of the U.S. Constitution establishes the legislative branch, known as "Congress." During the federal convention of 1787, this part of the Constitution was the most discussed section, developed through heated debate and hard-won compromises. The Constitution set the procedure for how most legislation is developed in Congress. The framers of the Constitution believed the power to make laws to be the greatest authority a government could have and that it was important that the process be thoughtful and thorough.

Daily Directions

Day 1: Provide Historical Context

Use the **Background Essay**, **Graphic Organizer**, and **Word Bank** to provide students with historical context for the activity. As necessary, discuss what students learned from the essay and the graphic organizer. The graphic organizer can help you check for understanding and be used as part of students' assessment. Show students the "How a Bill Becomes a Law" flow chart, which illustrates how a bill goes through Congress. Point out the different built-in checks in the process that make sure a bill receives full consideration.

Prepare the Activity

Make copies of all the handouts needed. Draw a schematic on the front board or create a display copy like the one below.

Day 2: Activity Instructions

Writing a Bill: Have students work in pairs. Distribute the **Topics for Bills** handout to each student and have them select one of the subtopics that interests them. To provide students with some background, have them research the subtopic from news sources or sites like *Public Agenda* (www.publicagenda.org) or *Pros and Cons of Controversial Issues* (www.procon.org).

Next, distribute the **Instructions for Writing a Bill** handout to each group. Have students briefly discuss the topic and take notes on the following analysis questions. This activity will help them narrow down the subtopic to an action item. Write the questions below on the board:

- What is the problem?
- Why is it a problem?
- What actions do you think need to be taken in order to address the problem?
- What results do you expect to get from this action?
- What resistance might these actions meet? What are some of the potential negative effects of the action?

Next distribute the **Sample Bills** handout to each student. Review the instructions for writing a bill with students and have them refer to the handouts and research for guidance.

Once students have finished writing their bills, have all them post the bills around the room, read only the title of their bill, and provide a brief



Teaching tip

This can be done as homework or as an in-class activity.



Small group



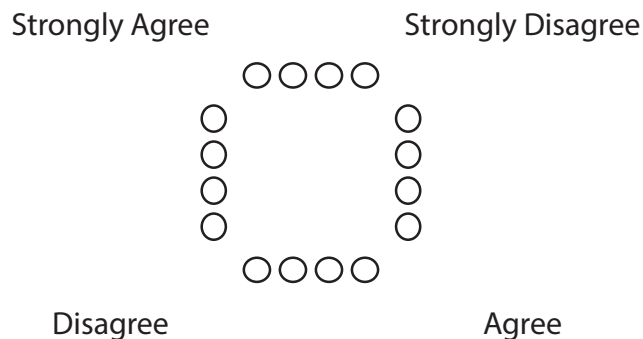
Whole Class

explanation of its purpose. After that, select as many bills for debate as time allows. You can do this in a number of ways, but it is best to have students involved. The procedure for the floor debate and vote takes between 15 and 20 minutes for each bill. Students will need an additional 5–10 minutes to discuss and take notes on the reasons for their position on the bill. This will give them the needed information to write their essays.

Day 3: Debate the Bill

Set up the room like the schematic below. Create four posters, each labeled in large letters, with the following titles: Strongly Agree, Agree, Disagree, and Strongly Disagree. Draw a schematic on the front board or create a display copy like the one below, and have students help you arrange the room. Place one of the posters in each of the four corners of the room. Have all students sit in the middle of the room to start. Distribute the **Floor Debate Instructions** to all students or put it up as a display copy.

Change your classroom's configuration to accommodate the simulation. Have students quickly move desks, chairs, and tables.



Once you have decided how many bills you want to come to the floor for a vote, have a bill's sponsors read their entire bill to the class. Give students a few minutes to review their thoughts and then ask them to stand in the corner of the room that best represents their position. Hopefully, you will have students in each corner of the room. Have each of the four groups select one student to be note-taker and one to be spokesperson. Give students 5–10 minutes to discuss and create a statement identifying the reasons for their position.

At the end of the discussion, ask each of the four spokespersons to share their group's reasons for their position and state the group's arguments for either passing or defeating the bill. After each group has presented, some students might want to change their position. If that's the case, give students the opportunity to move to their new position. Count the number of students who agree or strongly agree with the bill. If they compose a majority of class members, the bill passes.

Provide an additional 5–10 minutes for students to continue their group discussions on the following points. Every student should take notes:

5–10 more minutes for students to continue their group discussions



Small group

- Statement of position (select one of the four choices)
- Reasons for their position (students should include the four strongest points that support their position)
- Summary of the other groups' reasons

If desired, proceed to the next bill you've selected for floor debate. Have students keep their notes for the debriefing activity and the final paper.

Day 4: Debrief

Debriefing questions:

- What steps did we take in class that correspond to the actions on the **How a Bill Becomes a Law** flow chart?
- What were your feelings about the bill(s) we debated in class?
- Whether for or against, which bill was of greatest interest to you and why?
- What do you think might happen if these bill(s) became law(s)?
- What were some of the reasons your position on the bill differed from others?
- Why do you feel your reasoning was better than that of others?
- If your position changed during the debate, explain why.

Depending on your time frame, you can conduct one of the two assessment options below, or a combination of each. At the end of the discussion, each student should write a reflection essay on the bill or one of the bills the class voted on. Have students include the following information in their essay:



Individual

Option A

- The title and a description of the bill
- The goal of the bill
- The position they took on the bill and their reasoning explaining why their position is better than those other students took. If their position changed during the debate, explain why.
- What amendments (if any) they would make to the bill? If they disagreed with the bill, what alternative law would they suggest?

*Small group***Option B**

Have students work in small groups to research a topic that affects them, such as protecting people's privacy on social-networking Web sites, changing the drinking age, selling tobacco to minors, or banning (or not) the sale of violent video games to minors. Have each group write a bill on one of these topics. After they have finished, collect the bills and redistribute them to the class, making sure no student has a bill they sponsored. If time allows, you could also have students debate the bills using the method described in this lesson. Have students follow the guide in Option A to write their essay on the bill.

Rubric

Evaluate the students' essays with the following rubrics:

Option A Essay Rubric

Category	4	3	2	1
Organization	Information is very well organized with well-constructed paragraphs and sentences.	Information is well organized with well-constructed paragraphs.	Information is organized, but some paragraphs and/or sentences are not well constructed.	The information appears to be disorganized, and paragraphs are not well constructed.
Mechanics	No grammatical, spelling, or punctuation errors	Almost no grammatical, spelling, or punctuation errors	A few grammatical, spelling, and punctuation errors	Many grammatical, spelling, and punctuation errors
Content	Essays have all the required information, with complete details, explanations, and examples where appropriate.	Essays have most of the required information, with details, explanations, and examples in most areas.	Essays have some of the required information, with supporting documentation.	Essays have less than half of the required information, with little or no supporting documentation.

Option B Cooperative Group Rubric

Category	4	3	2	1
Contributions	Routinely provides useful ideas when participating in the group and in classroom discussion; a definite leader who contributes a lot of effort	Usually provides useful ideas when participating in the group and in classroom discussion; a strong group member who tries hard	Sometimes provides useful ideas when participating in the group and in classroom discussion; a satisfactory group member who does what is required	Rarely provides useful ideas when participating in the group and in classroom discussion; may refuse to participate
Listening	Actively listens to and supports others' opinions, ideas, and efforts	Usually listens to and supports others' opinions, ideas, and efforts	Sometimes listens to and supports others' opinions, ideas, and efforts	Rarely listens to or supports others' opinions, ideas, and efforts
Working with others	Actively encourages all members to participate and work together	Usually encourages all members to participate and work together	Sometimes encourages all members to participate and work together	Rarely encourages all members to participate and work together
Problem solving	Actively looks for and suggests solutions to problems	Usually looks for and suggests solutions to problems	Sometimes looks for and suggests solutions to problems	Rarely looks for and suggests solutions to problems
Staying on-task	Consistently stays focused on the task and completes the required work	Usually stays focused on the task and completes the required work	Sometimes stays focused on the task and completes the required work	Rarely stays focused on the task and completes the required work

Option B Essay Rubric

Category	4	3	2	1
Organization	Information is very well organized with well-constructed paragraphs and sentences.	Information is well organized with well-constructed paragraphs.	Information is organized but some paragraphs and/or sentences are not well constructed.	The information appears to be disorganized, and paragraphs are not well constructed.
Mechanics	No grammatical, spelling, or punctuation errors	Almost no grammatical, spelling, or punctuation errors	A few grammatical, spelling, and punctuation errors	Many grammatical, spelling, and punctuation errors
Content	Essays have all required information, with complete details, explanations, and examples where appropriate.	Essays have most of the required information, with details, explanations, and examples in most areas.	Essays have some of the required information, with supporting documentation.	Essays have less than half of the required information, with little or no supporting documentation.

The Legislative Branch

Historical Background Essay

When the Constitution was written in 1787, its framers drew from many different sources to formulate the new government, including ideas from Greek, Roman, and medieval English governments. They believed that giving the people the power to legislate was important to the success of any democracy. However, they also were suspicious of citizens' ability to balance their emotions with reason in choosing their elected representatives and in passing laws. As a result, they devised a legislature with a complex procedure for creating laws.

One of the challenges the framers of the Constitution faced was how to construct a democracy that would represent both the states and the citizens. At the time, the country was a loose collection of states, fiercely independent and fearful of a strong central government. The framers understood that though they were perfecting a system in which democracy could thrive, states as much as citizens needed to be adequately represented in the new government. However, the framers were suspicious of too much democracy, which might allow the passions of the masses and not their reason, to dictate public policy. Thus, the Constitution allows representatives in the House to be directly elected by the people, but they serve only two-year terms. The Constitution originally called for senators to be elected by state legislators, not directly by the people. This changed with the passage of the 17th Amendment in 1913.

One of the other challenges facing the framers was how to properly provide for representation. In 1787, states like Pennsylvania, Massachusetts, and Virginia had large populations and felt that representation should be apportioned according to the number of people in each state. Basing representation on population would guarantee that large states would have

large numbers of representatives. Smaller states feared that **apportioned representation** would allow the large states to dominate them. A fierce debate erupted for several weeks. Finally, the framers came to a compromise, creating a Congress with two chambers, or a **bicameral** legislature: In the House of Representatives, members would be apportioned by the number of citizens in each state; in the Senate, each state would have two senators. The number of members in the House increases as each state's population increases; the numbers of senators always stays the same, at 100.

Congress's prime responsibility is to create laws that fulfill the goals of the Preamble of the Constitution. Article I of the Constitution outlines Congress's structure, powers, and operation. Article I, Section 8 grants Congress the power to collect taxes, borrow money, regulate interstate and foreign trade, establish uniform rules and laws for naturalization and bankruptcies, coin money, establish post offices, and declare war.

The framers were also cautious to make sure the Congress didn't have powers that would violate people's rights. Article I, Section 9 prohibits Congress from suspending the **writ of habeas corpus** (under which prisoners can challenge the government's authority for holding them), passing **bills of attainder** (laws that punish without a trial) or **ex post facto laws** (laws that hold people accountable for an action taken before it was made illegal), taxing goods traded between states, giving trade preference to one state over another, taking money from the Treasury without a specific law, or granting a title of nobility to any officeholder.

A key point to understand how Congress works is, "politics drives legislation." Members of Congress are colleagues and combatants, respectful

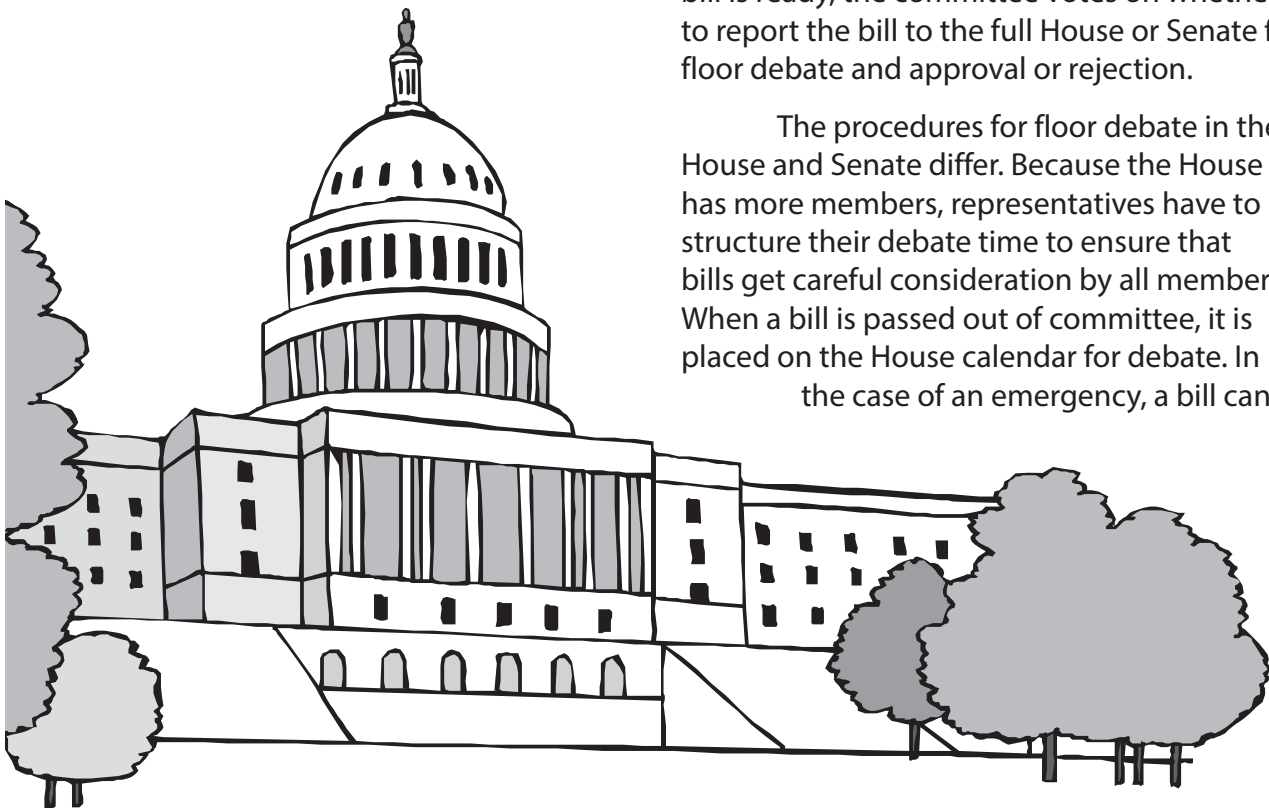
of each other, but also trying to pass laws for their political party and **constituents** that the opposition party many times doesn't want. As a result, the process isn't simple, nor is it always pretty. Anyone can present an idea for a bill to Congress—private citizens, lobbyists, members of Congress, the president—but only senators and representatives can officially introduce bills.

Once a bill is introduced, it is sent to a **committee** for study and review. Committees are headed by a chairperson, who has tremendous power and can send the bill on to a **subcommittee** or ignore it if he or she disagrees with it. Committees are where most of the work is done to pass a bill. The first thing a committee usually does is to hold **hearings** to gather important information from people such as the bill's sponsors, people who either support or oppose the bill, and experts on the subject of the bill. Depending on the committee chair's preference for the bill, hearings can go for only a few days or drag on for weeks before the committee votes on the bill.

After the hearings have finished—and assuming the bill survived—the subcommittee will determine the bill's final language. This step is called the "**mark-up**." During this process, **amendments** can be added to improve the bill, modify it to be more acceptable to the opposition party, or make it unacceptable and thus "kill" the bill. The subcommittee discusses and debates each bill before voting on it. When considering the language and content of a bill, legislators have to balance the needs of their individual state and its citizens with the overall needs of the country. They want to make sure the language of the bill will appeal to other lawmakers (who will vote on it), the president (who will sign or veto the bill), and the general public (who have to live with it).

In the final step, the subcommittee votes on whether to report the bill back to full committee for consideration or reject the bill. The full committee can either accept the bill as written, choose to amend it further, or hold more hearings. When it has been determined that the bill is ready, the committee votes on whether to report the bill to the full House or Senate for floor debate and approval or rejection.

The procedures for floor debate in the House and Senate differ. Because the House has more members, representatives have to structure their debate time to ensure that bills get careful consideration by all members. When a bill is passed out of committee, it is placed on the House calendar for debate. In the case of an emergency, a bill can



be moved ahead on the calendar. The bill then goes before the **Rules Committee** to determine the time allotment for debate and whether to limit or open opportunities for amendments. Supporters of the bill would want to limit debate and the number of amendments in order to move the bill through quickly. Opponents usually want open debate and many opportunities for amendments so that they can change, stall, or even kill the bill. The **Speaker of the House** often decides which way the Rules Committee will set up the floor debate. With 435 members, debate time and opportunities for amendments are limited

In the Senate, the Majority Leader doesn't have the same power as the Speaker of the House to control the fate of a bill, and often must confer with the Minority Leader to set up the calendar and rules for debating a bill. In the Senate, debate is more open, and technically a senator can speak as long as they'd like on any bill. This can become a **filibuster**, a technique used to "talk a bill to death." Senators who oppose the bill can use this tactic to stall a vote when they believe the bill would win passage. Filibusters can only be stopped by the **cloture** rule, which occurs when three-fifths, or 60 senators, vote to close debate.

After one house has passed a bill, it must go to the other chamber through the same procedure of committee review, and then back to the full floor for debate and vote. The second chamber can accept the first chamber's bill without changes, or they can amend it in committee, pass it in a floor vote, and send it back to the first chamber with the changes. If the first chamber doesn't agree with the changes, members of the two houses compromise on the differences between the two versions of the bill, working in **conference committee**. Once the conference committee has decided upon a final version of the bill, it gets sent on to the president, who can sign it into law or veto it.

The chart on the next page describes how a bill moves through Congress, from conception to signing by the president.

How a Bill Becomes a Law

An idea for a bill can come from any citizen, member of Congress, the president's administration, or a public or private interest group. However, only members of Congress can officially introduce a bill. Once an idea has been conceived, it gets written in to a bill for submission. Other types of Congressional action might involve joint, simple, or concurrent resolutions.

The House

- Bills can be introduced in either house.
- Spending bills can only originate in the House.
- A bill originating in the House is designated with an "H.R." before its number (e.g., H.R. 1234).

The Senate

- Bills can be introduced in either house.
- Spending bills can only originate in the House.
- A bill originating in the Senate is designated with an "S." before its number (e.g., S. 1234).

Committee Work

- Bills get assigned to a committee or subcommittee.
- Hearings are held, with witnesses invited to testify in support of or in opposition to the bill.
- Bills then go through "mark-up," in which the committee or subcommittee writes the language of the bill and considers whether to send the bill to the next step, amend it, or drop it.

Committee Work

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Floor Action

Debate in the House is restricted due to its size. The Rules Committee sets specific time limits for debate and limits the number of amendments that have to be related to the bill. Members can suspend the rules to move a bill quickly through the House, but this has to be done through unanimous consent.

Floor Action

During debate in the Senate, any senator can speak as long as they want unless another senator objects. This can be extended into a filibuster, in which a senator speaks nonstop on a bill in order to stall its passage. The Senate must invoke cloture (requires a three-fifths-majority vote) in order to stop the filibuster.

After one chamber of Congress has passed a bill, it must undergo the same procedure in the other chamber. The second chamber can accept the first chamber's bill without changes and send it on to the president to be signed or vetoed, or it can amend the bill and send it back to the first chamber. The first chamber can accept the second chamber's changes or request a conference committee to resolve the differences.

President

The final bill gets sent to the president, who either signs it into law or vetoes it. If vetoed, the bill goes back to Congress, which can either accept the veto or try to override it. It takes two-thirds of both chambers to override a veto.

Name: _____

Graphic Organizer: The Legislative Branch

1. List some of the major powers granted and denied Congress.

Powers Granted	Powers Denied

2. Read Article I, Section 8 of the Constitution in order to get a detailed look at the powers of Congress. Write down powers that fulfill the goals of the Preamble below.

Clause from the Preamble: <i>We the People of the United States...</i>	Powers Granted to Congress
<i>in order to form a more perfect union,</i>	
<i>establish justice,</i>	
<i>insure domestic tranquility,</i>	
<i>provide for the common defense,</i>	
<i>promote the general welfare,</i>	
<i>secure the blessings of liberty to ourselves and our posterity...</i>	

Analysis Questions

1. Who can present an idea for a bill to Congress? Why do you think only members of Congress can officially introduce a bill?

2. What actions take place in a congressional committee? Why are committees important?

3. Follow the path of a bill as it goes through one of the houses of Congress. During this time, there are a number of opportunities for members of that house to attach amendments to the bill. Why might legislators want to amend a bill? What are the advantages and disadvantages of this procedure?

4. After one of the chambers approves a bill in a floor vote, it goes on to the other house. Looking back to when the Constitution was written, why do you think the framers wanted to have both houses approve a bill before it went to the president?

5. Why are the rules for floor votes different in the House and Senate?

6. Explain the central purpose of conference committees.

Topics for Bills

- **The federal budget**
Subtopics: tax cuts, budget deficit, raising the retirement age, fixing Social Security
- **Constitutional rights**
Subtopics: faith-based organizations, the Patriot Act, privacy issues including the use of computers online, abortion, same-sex marriage, prayer in public schools
- **Crime and drugs**
Subtopics: racial profiling, death penalty, juveniles tried as adults, further legislation on recreational drugs, capital punishment for juveniles
- **Education**
Subtopics: vouchers, No Child Left Behind Act, funding for technology in schools, affirmative action, testing standards
- **The Media**
Subtopics: ratings for CDs, movies, and computer games; privacy on the Internet; censorship of sex and violence on TV; corporate consolidation of media companies
- **Defense**
Subtopics: missile defense, the doctrine of preemptive war, the war on terrorism, high-tech defense force, foreign wars currently going on, troops returning home, on-campus military recruiting)
- **The economy**
Subtopics: tax cuts, income inequalities in society, the deficit, outsourcing of jobs, regulating corporations, reducing dependency on foreign oil)
- **Immigration**
Subtopics: legal and illegal immigration, protecting against terrorism, hiring illegal immigrants, healthcare and illegal immigrants, setting quotas for immigrants from different countries)
- **The global environment**
Subtopics: cleaning up toxic waste, family planning, genetically modified food
- **International relations**
Subtopics: relations with Europe, trade sanctions against “rogue states” like Iran and North Korea, support for or criticisms of the UN, dealing with genocide
- **World poverty and foreign aid**
Subtopics: aid to Africa, debt reduction, funding for AIDS prevention and treatment, supporting non-democratic regimes, the Peace Corps
- **Healthcare**
Subtopics: a patient’s bill of rights, extending Medicare, encouraging good nutrition in schools, providing birth-control information to minors)
- **Weapons proliferation**
Subtopics: restrictions on selling nuclear and conventional weapons abroad, sanctions against countries that irresponsibly sell weapons of mass destruction, nuclear test-ban treaty, preventing terrorists from acquiring nuclear materials
- **The Middle East**
Subtopics: the Israel–Palestine crisis, the war in and rebuilding of Iraq, Islamic fundamentalism and the threat of terrorism, alliances with Islamic countries

Instructions for Writing a Bill

Directions: In this activity, you and your partner will create a bill and introduce it to the class in a floor vote.

1. After you've selected your topic for writing a bill, consider what you want the bill to do. Answer these questions to help you conceptualize the bill:

- What is the problem? _____
- Why is it a problem? _____
- What actions do you think need to happen to address the problem? _____
- What do you expect to happen if these actions are taken? _____

2. Compose your bill using the **Sample Bills** handout as a guide. Write the bill on a piece of chart paper:

- Create a concise 5–15 word statement describing the purpose of the legislation. This is the bill's title.
- Write a rationale for the bill containing a short paragraph that explains why legislation is necessary. Use information from your earlier discussion identifying the problem and why it is a problem.
- Write the body of the legislation. Use information from your earlier discussion on actions to address the problem and expected results.
- Be sure to identify the bill's sponsors, the states they represent, and their political party affiliation.

Sample Bills

A Bill to Require a Fifteen-Day Waiting Period for the Purchase of a Handgun

Sponsored by: Senator Simon Friedman (R-NY)
Representative Shirley Williams (D-MO)

The crime rate on our nation's streets is skyrocketing. In many states, anyone can walk into a gun store or pawnshop and walk out with a handgun. Requiring a month long waiting period will allow authorities to check the backgrounds of potential gun buyers and would reduce the number of murders that are "crimes of passion" by providing a cooling off period.

BE IT ENACTED: by the Senate and House of Representatives of the United States of America in Congress assembled that:

- | | |
|-----------|---|
| Section 1 | To purchase a handgun, the purchaser must complete a form containing their name, residence, and date of birth, Social Security number, affirmation of eligibility according to state and federal law, and their fingerprints. |
| Section 2 | The selling dealer must deliver the purchase application to a local law enforcement agency within five days of the purchase. |
| Section 3 | The local law enforcement agency will, in concert with Alcohol, Tobacco, and Firearms (ATF), conduct a background check and, within 10 days, may accept or reject the application on the basis of this background check. |
| Section 4 | If the law enforcement agency rejects the application, a reason must be stated in writing and sent registered mail to the applicant. The applicant can appeal the decision through the ATF. |
| Section 5 | The purchaser may only take delivery of the handgun after the application has been approved. |
| Section 6 | Gun dealers who violate this law are subject to fines of \$10,000 for the first offense and \$75,000 for succeeding offenses. |

Simon Friedman
(R-NY)

Shirley Williams
(D-MO)

A Resolution to Promote the Use of Nuclear Energy

Sponsored by: Senator Victoria Swenson (D-OR)
Senator Richardo Ortiz (D-CA)

Whereas: Nuclear power is an inexpensive and efficient source of energy; and

Whereas: Pollution from other sources of energy, specifically coal and natural gas, is threatening to have an irreversible detrimental impact on the environment; and

Whereas: With today's technology, nuclear power is almost completely safe

Be it resolved by the U.S. Senate that:

Section 1 The U.S. Department of Energy should take every step possible to encourage the use of nuclear power.

Section 2 The Federal government, state government, and private industry should invest money into researching ways to make nuclear power sources even safer.

A Bill to Ban Cosmetic Research on Animals

Sponsored by: Representative Akeem Ali (I-GA)
Senator Megan Hatcher (D-WI)

The cruel and inhumane use of animals for testing cosmetic products must stop. Every year over 50,000 cats, rabbits, and other animals are tortured, maimed, or even killed for the only purpose of developing new cosmetic products. Unlike animal testing for medical research, this experimentation does not benefit society in any productive way.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that:

Section 1 This act bans the use of animal testing for the development of cosmetic products.

Section 2 Animal testing will be allowed for medical research. A five-member National Animal Experimentation Board will be appointed by the President to establish the necessity and validity of all animal experimentation.

Section 3 If any animal experimentation is conducted without approval from the National Animal Experimentation Board the person(s) or company involved will be fined \$7000 for each animal harmed.

A Constitutional Amendment to Provide Equal Rights for All People Regardless of Sex

Sponsored by: Representative Alfred Miller (D-ME)
Senator Mary Chang (R-NJ)

While there are more women than men in our country, women continue to be the objects of discrimination. Their concerns include equal pay, discrimination of the Job, and legal equity. Many believe that these areas of concern can be addressed with the passage of the Equal Rights Amendment, which would prohibit discrimination based on sex.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, and upon approval of three-fourths (3/4) of the States, that:

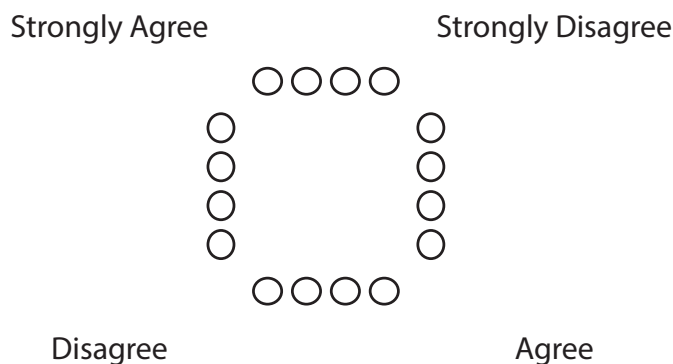
- | | |
|-----------|---|
| Section 1 | Equality of rights under the law shall not be denied or abridged by the United States of America or by any state on account of sex. |
| Section 2 | The Congress shall have the power to enforce this article by appropriate legislation. |

Floor Debate Instructions

Background:

In this activity, you will vote on bills presented in your mock congress. You will need to consider whether you strongly agree or disagree with the bill, or just agree or disagree. You **cannot** take a neutral position. Listen closely to the discussions that take place in your various groups, for these will help you write your final paper.

The classroom will be set up in the following configuration:



Steps:

1. The bill's sponsor will read it to the class.
2. Consider one of the four options to choose for your position on the bill.
3. When asked, move to that corner of the room.
4. Meet with other members who hold the same position and select a spokesperson and a note-taker.
5. Discuss your reasons for your position and create a statement identifying your position and the reasons.
6. Have the spokesperson share your group's reasons for your position on the bill and whether you support or reject the bill.
7. After hearing all four positions, reconsider your position and, if it's changed, move to the part of the room that represents the other position.
8. Continue discussing the following points and take notes to assist you in writing your position paper:
 - a. Statement of position (select one of the four choices)
 - b. Reasons for this position (include the four strongest points that support the position)
 - c. Summary of the other groups' reasons for their positions

The Executive Branch

Activator 5

Unit Description

In this lesson, students will gain an understanding of the executive branch and its power to execute the law. Students review the constitutional powers of the president, examine the role of the Cabinet departments, and role-play various Cabinet secretaries in order to help the president address a real-life issue.

Before You Begin

Read through the lesson plan and familiarize yourself with the teaching sequence and materials. Consider your students' abilities and needs, available class time, and your curriculum requirements in selecting the activities.

Make Copies

You may need to reproduce the items in this list of masters, depending on the activities you have chosen. Keep in mind that the activities may dictate the number of copies you will need.

- **Historical Background Essay**—*one for each student*
- **Background Essay Graphic Organizer**—*one for each student*
- **The President's Cabinet** list of departments—*optional*
- **The President in the News**—*one for each student*
- Copies of newspapers featuring national, international, and economic news
- **Serving at the Pleasure of the President**—*one for each student*

Setup Directions

The Executive Branch

Word Bank

(words and terms appear in the **Background Essay**)

- abhorrence
- Electoral College
- State of the Union
- chief executive
- commander-in-chief
- veto
- unconstitutional
- detrimental
- independent agencies
- Cabinet

Introduce the Unit

Introduce this activity by reminding students that Article II of the U.S. Constitution establishes the executive branch and describes its powers. Mention that many presidents since George Washington have expanded the powers of the office into areas not specified in Article II, but also not denied. Though the executive branch today is different from what the framers envisioned in 1787, the Constitution's language allows for growth and change.



Daily Directions

Prepare the Activity

Make copies of all the necessary handouts according to the list above.

Day 1: Provide Historical Context

Use the **Background Essay**, **Graphic Organizer**, and **Word Bank** to provide students with historical context for the activity. As necessary, discuss what students learned from the essay and graphic organizer. The Graphic Organizer can help you check for understanding and be used as part of students' assessment. Students should use their completed graphic organizer during the main activity.

Review the questions on the **Graphic Organizer** with students. Point out that the role of Chief of Party is a political one. The president is head of his political party, but is not allowed by law to use the federal government to further his party's objectives. Thus, the Cabinet department box corresponding to this role is grayed out.

Day 2: Activity Instructions

The President in the News: In this activity, students research news items that describe the president performing his or her role. Students also identify which Cabinet department(s) would assist the president. This activity sets up the information for Day 3's main activity.

Organize students into groups of five or six. Distribute copies of a newspaper with sections on national, international, and economic news, or have students look through online news sites. Have students find an article featuring the president performing one of his/her roles. To minimize duplication of stories, have students call out the title of the article once they have located one and make this article "off limits" to the other groups. Ideally, the class will cover all of the president's roles and the main Cabinet departments, depending on the news articles they've found. It's all right if more than one group covers the same role.

Provide time for students to complete their research. Once they've completed all their research, have one to two students in each group develop a large poster presentation containing the information listed in their handout. Have the other students develop a five-minute dramatic presentation portraying a scene of the Cabinet department officials assisting the president in addressing the situation described in the news article. The presentation should include all members of their group and should contain information listed on their handout. When students have finished their posters, hang them on the walls around the classroom.



Teaching tip

This can be done as homework or as an in-class activity.



Bright Idea

You can conduct the third problem on the **Graphic Organizer** as an in-class activity. Divide students into groups of three. Distribute the handout **The President's Cabinet** to each group. Have them match the roles of the president with Cabinet departments.



Small group



Teaching tip

This activity could also be used for historical as well as current events by having students research archival news publications.



Bright Idea

You can have students go online to various news organizations or Web browsers' news sections to do their research. If class time is limited, provide students two or three news stories that deal with the different roles of the president and involve different Cabinet departments.

*Whole Class**Small group**Whole Class*

Day 3: Activity Instructions

Serving at the Pleasure of the President—Executive Cabinet Meeting:

The posters from Day 2's activity on the walls in the classroom will serve as backdrops for the dramatic Executive Cabinet Meeting presentations. Provide a little more time, if needed, for students to finish developing their presentations.

Distribute the handout **Serving at the Pleasure of the President** to all students and review the background information and the evaluation form. Make sure each student has enough evaluation forms for all presentations.

Have each group present their dramatization as the members of the audience complete their evaluation forms.

After students have made all the presentations, you can decide if you want to share the evaluation forms with the presenting groups or just collect them for the groups' final evaluation.

Day 4: Debrief

If necessary, finish the dramatic Executive Cabinet Meeting presentations from the previous day. After that, review the debriefing questions below:

- What role did the president play the most in the presentations? Why do you think the president played this role the most in this situation?
- Do you think when the framers of the Constitution created the executive branch, they envisioned the way in which the president carried out the in this situation? Explain.
- In what ways did the president fulfill the responsibilities of the Preamble to the Constitution in the various presentations?
- Select one presentation that stood out in your mind and describe how the Cabinet department assisted the president in that situation.
- Which presentation stood out to you as the most realistic and why?

Option A

Answer all the debriefing questions in a brief reaction paper.

Option B

Have students write a brief reaction paper on one of the following:

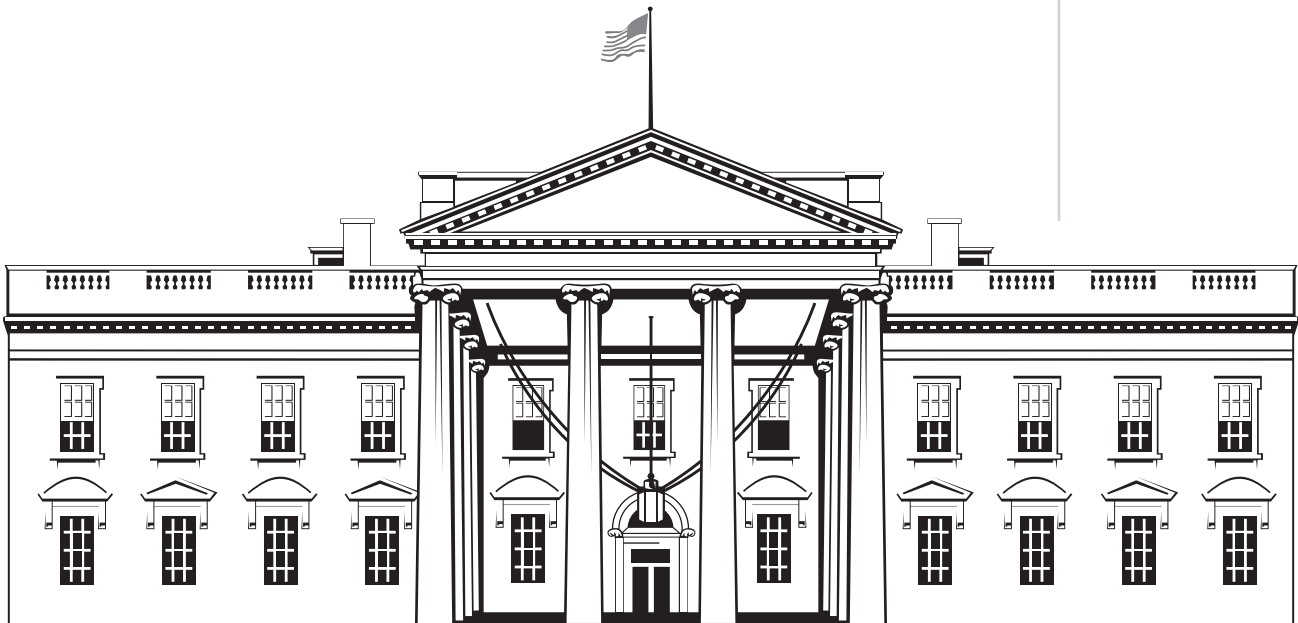
- Identify one of the situations that interested you most. Do you agree with the recommendations of the Cabinet departments or would you have offered different suggestions? Explain.
- Do you feel the president has enough power to address this issue? If so, explain why. If not, explain what power the president would need to more adequately address the issue.



Individual

Assessment

Evaluate students' performance on the quality of their graphic organizers, their news posters, and, using the evaluation form, the Executive Cabinet Meeting presentation.



The Executive Branch

Historical Background Essay

America's first constitution, the Articles of Confederation, did not provide for an executive branch. There was a president of the Congress, but he served more as chairman of that body than as a leader of the country. The lack of a powerful leader probably had as much to do with Americans' faith in their colonial and state legislatures as it did with their abhorrence of King George III. The framers of the Constitution wanted to create a more centralized government and knew that a separate executive branch would be needed. It had to have enough power and independence to carry out its responsibilities, but not so much as to abuse the people's rights.

In 1787, the framers of the Constitution believed that selecting the president required careful consideration, and that the president therefore should not be directly elected by the people. In their view, popular election of the president was too much democracy. They believed the public was too prone to emotion, and that this would cloud their decision making. Consequently, the framers established the Electoral College, a system of electors charged with the responsibility of choosing the president. Each state would select a group of electors for each candidate based on the state's number of representatives and its two senators. Accordingly, each state would have electoral votes representative of its population. Every four years, on the first Tuesday in November, the voting public casts its ballots for a candidate; the electors represent one of the candidates in the election. On the third Monday in December of the same year, the members of the Electoral College officially vote for the president. Today, political parties choose electors and on Election Day, when a candidate wins the popular vote in a state, all of the state's Electoral College votes go to that candidate.

Article II, Section 2 of the U.S. Constitution establishes the executive branch and describes the president as the country's chief executive, who has the primary duty of enforcing the laws. This also makes the president the chief of state, representing the country in an official capacity. Article II also lays out specific powers of the president to command the armed forces and grant reprieves and pardons. The president shares power with the Congress in making treaties with foreign nations, and appointing justices to the federal courts and officers to the executive departments. The president also is required to report to Congress in a yearly State of the Union address. During this time, the president decides upon his or her goals and introduces a budget designed to set out the nation's economic agenda. Finally, the Constitution also designates the president to be the chief diplomat of the country, officially receiving ambassadors and public ministers from other countries.

The brilliance of the Constitution lies in how the framers created an instrument of governance that would not only address the needs and concerns of their time but also those of future generations. The Constitution spells out specific powers and responsibilities for the executive branch, but in truth, these powers have been clarified and expanded by circumstance and by those who have held the office. As the first president, George Washington understood that every action he took set a precedent for those who would succeed him. He insisted on being addressed simply as "Mr. President," rather than "Your Highness" or "Your Excellency," as most other heads of state were called at the time. Though Washington projected great dignity and strength, he tried to remain accessible to the people by traveling the country and listening to citizens' concerns.

Washington also took his oath of office to “faithfully execute the office of the president” very seriously when he personally led a federal militia to put down a rebellion over the whiskey tax. This act firmly established the president as chief executive and commander-in-chief.

Throughout America’s history, presidents continued to define the responsibilities and expand the power of their office. Andrew Jackson saw his role as servant of the people and believed he was answerable primarily to them. Unlike his predecessors, he often clashed with Congress, exercising his power of the veto on crucial pieces of legislation—not because he believed they were unconstitutional but because he believed they were not in the people’s best interests. In his two terms in office, Jackson vetoed 12 bills—more than all his predecessors combined. Probably his most controversial veto was against renewing the charter of the Second Bank of the United States. While many felt this bank served the nation’s economy, Jackson saw it as an instrument of the wealthy and as detrimental to the people. Today, the president’s use of the veto to shape public policy has become an accepted practice.

Historians have said great presidents aren’t elected; they rise to greatness during times of crisis. In 1861, Abraham Lincoln took office as the country plunged into a civil war. In his first six months, he exercised powers beyond his constitutional authority: he appropriated money from the treasury (a power exclusive to Congress), he raised an army (again, a power designated for Congress), he ordered a naval blockade to surround Southern ports (an act of war before war had been declared), he suspended the writ of habeas corpus (denying people accused of treason the right to due process), and he issued the Emancipation Proclamation, which declared freedom for slaves in the South (at the time, slavery was protected by the Constitution). Lincoln justified his actions by noting that Congress was not in session and the possible dissolution of the country forced

him to violate some parts of the Constitution in order to save it. His actions demonstrate that during a national emergency a president might have to exercise powers beyond the written scope of the Constitution.

Other presidents expanded their powers beyond constitutional description. Woodrow Wilson broadened the powers of commander-in-chief by pushing Congress to enact a military draft during World War I. He also became the first sitting president to leave the country, traveling to Paris to broker the war’s peace agreement. In 1933, Franklin Roosevelt called Congress into special session and pushed hard to pass New Deal legislation in his first 100 days in office. These laws not only changed the nature of American capitalism, but also introduced the belief that government had an important role to play in improving the lives of Americans.

The executive branch consists of more than just the president. It includes the White House staff (chief of staff, counsels to the president, press secretary, speechwriters, etc.); independent agencies such as the National Aeronautics and Space Administration (NASA), Central Intelligence Agency (CIA), Securities and Exchange Commission (SEC); and the executive departments, also known as the “Cabinet.” The Constitution states, “[the president] may require the opinion, in writing, of the principal officer in each of the executive departments. . . .” This provision allows for the formation of the different Cabinet departments as needed. The president creates each of these departments; they then have to get approved by Congress. The House provides the funds and the Senate approves the officers appointed by the president. The departments carry out the work of the government. George Washington established the first Cabinet, composed of only three departments: State, Treasury, and War. Today there are 15 different Cabinet departments, each headed by a secretary.

Name: _____

Date: _____

Graphic Organizer: The Executive Branch

1. Explain why the framers of the U.S. Constitution felt the Electoral College was the best method for electing the president.

2. Review Article II, Section 2 of the U.S. Constitution, which describes the powers of the president. In the table below, write down the executive powers that fulfill the individual goals of the Preamble.







Clause from the Preamble: <i>We the People of the United States...</i>		Powers Granted to the President	
...in order to form a more perfect union,...			
...establish justice,...			
...insure domestic tranquility,...			
...provide for the common defense,...			
...promote the general welfare,...			
...secure the blessings of liberty to ourselves and our posterity,...			

3. Review the various roles of the president in the table below. Discuss the main duties and identify the Cabinet department(s) that would advise or be involved with the president as he/she performs each role. Provide an explanation of how the Cabinet department(s) would assist the president.

Role of the President—Main Duties		Cabinet Department Associated with This Role
Chief of state: The president symbolizes the nation and represents the United States at official functions, providing inspiration to the American people and people of other nations.		
Chief executive: The president is the chief law-enforcement officer of the United States and is in charge of thousands of government workers within the executive department. When swift action is needed, the president has the power to issue executive orders to address an emergency and take necessary action.		
Chief foreign-policy maker/chief diplomat: The president establishes foreign policy and decides how America, as a nation, will react to certain foreign issues.		
Commander-in-chief: The president is in charge of the Army, Navy, Air Force, and the Marines. The president can't declare war, but once the military has been deployed, the president is in charge of their actions.		
Chief of party: The president is the leader of his or her party. He or she continually campaigns for others in the party who are seeking election.		
Watchdog of the economy/chief guardian of the economy: The president prepares the nation's budget. His or her popularity is often tied to the state of the nation's economy. As a result, the president tries to fight inflation and to create a prosperous economy.		
Legislative lobbyist/chief legislator: The president suggests legislation and often works behind the scenes to get his or her political party to agree on pending legislation.		

The President's Cabinet

Department	Department Head	Responsibilities
	Secretary of State	Responsible for international relations
	Secretary of the Treasury	Responsible for managing the government's money
	Secretary of Defense	Responsible for national security and the military
	United States Attorney General	The country's chief law-enforcement officer; responsible for the government's legal affairs
	Secretary of the Interior	Responsible for the nation's natural and cultural heritage
	Secretary of Agriculture	Responsible for developing and executing policy on farming, agriculture, and food
	Secretary of Commerce	Responsible for promoting and developing foreign and domestic trade
	Secretary of Labor	Responsible for recommending and enforcing laws involving the workplace

Department	Department Head	Responsibilities
	Secretary of Health and Human Services	Responsible for protecting the health of all citizens and providing essential services
	Secretary of Housing and Urban Development	Responsible for developing and executing policy on housing needs and community development
	Secretary of Transportation	Responsible for ensuring a fast, safe, efficient, accessible, and convenient transportation system
	Secretary of Energy	Responsible for the nation's energy policies
	Secretary of Education	Responsible for the nation's educational policies
	Secretary of Veterans Affairs	Responsible for veterans' benefits
	Secretary of Homeland Security	Responsible for the protecting the nation from terrorist attacks and natural disasters

The President in the News

1. Review the newspaper and/or the Internet to find articles that describe the president acting in the capacity one of the roles of the executive branch. On a separate sheet of paper, research the points below and develop a report on the situation and the president's actions. It's possible some stories won't focus on the president, or the president might not yet be involved, but could be at some point; you can also examine articles such as these.
 - Summarize the news story: What is the situation and what is happening? What problem does the article describe?
 - What role does the president employ (or could employ) in this situation?
 - How would the president carry out his/her constitutional duties in this situation?
 - Identify the Cabinet department(s) that might be involved and explain how each might assist the president in this situation.
2. Have one or two students in your group develop a large poster presentation on the news story you reviewed. Make sure your poster has the following information:
 - At the top of the poster, create a title that describes the event or circumstance.
 - Briefly summarize the problem or situation.
 - Incorporate pictures and illustrations as needed.
3. The rest of the group will develop a five-minute dramatic presentation. It should portray a scene in which the Cabinet officials you identified from the newspaper article assist the president in addressing the situation you researched. The presentation should include information gathered from your analysis of the news article. Assign all members of your group various parts to illustrate the situation, the role of the president, and the recommendations of the Cabinet members. Your presentation should contain the following information:
 - Details of the incident described in the news story
 - The constitutional power the president has to take this action
 - The role of the president and how he/she would carry out his/her constitutional duties
 - The actions the president should take in this situation from the perspective of the Cabinet department(s) and what the department can do to assist him/her
 - An explanation of why the department(s) is the most appropriate to assist in the situation
 - You can incorporate any of the following dramatic techniques to present any part of your presentation:
 - a. Radio/TV announcements
 - b. Debate over policy or precedent
 - c. Narration
 - d. Dialogue between individuals
 - e. Soliloquy (individual speech or speeches)

Name: _____

Date: _____

Serving at the Pleasure of the President

Background: The president selects all the members of the his or her administration, with the exception of the vice president. Some are appointed by the president and then confirmed by the Senate under the “advice and consent” provision in the Constitution; others are simply hired for the position. Most of the several hundred thousand employees of the federal government are carried over from the previous presidency, though it is expected that many positions will change, especially when there is a change in party from the preceding administration. All members of the administration serve “at the pleasure of the president,” meaning that they work for the president as long as he or she is satisfied with their performance.

In this activity, you and your group members will present your dramatic presentation and view other groups’ presentations. Below is an evaluation form. Fill out the sections as each group presents and provide your analysis at the bottom. Your teacher will provide more evaluation forms as needed.

Evaluation Form (Title of Presentation) _____

Indicate whether the dramatic presentation has the following elements:	Check here
Description of the events surrounding the news story	
Identification of the role of the president	
Identification of the constitutional power of the president	
Description of actions the president should take in this situation	
Description of how Cabinet departments would assist the president	
Explanation of why these departments are the most appropriate	
Quality of dramatic presentation (5=high, 1=low). Circle one.	1 2 3 4 5
Presentation incorporates all members of the group (5=high, 1=low). Circle one.	1 2 3 4 5
Do you feel the Cabinet members served the president well in this situation? Comment on whether you agree or disagree with the recommendation offered and why.	

Evaluation Form (Title of Presentation) _____

Indicate whether the dramatic presentation has the following elements:	Check here
Description of the events surrounding the news story	
Identification of the role of the president	
Identification of the constitutional power of the president	
Description of actions the president should take in this situation	
Description of how Cabinet departments would assist the president	
Explanation of why these departments are the most appropriate	
Quality of dramatic presentation (5=high, 1=low). Circle one.	1 2 3 4 5
Presentation incorporates all members of the group (5=high, 1=low). Circle one.	1 2 3 4 5
Do you feel the Cabinet members served the president well in this situation? Comment on whether you agree or disagree with the recommendation offered and why.	

Evaluation Form (Title of Presentation) _____

Indicate whether the dramatic presentation has the following elements:	Check here
Description of the events surrounding the news story	
Identification of the role of the president	
Identification of the constitutional power of the president	
Description of actions the president should take in this situation	
Description of how Cabinet departments would assist the president	
Explanation of why these departments are the most appropriate	
Quality of dramatic presentation (5=high, 1=low). Circle one.	1 2 3 4 5
Presentation incorporates all members of the group (5=high, 1=low). Circle one.	1 2 3 4 5
Do you feel the Cabinet members served the president well in this situation? Comment on whether you agree or disagree with the recommendation offered and why.	

The Judicial Branch

Activator 6

Unit Description

In this unit, students will gain an understanding of the judicial branch of the United States government. Students review case studies that involve juveniles and fundamental constitutional questions. They then conduct a moot court, role-playing the petitioner, respondent, or presiding justice.

Before You Begin

Read through the lesson plan and familiarize yourself with the teaching sequence and materials. Consider your students' abilities and needs, available class time, and your curriculum requirements in selecting the activities.

Make Copies

You may need to reproduce the items in this list of masters, depending on the activities you have chosen. Keep in mind that the activities may dictate the number of copies you will need.

- **Historical Background Essay**—*one for each student*
- **Background Essay Graphic Organizer**—*one for each student*
- **Sample Case Studies Involving Juveniles**—*one for each student, optional*
- **Preparing for the Supreme Court**—*one for each student*
- **Overview of Supreme Court Cases**—*depends on the moot-court case assignments*

Word Bank

(words and terms appear in the **Background Essay**)

- judicial precedent
- appellate court
- original jurisdiction
- partisan
- judicial review
- plaintiff
- prosecution
- defendant
- petitioner
- respondent
- jurisdiction
- litigants
- writ of certiorari
- legal briefs
- oral arguments
- majority opinion
- concurring opinion
- dissenting opinion
- judicial activism
- judicial restraint

Introduce the Unit

Introduce this activity by reminding students that Article III of the U.S. Constitution establishes the judicial branch, composed of the Supreme Court and lower courts as prescribed by Congress. The Supreme Court was established as an appellate court, meaning that it reviews cases heard in lower courts and determines whether the process was conducted fairly with no errors in applying the law.

Daily Directions

Prepare the Activity

Make copies of all the necessary handouts. Take time to review several of the U.S. Supreme Court cases listed in the Day 2 activity. Select one or several case studies for students to research using the resources provided on their handout.

Day 1: Provide Historical Context

Use the **Background Essay**, **Graphic Organizer**, and **Word Bank** to provide students with historical context for the activity. (This can be done as homework or as an in-class activity.) As necessary, discuss what students learned from the essay and graphic organizer. The graphic organizer can help teachers check for understanding and be used as part of students' assessment. Students should use their completed graphic organizer during the main activity.

Day 2: Activity Instructions

Divide students into groups of seven. Assign students in each group or have the groups assign themselves the following roles:

- Justices of the court (three students)
- Petitioners (two students)
- Respondents (two students)

If your class doesn't divide evenly by seven, place the remaining students in the attorney groups.

Distribute the **Preparing for the Supreme Court** handout to all students. Tell them they will be preparing for a case already heard by the U.S. Supreme Court. Explain to them that although the highest court in the land has decided this case, they should treat the activity as if they were going before a new appellate court.

Go to the last handout in the lesson (**Overviews of Juvenile Supreme Court Cases**) and either select one case for the entire class or assign a different case to each group. Assign the cases you think will be of greatest interest to your students.

Review the directions with the justices and the attorneys. Have students follow the handout to prepare the cases and questions for the court sessions to be held during the next class session.



Teaching tip **The Sample Case Studies Involving**

Juveniles handout is specific to Question 5 of the Graphic Organizer. You may want to make this a separate activity. You can arrange students in small groups and assign a different case study to each group. Have them fill out the chart for Question 5 and then hold a discussion on the cases, asking students to express their thoughts on the case and its outcome.

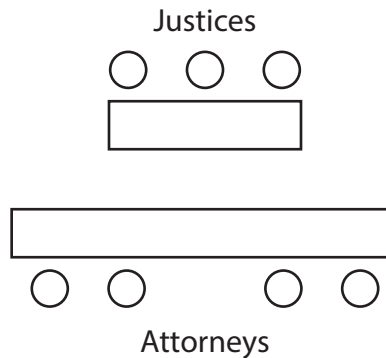


Small group

*Whole Class**Small group*

Day 3: Activity Instructions

Once the attorneys have prepared their cases and the justices have prepared their questions, conduct the moot court. Set up the room according to the schematic below.



If you choose to have multiple groups reviewing different cases, place each group in different parts of the room so that they won't distract each other. Walk around to each group to see that they are adhering to the presentation schedules and to answer any questions.

Each set of attorneys is allowed five minutes to present its side of the case. Justices can ask relevant questions at any time during and after oral arguments.

After the attorneys have presented their case, the justices have five minutes in "closed-door" session to develop their decision. The closed-door session can be done out in the hall or in a quiet section of the classroom. The session could also occur out of class, as homework. If pressed for time, the justices can present their decisions during the next class.

Day 4: Debrief

If necessary, have the justices present their decisions to the class.

Afterwards, debrief by asking the following questions:

- What constitutional issues were involved in these cases?
- Identify the cases in which the lower court's ruling was overturned by the moot court. Why was the ruling overturned?
- Compare the Supreme Court's decision to the decision made by the moot court for each case. Discuss the differences and the reasons for them. Point out to students that their opinions aren't wrong, but that the majority of the real court was influenced by different arguments.

*Whole Class*

Assessment

Depending on your time frame and the ability of your students, you can conduct one of the following two assessment options:

Option A

Have students write a reflective essay on the case they conducted in the moot court. Students should include the following information:

- Title of the case
- Brief description of the facts of the case
- Positions held by the petitioner and respondent
- How the case was decided by the moot court and why
- How the case was decided by the U.S. Supreme Court and why
- Their reasons for agreeing or disagreeing with the moot court and the U.S. Supreme Court decisions

Option B

Have students work in small groups or individually and review one of the cases from the case-study list that they didn't conduct in their moot court. Have each group review the facts of the case, the constitutional issue in question, and the oral arguments from each side. Next, have students follow the guidelines for the justices on the **Preparing for the Supreme Court** handout and discuss the case. As a final assessment, have students independently write their opinion on the case and give the reasons for their decision.



Individual



*Small group
or*



Individual

The Judicial Branch

Historical Background Essay

The United States Supreme Court is the third branch of the government, but by no means the least important. Over the course of the Court's history, its decisions have sometimes reflected and sometimes advanced the fundamental understanding of America's laws. While the Court's written opinions reflect **judicial precedent** (that is, court cases that judges use when deciding similar cases) and contain lofty legal jargon, most of its cases involve the concerns of common, ordinary people who have real, personal, and sometimes life-altering disputes with others equally passionate about their positions.

When the Constitution's framers wrote Article III, they left much of the details of forming a judiciary up to Congress. The article identifies a supreme court and lower courts, establishes the U.S. Supreme Court as an **appellate court** (one that hears appeals regarding a decision of a lower court) with limited **original jurisdiction** (the right to be the first court that hears a case), and reaffirms the right to a jury trial. However, Article III is not specific about the powers of the Supreme Court. This lack of specificity differed greatly from the detailed powers and responsibilities outlined for the legislative and executive branches in Articles I and II. As a result, the Court's first decade was rather uneventful. Its first session in 1790 had no cases; the justices met for two hours and went home. In the years that followed, the number of cases increased, but they were usually common legal disputes like those heard by most courts. In addition, the justices were required to "ride circuit," traveling to the 13 judicial district courts throughout the country twice a year. Traveling over footpaths and two-rut roads in a horse-drawn carriage was brutal and nearly killed some of the justices. The rough circuit schedule and the seeming lack of purpose led the Court's first chief justice, John Jay, to resign and run for governor of New York.

The Constitution doesn't directly establish the U.S. Supreme Court as the interpreter of great constitutional questions. That wouldn't occur until the case of *Marbury v. Madison* in 1803. During the 1800 presidential transition between John Adams

and Thomas Jefferson, Adams, in a last-minute effort to pack the federal courts with Federalists, appointed William Marbury as justice of the peace. Jefferson clearly saw Adams's **partisan** scheme (i.e., one designed to advance his party's goals at the expense of the opposing party) and instructed Secretary of State James Madison to withhold Marbury's appointment. Marbury appealed to the U.S. Supreme Court, claiming he had a right to the commission and that the Judiciary Act of 1789 allowed him to bring his complaint directly to the Supreme Court.

Marshall agreed that Marbury had a legal right to the commission, but he and the Court faced an intriguing dilemma: if he forced Jefferson to deliver Marbury's commission, Jefferson might refuse, leaving the Court weak (the Court had no real powers of enforcement). If he ruled in Jefferson's favor, it would seem as if the Court were a tool of the executive branch. Marshall found a way around the dilemma: The Court ruled that the section of the Judiciary Act of 1789 allowing Marbury to bring his case to the Supreme Court went against the Constitution's intent to make the Supreme Court an appellate court. Therefore, the Supreme Court was not the place for this case at this time. While the Court's decision held that it had no authority to hear Marbury's case, by declaring a congressional law unconstitutional, it gave the judicial branch the power of **judicial review**: the power to interpret what the Constitution means. This decision brought into balance the powers of the three branches of government by allowing the judicial branch the authority to limit the power of the other two branches when either of their actions went beyond their constitutional authority.

The purpose of the judicial branch is to resolve disputes on a criminal or civil level. Criminal courts hear cases between someone who accuses someone else of breaking the law. The accuser, or **plaintiff**, files official charges, and the government acts as the **prosecution** to present evidence and witnesses against the accused, or the **defendant**, in an open court, usually before a jury of peers. The defendant has the right to defend his- or herself

with evidence and witnesses in open court. Civil courts resolve disputes between a **petitioner**, who feels someone else (or the government) has violated their rights or taken advantage of them. In these types of cases, the accused is called the **respondent**. They respond to the charges against them with evidence in open court.

The Judiciary Act of 1789 set up a dual court system of federal and state courts, each with the power to enforce laws in its own area: state courts enforce state laws, and federal courts enforce federal laws. Each court system has different levels of **jurisdiction**, or authority. The first level is known as a “trial court.” Federal trial courts are called “U.S. district courts.” Trial courts in the states have different names depending on their purpose. There are municipal courts, which handle minor criminal and civil cases, and superior courts, which handle serious criminal and civil cases. These courts have **original jurisdiction**.

If either the plaintiff/petitioner or the defendant/respondent feels the trial was not fair, they can take their case to the next level, known as “appellate courts.” Appellate courts don’t determine guilt or blame; instead, they determine whether the lower court carried out the trial fairly and with no errors in applying the law. Both states and the federal government have appeals courts, known as the “state court of appeals” and the “U.S. Court of Appeals.” In a third level of courts, **litigants** (people who instigate a civil case) can appeal to either a state supreme court or the U.S. Supreme Court. Cases heard in state courts get appealed to the state supreme court. Both federal and state cases can be appealed to the U.S. Supreme Court, but such appeals are limited to cases that present a constitutional issue.

Many television programs and films make mention of the right to “take the case all the way to the Supreme Court.” While several thousand cases are brought before the Supreme Court every year, only 100 to 150 are heard. Because the Court only hears cases of critical constitutional importance, it has the luxury of choosing the cases it hears. The most common way this is done is through a **writ of certiorari**, a legal document issued by the Supreme Court ordering that a case from a lower court be brought before it. When a writ of certiorari is granted, the attorneys for both sides prepare **legal**

briefs, which are written documents presenting the legal arguments for each side of the case.

Attorneys for both sides present their case in **oral arguments**. Each side is allowed 30 minutes to discuss the law as it applies to their side. During oral arguments, the justices often interrupt to ask questions of the attorneys. After the oral arguments are presented, the justices meet in closed chambers to discuss the case. After all justices express their views, a vote is taken deciding the case. Next, a justice is assigned to write the **majority opinion** stating the reasons for the Court’s decision. A justice who agrees with the majority but for different reasons, might write a **concurring opinion**. Justices who disagree with the majority may choose to write a **dissenting opinion**, stating their reasons for opposing the majority decision. Dissenting opinions are often just as important as the majority opinions because they focus on the specific issue under contention and can help in understanding the meaning and implications of the majority opinion.

The Supreme Court can become controversial when it interprets the meaning of the Constitution and exercises judicial review. In the 200 years in which the Court has invoked this power, Americans remain divided about its proper use. Many favor the use of **judicial activism**, the belief that the Court has an obligation to use judicial review to overturn bad laws and promote socially desirable goals. Those who advocate **judicial restraint** believe that judicial review should be used sparingly and that rulings should not go so far as to make policy, but only interpret the law as it applies to the policy. This dispute carries over to the selection of Supreme Court justices as well as controversy over the Court’s decisions and often leads to calls for constitutional amendments to overturn what are considered bad decisions.



Name: _____

Date: _____

Graphic Organizer: The Judicial Branch

1. Expand on the reasons why, in the first decade of its existence, the Supreme Court did not appear to be an important part of the government.

Vague language of Article III	
The Court's first session in 1790	
"Riding circuit"	

2. Review the case of *Marbury v. Madison* and discuss the importance of judicial review in the chart below.

Describe the dilemma Chief Justice Marshall faced when deciding <i>Marbury v. Madison</i>	
Describe the power of judicial review	
How does it balance the power of the other two branches?	

3. Review the section on criminal and civil courts in the Historical Background Essay. Fill in the chart to describe the purpose and actions of these two types of courts.

Purpose of the judicial branch			
	What's being disputed?	Who's involved?	What is the procedure?
Criminal courts			
Civil courts			

4. The Judiciary Act of 1789 set up a dual court system for federal and state courts. Review the information on this dual system and identify the name of the court for each category.

Federal courts	State courts	
	"Courts of last resort"	
	Appellate jurisdiction	
	First level of courts with original jurisdiction	

5. Review one of the cases described on the **Sample Case Studies Involving Juveniles** handout (if provided), then fill out the chart below.

Facts of the case	
Arguments of each side	
Legal or constitutional issue(s)	
Court's decision and reasoning	
Importance of the case to you	
Your opinion on the Court's decision	

Sample Case Studies Involving Juveniles

Juvenile executions:

***Roper v. Simmons* 543 U.S. 551 (2005)**

Facts of the case: In 1993, Christopher Simmons was sentenced to death for murder. Simmons appealed through several levels of state and federal courts, but each appeal was rejected. The case reached the Missouri Supreme Court in 2002, and the court stayed Simmons's execution, waiting for the U.S. Supreme Court's ruling on *Atkins v. Virginia*, a case involving the execution of a mentally ill juvenile. The Supreme Court ruled that executing the mentally ill violated the Eighth and 14th Amendments' prohibition of cruel and unusual punishment. In 2003, the Missouri State Supreme Court addressed the Simmons case. The court cited numerous state and federal laws passed since 1989 that limited the scope of the death penalty, and determined from this that national opinion had changed. It concluded that the U.S. Supreme Court's decision in *Stanford v. Kentucky*, which ruled that executing a minor was not cruel or unusual punishment, was no longer valid. In a 6–3 decision, the Missouri Supreme Court ruled that executing minors was no longer constitutional because a majority of Americans opposed the execution of minors.

The Missouri government appealed to the U.S. Supreme Court, arguing that a state court didn't have the authority to overturn a Supreme Court decision based on the "evolving standards" of the public. If they did, state courts could overturn any Supreme Court decision based on a change in the beliefs of the American people.

Question: Does the execution of minors violate the Constitution's prohibition of "cruel and unusual punishment" found in the Eighth Amendment, as applied to the states by the 14th Amendment?

Opinion: In a 5–4 decision, the U.S. Supreme Court ruled that the standards of decency had

evolved and executing minors did constitute "cruel and unusual punishment" prohibited by the Eighth Amendment. The majority cited a broad consensus against executing juveniles among state legislatures and pointed to "overwhelming" international opinion against executing juveniles.

Access to information:

***Island Trees School District v. Pico* 457 U.S. 853 (1982)**

Facts of the case: In September 1975, a conservative parental group, the Parents of New York United, presented members of the Island Trees Union Free School District board of education a list of books they considered "objectionable." The board members discovered that nine of the books on the list were in their district's school libraries, among them *The Fixer*, *Slaughterhouse-Five*, *The Best Short Stories by Negro Writers*, and *The Naked Ape*. At a February 1976 meeting, the board ordered that the books removed from their schools' libraries be examined by a "book review committee" composed of parents and school staff members. That summer, the committee recommended returning most of the books to the library shelves. However, the school board ordered principals to remove all eight of the books from the school libraries, claiming that the books were "anti-American, anti-Christian, anti-Semitic, and just plain filthy." Four students from the high school and one from the junior high filed suit in district court, claiming that the school board's removal of the books denied them the right of free expression under the First Amendment. The District Court ruled in favor of the school board. The Court of Appeals then reversed the decision in favor of the students. The school board then petitioned the U.S. Supreme Court, which granted certiorari.

Question: Does the school board's decision to ban certain books from its schools violate the students' freedom of expression under the First Amendment?

Opinion: In a 5–4 decision, the U.S. Supreme Court ruled in favor of the students. The Court acknowledged that school boards have a vested interest in promoting respect for social, moral, and political community values, but their discretionary power is secondary to the authority of the First Amendment. Citing an earlier First Amendment case involving juveniles, *Tinker v. Des Moines School District*, the Court's majority held that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate."

Search and seizure:

***New Jersey v. T.L.O.* 469 U.S. 325 (1985)**

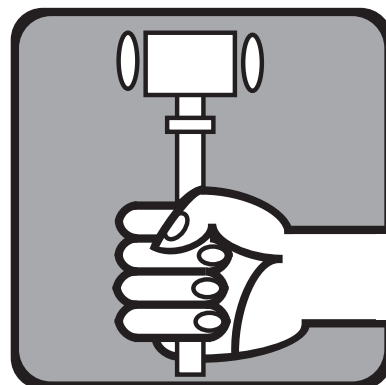
Facts of the case: In 1980, a teacher at Piscataway High School in New Jersey was on latrine duty and upon entering the girls lavatory discovered two girls smoking cigarettes. This was a violation of the school rules, so the teacher escorted the two students and a companion to the principal's office. The school's assistant vice principal met the students at the office and questioned them. One student admitted to smoking, but the other, T.L.O., denied the allegation, saying she didn't smoke at all. (The courts used the initials T.L.O. to protect the identity of the girl because she was a minor.) The vice principal demanded to see T.L.O.'s purse, where he found a package of cigarettes, which to him proved the girl was lying. As he removed the cigarette package, he noticed cigarette rolling papers, indicating the possibility of drug use. He proceeded to search through the purse and found a small amount of marijuana, a pipe, plastic bags, money, lists of students' names who owed T.L.O. money, and two letters that implicated her in drug dealing.

The police and girl's mother were called, and T.L.O. was brought to the police station. The vice principal turned the purse and its contents over to the police. At the police station, T.L.O. admitted to selling marijuana at school. With the confession and evidence from the search, she was charged with possession and distribution of a controlled substance.

T.L.O. argued that the search of her purse was a violation of her Fourth Amendment rights against unreasonable search and seizure and that all evidence found should have been excluded during her hearing. The New Jersey Supreme Court agreed and the case went before the U.S. Supreme Court.

Question: Did the search violate the student's Fourth Amendment rights?

Opinion: In a 6–3 decision, the Supreme Court ruled in favor of the school and the vice principal. It explained that while school officials do have a duty to balance a student's legitimate expectation of privacy with their interest in maintaining order and discipline, schools have to have a reasonable suspicion that a student has violated a rule or law to conduct a search. In this case, the student being suspected of smoking cigarettes and the subsequent search conducted to confirm this suspicion led to the discovery of other contraband that was also in violation of school rules and thus was also admissible in a court proceeding.



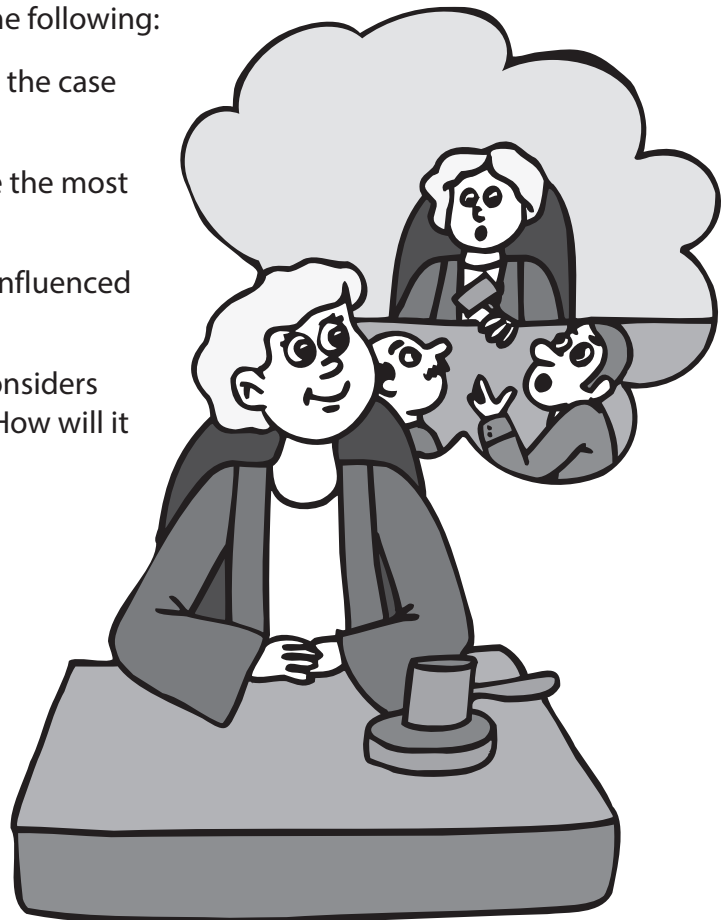
Preparing for the Supreme Court

Overview: In this activity, you will be participating in a moot court. A moot court is a role-play activity of an appeals court, which rules on a lower court's decision. There are no witnesses and the basic facts of the case are not at issue. What concerns this court is whether proper procedure was taken in the lower court to provide both the petitioner and respondent a "fair day in court."

Directions:

1. After you've been assigned the role of a justice or one of the attorney teams, review the assigned case by following the questions below.
 - Understand the facts of the case:
 - What actions led to this situation coming before the court?
 - What are the positions of petitioner and the respondent?
 - What is the constitutional issue involved in this case?
 - What was the decision of the lower court?
2. Once you have a good understanding of the case, conduct deeper research using the following resources (or other resources you can find):
 - *Justia.com* (<http://supreme.justia.com/>)
 - *The Oyez Project* (<http://www.oyez.org/>)
 - *FindLaw* (<http://www.findlaw.com/casecode/supreme.html>)
 - *Legal Information Institute* (<http://www.law.cornell.edu/supct/>)
3. Attorneys, prepare your legal briefs by finding answers to the following questions:
 - What does your side (petitioner or respondent) want?
 - What are the arguments that favor your side?
 - What are the arguments against your side? (Anticipating the opposition can strengthen your argument.)
 - What are the legal precedents of the case (lower-court or previously decided cases) and how do they affect your side? If they affect it positively, explain how; if they affect it negatively, explain why you disagree.
 - What's at stake here for your side and for society?
4. Justices, prepare for the case as follows:
 - Select one of you to play the role of Chief Justice. This person will preside over the hearing and call on attorneys to present their arguments.

- Review the case and, as a group, develop 5–7 questions to ask the attorneys regarding the facts of the case, the constitutional basis for their position, the legal precedents (lower-court or previously decided cases), and the potential impact on society of a decision either way on this case.
 - Take notes during the oral arguments to assist you in delivering your decision (Step 6, below).
5. Attorneys have five minutes each for oral arguments. The justices can ask relevant questions at any time during or after the presentations.
 6. After both attorneys have presented their case, the justices convene in “closed-door” session for five minutes to arrive at a decision. Justices, in this session discuss the following:
 - Which side had the most persuasive arguments and why?
 - What are the legal precedents to this case and how important are they in helping you come to a decision?
 - Do you think the lower court’s decision should be upheld or reversed? Explain why.
 - Which side (petitioner or respondent) will you decide for? You don’t all have to agree. The decision is based on majority vote, but there can be dissenting opinions.
 7. The justices’ decision should contain the following:
 - A summary of the actions that led to the case coming before a court
 - The arguments each justice felt were the most persuasive and why
 - The legal precedents and how they influenced each justice’s decision, if at all
 - A description of what each justice considers what impact the decision will have. How will it make the situation better?



Overviews of Juvenile Supreme Court Cases

Equal access:

***Brown v. Board of Education of Topeka* 347 U.S. 483 (1954)**

Details of the case: This seminal case involved the right of black students to attend an all-white school. At issue was whether segregated schools denied blacks their 14th Amendment right to equal protection under the law. The U.S. District Court for Kansas ruled in favor of the school district, citing *Plessy v. Ferguson*'s "separate but equal" doctrine. In a unanimous decision, the U.S. Supreme Court rejected *Plessy* and ruled that the segregation of black children in public schools was a violation of the equal protection clause of the 14th Amendment.

states' power to specify the curriculum for the public schools. The U.S. Supreme Court ruled unanimously that the Arkansas statute violated the First Amendment establishment clause and also violated the teacher's right to free speech.

Parent notification:

***In re Gault* 387 U.S. 1 (1966)**

Details of the case: Gerald Gault was a 15-year-old boy arrested for allegedly making obscene phone calls. He was previously on probation for an unrelated offense. The police did not notify his parents of the arrest. After proceedings before a juvenile judge, Gault was sentenced to a reform school until the age of 21. At issue was whether the procedures used to incarcerate Gault were in violation of the due process clause of the 14th Amendment. The Arizona Supreme Court found that the proceedings conducted to prosecute Gault did not violate due process. In an 8–1 ruling, the U.S. Supreme Court ruled that the juvenile court failed to comply with the requirements of the 14th Amendment.

Establishment clause:

***Epperson v. Arkansas* 393 U.S. 97 (1968)**

Details of the case: An Arkansas law forbade teachers from teaching Darwin's theory of evolution, specifically that humans descended from apes. A teacher, Susan Epperson, defied the law and was fired. At issue was whether the Arkansas law prohibiting the teaching of evolution violated the establishment clause of the First Amendment. The Arkansas Supreme Court ruled that the statute lay within the

Symbolic speech:

***Tinker v. Des Moines ICSD* 393 U.S. 503 (1969)**

Details of the case: Students protesting the Vietnam War planned to wear black armbands in school to express their opposition to the war. School officials, fearing such an act would provoke disturbances, adopted a regulation banning such displays of protest. When the students came to school wearing their armbands, they were suspended and told not to return to school unless they came without the armbands. At issue was whether the students



had a First Amendment right to wear black armbands as a symbol of protest in a public school. The justices of the U.S. Court of Appeals were deadlocked, which upheld the lower court's decision to support the school district. The U.S. Supreme Court ruled 7–2 that students do have the right to wear the armbands as an act of silent, symbolic speech that is protected under the First Amendment.

Equal protection: ***Plyler v. Doe* 457 U.S. 202 (1982)**

Details of the case: The Texas state legislature passed a law which prohibited the use of state funds to educate any child who was not a citizen of the United States. At issue was whether the law violated the equal protection clause of the 14th Amendment. The U.S. Court of Appeals for the Fifth Circuit ruled that the Texas law violated the children's right to equal protection. In a 5–4 decision, the U.S. Supreme Court agreed with the Court of Appeals and struck down the Texas law, stating that although illegal immigrants and their children are not U.S. citizens, they are people in every sense of the word and thus are afforded 14th Amendment protections.

School newspapers: ***Hazelwood SD v. Kuhlmeier* 484 U.S. 260 (1988)**

Details of the case: Journalism student Kathy Kuhlmeier and two other students wrote articles on pregnancy and divorce for their school newspaper. The journalism teacher presented the page proofs to the school principal, who found two of the articles inappropriate and ordered them withheld from publication. At issue was whether the principal, acting in his capacity as agent for the school district,

violated the students' First Amendment freedom of expression. The U.S. Court of Appeals for the Eighth Circuit overturned a lower court ruling supporting the school district. In a 5–3 decision, the U.S. Supreme Court ruled that the school district did not violate the students' First Amendment rights. The Court reasoned that although schools may not limit the personal expression of students on school grounds (*Tinker v. Des Moines*), they can censor school-sponsored activities when they can prove that the school's educational climate would be threatened.

Freedom of religion: ***Board of Education of Westside Community Schools v. Mergens* 496 U.S. 226 (1990)**

Details of the case: A group of students wanted to form a Christian club with the same privileges and meeting terms as other afterschool student clubs. The school's administration denied the students permission to form the club. At issue was whether the school's denial amounted to a violation of the Equal Access Act, which required schools receiving federal funds to provide "equal access" to student groups seeking to express messages of "religious, political, philosophical, or other content." Also at issue was whether the school's prohibition was consistent with the establishment clause of the First Amendment, which prohibits the government from favoring one religion over another. The U.S. Court of Appeals for the Eighth Circuit ruled that the Equal Access Act did not violate the establishment clause of the First Amendment and that the school should allow the club to form and meet. In an 8–1 decision, the U.S. Supreme Court ruled that since the school permitted other non-curricular groups to meet, the Equal Access Act prohibited it from denying equal access to any afterschool club. Since the club was non-curricular and wasn't a

program of the school, allowing it to meet was constitutional and served to uphold the Equal Access Act by not discriminating on the basis of religious or other types of speech.

Search and seizure:

***Vernonia SD v. Acton* 515 U.S. 646 (1995)**

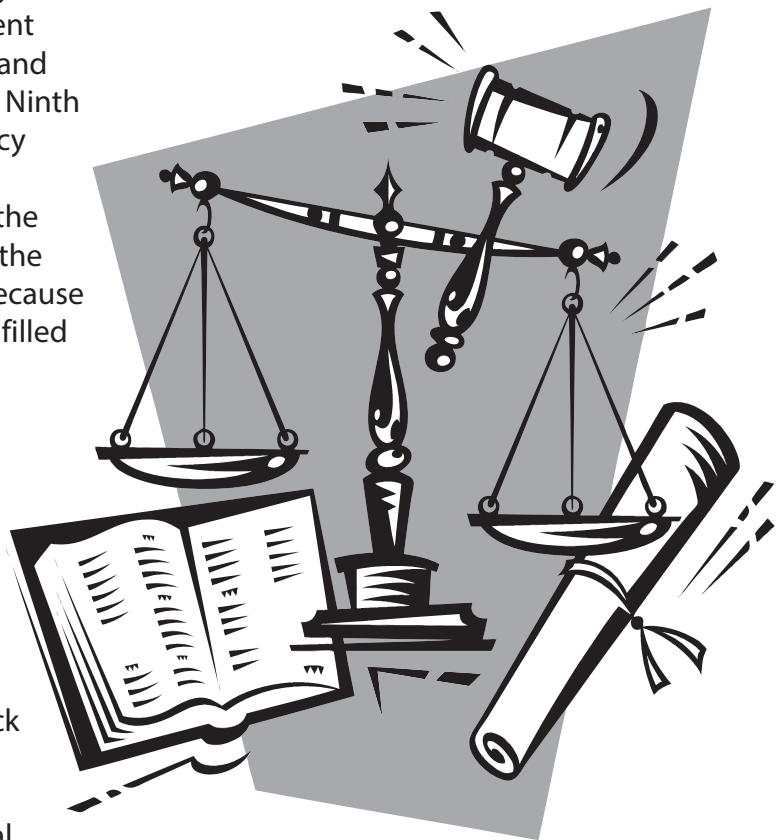
Details of the case: A school district in Vernonia, Oregon, was concerned about a drug problem among its students. It worried that drug use by athletes might produce more sports-related injuries and instituted a random drug-testing program. One student, James Acton, and his parents refused to consent to the test on the grounds that it violated the Fourth Amendment's clause against unreasonable search and seizure. The school banned Acton from participating in the football program. At issue was whether the random testing of students violated their Fourth Amendment protection against unreasonable search and seizure. The U.S. Court of Appeals for the Ninth Circuit held that the school district's policy violated students' Fourth Amendment rights. The U.S. Supreme Court reversed the circuit ruling and in a 6–3 vote held that the drug-testing policy was constitutional because it helped maintain student safety and fulfilled the school's educational mission.

suspended Frederick for ten days, citing school policy against displaying any material that promotes illegal drug use. Frederick sued under the federal civil rights statute alleging his First Amendment right to freedom of speech had been violated. Two questions were brought up in this case: 1) Was the school in violation of the First Amendment when it prohibited students from displaying messages to promote illegal drug use at school-supervised events?, and 2) Is a school official immune from civil suit when he or she follows school policy in disciplining a student for promoting illegal drug use at a school-sponsored event? The Ninth Circuit Court of Appeals held in favor of Frederick, saying that his First Amendment right of free expression had been violated. In a 5–4 decision, the Supreme Court ruled that school officials can prohibit students from displaying messages that promote illegal drug use.

Free speech:

***Morse v. Frederick* 551 U.S. 393 (2007)**

Details of the case: At a school-sponsored event, student Joseph Frederick held up a banner with the message "BONG HiTS 4 JESUS," a slang reference to marijuana smoking. The school's principal Deborah Morse took away the banner and



Checks and Balances

Activator 7

Unit Description

In this unit, students will gain an understanding of the separation of powers along with the checks and balances between the three branches as prescribed by the Constitution. Students develop documents that exercise the power in one of those branches to respond to different circumstances that need to be addressed. They then review these documents and determine whether any of the other branches might choose to check these actions through their constitutional authority.

Before You Begin

Read through the lesson plan and familiarize yourself with the teaching sequence and materials. Consider your students' abilities and needs, available class time, and your curriculum requirements in selecting the activities.

Make Copies

You may need to reproduce the items in this list of masters, depending on the activities you have chosen. Keep in mind that the activities may dictate the number of copies you will need.

- **Historical Background Essay**—*one for each student*
- **Background Essay Graphic Organizer**—*one for each student*
- Day 2 Activity Instructions: **Separating the Powers of Government**
- Day 3 Activity Instructions: **Checking the Powers of Government**

Setup Directions

Checks and Balances

Word Bank

(words and terms appear in the **Background Essay**)

- common good
- separation of powers
- civic virtue
- representative democracy
- Preamble
- checks and balances

Introduce the Unit

Introduce this activity by reminding students that the first three articles of the Constitution explain the powers granted to each branch of government and the checks and balances between them. Tell students that although this arrangement can cause the government to act slowly, it also helps ensure that people's rights are protected. Emphasize that one of the most important—and often difficult—goals for governments to achieve is to be able to act efficiently and effectively while at the same time protecting people's rights.

Daily Directions

Prepare the Activity

Make copies of all the necessary handouts according to the list above. Take time to review the procedures for Days 2 and 3 to ensure you have ample time to conduct the activities.

Day 1: Provide Historical Context

Use the **Background Essay**, **Graphic Organizer**, and **Word Bank** to provide students with historical context for the activity. (This can be done as homework or as an in-class activity.) As necessary, discuss what students learned from the essay and graphic organizer. The graphic organizer can help you check for understanding and be used as part of students' assessment. Students should use their completed graphic organizers during the main activity.

Day 2: Activity Instructions

In this activity, students are divided into three groups, each representing one of the three branches of government. Each group reads a scenario describing a situation and the assigned branch's exercise of power that can address the situation. Students then develop a document explaining the facts of the situation, the action they're taking to address the situation, and the reasons why. (This document will be used in the Day 3 activity to demonstrate checks and balances.) Students see how each branch can exercise its power in different ways in order to effectively govern.

Divide students into three groups representing the three branches of government: legislative, executive, and judicial.

Distribute the student handout for Day 2's activity, **Separating the Powers of Government**. Next, review the directions with each of the groups, making sure students understand the scenario and what is required of them.

After students have completed their tasks, have them explain their scenarios and present their decisions to the class. Collect students' documents when they've finished and save them for the next day's activity.

Day 3: Activity Instructions

Have students sit in their groups from yesterday or create three new groups (six, if your class is large). Tell students that in this activity they will play a different branch of government from the one they played on Day 2.

Distribute the student handout for Day 3's activity, **Checking the Powers of Government**. Next, review the directions with each group, making sure



Small group



Teaching tip

If your class is large, you can split the three groups in half and have two sets of the three branches completing the activity.



Small group

*Whole Class*

students understand the activity's procedure and what is required of them.

Finally, distribute one copy of the three branches' decisions from the previous day to each group. Have students work through the activity and, when finished, present their decisions to the class.

Day 4: Debrief

Option A

Discuss the following questions with the class:

- What is meant by the term "common good"? Give an example of a law or rule that you think promotes the common good.
- What is meant by the term "civic virtue"? Give an example of someone practicing civic virtue.
- Do you feel people are more inclined to practice civic virtue or look out for their own self-interest? Explain your answer.
- In your own words, explain why the framers of the Constitution separated powers among the different branches of government.
- What are the effects of checks and balances on the U.S. government? Do you generally think the effects are positive or negative? Explain your answer.
- Divide students into six groups. Assign each group one of the goals of the Preamble. Next, explain to students that the Preamble identifies the goals of government. Ask each group the following question: How do the separation of powers and checks and balances between the branches help to fulfill the goals of the portion of the Preamble they've been assigned?

*Small group*

Option B

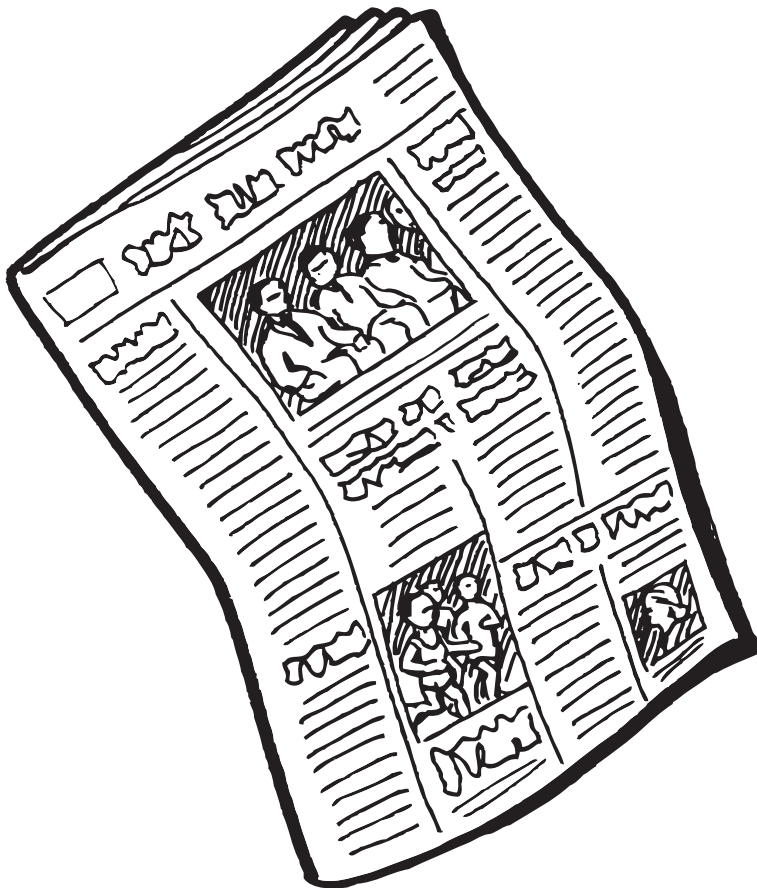
Review the questions from Option A to check for understanding, then have students from the small discussion groups consider the following questions. Have groups report their findings when they've finished.

- Describe how in each of the three scenarios, the government was reacting to a perceived problem or crisis.
- How were the three branches helping to fulfill the goals of the Preamble by exercising their powers?
- Which of the three branches' actions did you agree with? With which did you disagree? How would you have addressed the one(s) you disagree with using one of the checks available to the other branches? State your reasons.

- Why might the bill for tuition tax credits be checked by one of the other branches? What recourse does the legislative branch have if its bill is rejected?
- Why might the executive order tightening border security be checked by one of the other branches? What recourse does the executive branch have if the executive order is rejected?
- Why might the Supreme Court's decision on assisted suicide be checked by one of the other branches? What recourse does the judicial branch have if its decision is rejected?

Assessment

Have students look through newspapers and/or news magazines to find examples of the three branches of government engaged in exercising one or more of their constitutional powers. Next, have students research the controversy surrounding the use of this power and have them speculate on why one of the other branches might check the first branch's power. Have them write up a news report on the initial action and possible constitutional checks, then present it to the class.



Checks and Balances

Historical Background Essay

Every major civilization in history has had to address the task of keeping order and providing security while protecting the rights of individuals. The leaders of the Roman Republic sought to honor the rights of the different social classes by designating a representative for each class in the government. The belief was since all classes shared power, each would practice civic virtue and set aside their individual interests for the **common good** (i.e., what benefits all or most of the people in a society). The 18th-century French nobleman Charles de Montesquieu explained that the **separation of powers** into executive, legislative, and judicial branches would decentralize power amongst different groups and help ensure no one group could dominate the government.

The framers of the Constitution deeply admired the classical governments of Greece and Rome and took to heart the teachings of Enlightenment philosophers such as Montesquieu. However, they were also realists and understood that people usually acted in their own self-interest. Thus, **civic virtue** (acting in a way that promotes the common good) could not be exclusively relied on to protect liberty. James Madison summed it up by saying, "If men were angels, no government would be necessary." While recognizing the value of **representative democracy**, the framers also saw the need for a system that would prevent any one group from having too much power. By dividing governmental power among three branches, the framers helped ensure that government could function, but not from a central source that might abuse that power.

The Constitution opens with a **Preamble**, which outlines the reasons for establishing the government:

...to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general

welfare, and secure the blessings of liberty...

The Constitution then articulates each branch's power in Articles I, II, and III. Each branch has a specific duty to legislate, execute, or interpret the laws. However, no branch can perform all three duties, so they are dependent upon each other to govern.

In theory, it sounds like the framers had it all worked out. To preserve liberty, power must be divided. Each branch has to work with the others to fulfill the goals of the Preamble. However, the framers also understood that in attempting to fulfill the goals of the Preamble, government officials might feel compelled to take extreme measures that could exceed their constitutional authority. To further reduce the possibility of any branch of government amassing too much power, the framers also established a system of **checks and balances**, whereby one branch can check the power of another if it feels that branch has gone beyond its constitutional authority. By providing each branch with enough power to check the others, the framers hoped to reduce the negative effects of people acting in their own self-interest and to increase the possibility of people practicing civic virtue and working for the common good.

The separation of powers and the system of checks and balances are probably two of the most innovative elements of the constitution. Together they provide a structure that enables the government to operate effectively while helping ensure that no part of the government becomes too powerful and abuses citizens' rights. The chart below displays the separation of power between the three branches and the checks each branch has on the other two.

However, politics can often play a role in whether a branch imposes a check on another branch. When different political parties control

the Congress and the executive branch, it's likely to see checks imposed for ideological rather than rational reasons. Members of the House or Senate, or the executive branch, might find that a Supreme Court decision goes against their political philosophy and, in their view, is not good for the country. They will move to

check the judicial branch and possibly change its personnel or propose a constitutional amendment. Since the judicial branch is the least political branch, it is unlikely that any of the courts would resort to counter-checking the other two branches when their actions are challenged.

Branch and Major Powers	Checks on Other Branches
Executive branch —enforces laws; appoints ambassadors, judges, and other officials; negotiates treaties; conducts foreign policy; proposes laws; commands the armed forces; grants pardons	On legislative branch: <ul style="list-style-type: none"> • Veto legislation • Vice president presides over Senate with tie-breaking vote • Makes direct appeal to the public
	On judicial branch: <ul style="list-style-type: none"> • Appoint judges that match his or her political philosophy • Pardoning power
Legislative branch —writes laws, ratifies treaties, appropriates money, declares war, regulates interstate commerce, establishes post offices, coins money, supports the sciences and the arts	On executive branch: <ul style="list-style-type: none"> • Reject executive appointments • Reject treaties • Impeach the president for “high crimes and misdemeanors” • Override a veto
	On judicial branch: <ul style="list-style-type: none"> • Propose new legislation or a constitutional amendment to override a judicial decision • Reject a judicial nomination • Impeach federal judges for high crimes and misdemeanors • Limit appellate jurisdiction of the Supreme Court • Alter the size of the Supreme Court
Judicial branch —interprets the laws, reviews lower court decisions, hears all federal cases on appeal; chief justice presides over presidential impeachment trials	On executive branch: <ul style="list-style-type: none"> • Strike down an executive order as unconstitutional • Chief justice presides over presidential impeachment trials
	On legislative branch: <ul style="list-style-type: none"> • Strike down a legislative act as unconstitutional • Appointed for life; salary cannot be cut or reduced

Name: _____

Date: _____

Graphic Organizer: Checks and Balances

Use the information in the Historical Background Essay to complete the questions below.

1. Define the following:

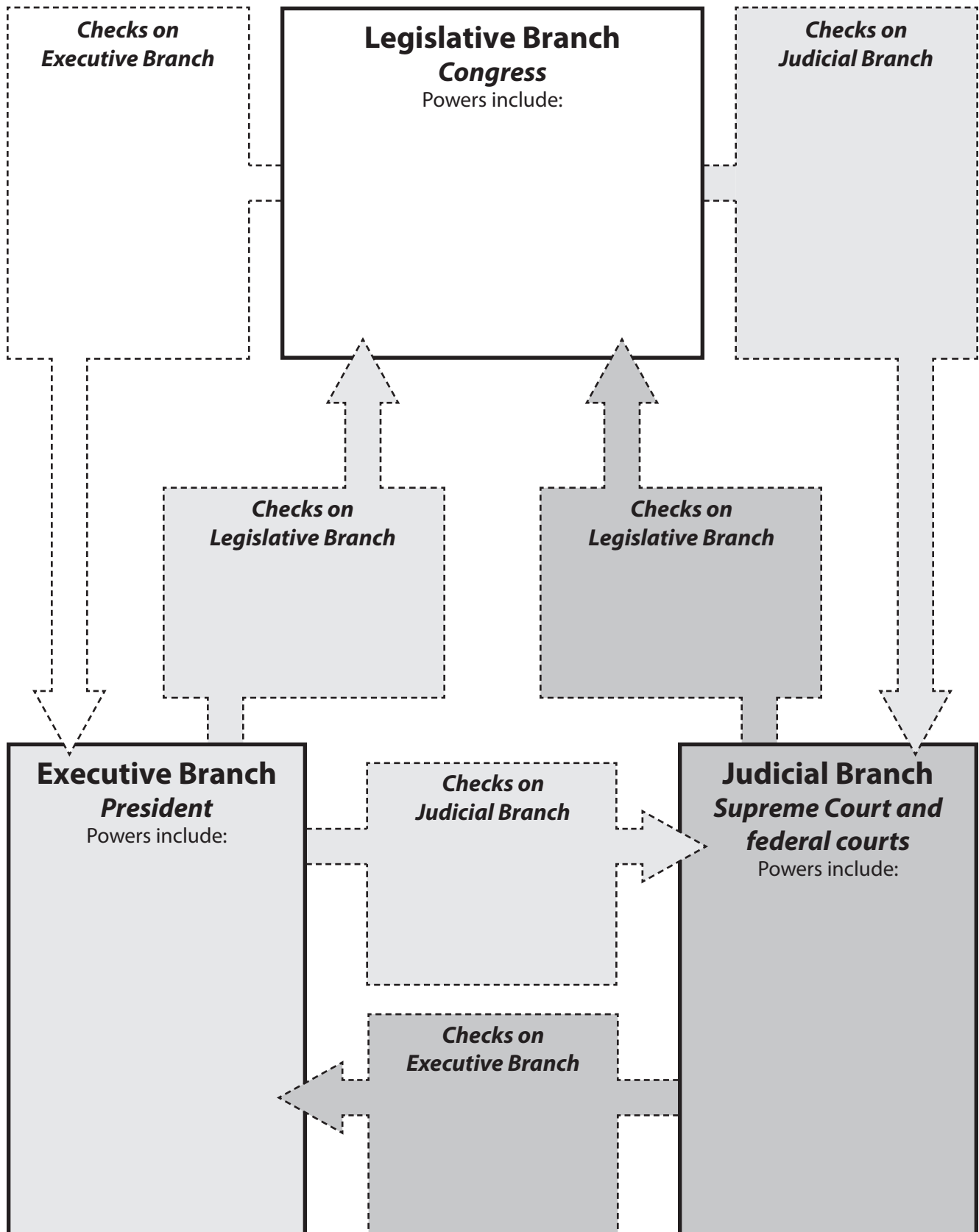
Civic virtue	
Self-interest	

2. Explain what the following statement means in the context of civic virtue and self-interest:
"If men were angels, no government would be necessary."

3. Explain how the separation of powers and establishing checks and balances help prevent an abuse of power.

Separating power among the branches of government	
Establishing checks and balances among the branches of government	

4. Fill in the appropriate boxes on the chart.



Separating the Powers of Government

Directions: In your assigned branch, review the scenario and prepare the document to present to the other two branches by answering the questions that follow.

Legislative Branch

Scenario: Congress is proposing a law that provides tuition tax credits for families that send their children to public or private colleges. The bill is intended to address the skyrocketing costs of higher education. The plan would allow parents to take a tax credit of \$4000 per year for tuition and other eligible expenses for their children's undergraduate education, and for the first two years of graduate school. People who do not earn enough income to owe taxes would be eligible to take a tax credit of up to \$1500. It is expected that this action will make higher education more accessible to thousands of Americans who otherwise could not afford to go to college.

To prepare for writing the bill, first discuss the following questions:

- What power does your branch have to take this action?
- Why do many Americans have trouble paying for a college education?
- Why is this a problem?
- How does this proposal help address this problem?
- What results do you expect will result from passing this proposal?

Next, write your bill using the following guide:

- Create a concise 5–15 word statement describing the purpose of the bill. This will be the bill's title.
- Write the body of the bill, including the details of how the tuition tax credit works.
- Write a rationale for the bill containing a short paragraph that explains why the legislation is necessary. (Use information from your discussion of the issue. Include any other research you might find.)

Be prepared to present this to the class.

Executive Branch

Scenario: Six months ago, a woman of Middle Eastern descent attempted to detonate a bomb on a flight from France to the U.S. After that, a battle between rival Mexican drug gangs spilled into a U.S. border city, wounding 30 Americans. It was later revealed that a Mexican gang came across the border looking for rival gang members who had slipped into the U.S. These incidents were followed by the capture of a North Korean ship smuggling automatic weapons into a major U.S. seaport to supply a Korean street gang. To address these issues and potential future threats, the president has issued an executive order calling for border crossings, ports, and airport entrances to be secured by the U.S. military. There will be more stringent screening of foreigners from countries known to be in conflict with the U.S. This involves "pat-downs" and, if necessary, strip-searches at international seaports and airports. All vehicles driven by foreigners or having a foreign license and registration coming across U.S. borders will be subject to a thorough search, and all occupants will be detained for individual searches and questioning. Anyone caught with drugs or illegal weapons will be charged with terrorism and tried by a U.S. military court.

To prepare this executive order, provide information on the following:

- Description of the events surrounding the scenario
- Identification of the role of the president
- Identification of the constitutional power of the president
- Description of actions the president is proposing in this situation
- Description of actions the president should take in this situation

Be prepared to present this to the class.

Judicial Branch

Scenario: The Supreme Court has recently ruled on whether a state law can allow assisted suicide for terminally ill patients. This case involved a woman who had been diagnosed by doctors as having a terminal condition with no chance of recovery. With the assistance of some friends and family, she ended her life with a lethal dose of barbiturates. Here are the arguments the Court heard:

Those in favor of assisted suicide

- The right to die is a fundamental freedom of all individuals.
- Health care costs can be reduced, which will help people save money and will also lower insurance premiums.
- Reasonable laws can be constructed which prevent abuse and protect the value of human life.
- Vital organs can be saved, allowing doctors to save the lives of others.

Those opposed to assisted suicide

- It demeans the values of human life.
- Insurance companies may put undue pressure on doctors or families to avoid heroic measures to save or prolong a life.
- Assisted suicide gives physicians too much power over the life of individuals.
- It would open up opportunities for non-terminal patient suicides and other abuses.

As it had in previous cases, the Supreme Court ruled on the side of the opponents to assisted suicide, stating that an individual under these circumstances does not have the right to take their own life. The Court has moved steadily in this direction over the past several years as more conservative justices have been appointed to the bench. The past three Court decisions involving various state laws have been decided by close (5–4) decisions disallowing any form of assisted suicide. The issue is still hotly contested throughout the nation with some states enacting new laws to circumvent the narrowly defined Court decisions, while other states have enacted laws to prohibit such actions all together.

To prepare the Court's decision on this issue, provide information on the following:

- A summary of the facts
- Which arguments the Court felt were the most persuasive
- What the legal precedents were in this case and how important they were in helping the court decide this case
- The impact of the Court's decision, including an analysis of how it could affect the situation
- Which side you would decide for and why

Be prepared to present this to the class.

Checking the Powers of Government

Directions: When you receive the document from one of the other branches, review it and determine whether you will check the power of the branch presenting or allow the action to go through.

The Legislative Branch Proposes Tuition Tax Credits

When you receive the tuition tax-credit bill, determine what checks could be imposed from either the executive or judicial branch. Acting as either the legislative or judicial branch, review the pros and cons of the bill described below and determine whether you would approve or reject the bill. Next, describe the course of action you would take to check or not check the legislative branch's bill and the reasons why.

PROS: The tuition tax credit would increase the number of people going to college. It relieves some of the pressures for middle-class families trying to educate their children. It is a long-term investment in providing better education for the next generation of workers.

CONS: The tuition tax credit would reduce the federal government's tax revenue by \$10 billion a year, placing this burden on the backs of taxpayers to make up the difference. It could inflate tuition as institutions see more dollars available and enhance their programs, thus increasing costs. Allowing private colleges (including religious colleges) to participate in the credit represents a case of government supporting religious institutions and could violate the establishment clause of the First Amendment.

- Summarize the facts.
- State which arguments you feel are the most persuasive and why.
- State your decision on whether to approve or reject this legislation.
- Describe what you consider the impact of your decision.

The Executive Branch Orders Tighter Border Security

When you receive the executive order on tighter border security, determine what checks could be imposed by either the legislative or the judicial branch. Acting as either the legislative or judicial branch, review the pros and cons of the executive order and determine whether you will accept or reject it. Next, describe the course of action you would take to check or not check the executive branch and the reasons why.

PROS: The executive order would make the United States more secure. Since the order targets different foreign groups whose countries are in conflict with the U.S., the order is not profiling one race or ethnic group. The order covers all entry points for foreigners.

CONS: The proposed security program would cost billions and would bring sea, airport, and border traffic to a standstill. It is still considered profiling, even though it targets more than one race or ethnic group. Many American citizens of foreign descent could have to undergo more thorough screening and searches.

- Summarize the facts.
- State which arguments you feel were the most persuasive and why.
- Depending on which branch you chose to review this executive order
 - check the Constitution (Articles I and II and the Bill of Rights) on the constitutionality of the executive order
 - determine whether you believe the financial cost justifies the action taken
- State your decision as to whether this executive order should stand or be rejected.
- Describe what you consider to be the impact of your decision.

The Judicial Branch Rules on Assisted Suicide for Terminally Ill Patients

When you receive the Court's decision on assisted suicide for the terminally ill, determine what checks could be imposed by either the legislative or executive branch. The issue of greatest concern is judicial activism vs. judicial restraint. Review the pros and cons on which the legislative and executive branch are divided on the recent Supreme Court decisions. Next, acting as either the executive or legislative branch, describe the course of action you would take to check or not check the judicial branch and the reasons why.

PROS: On this issue, many Americans feel the Supreme Court must continue to practice judicial restraint and not make policy that would depart from traditional beliefs that suicide of any kind is wrong.

CONS: A growing number of Americans feel that regarding this issue, the Supreme Court should practice some level of judicial activism, as it did in civil rights cases where it ruled against "conventional wisdom" and at times even state law.

- Summarize the facts of the Court's position on assisted suicide.
- State which judicial position (pro or con) you find most persuasive and why.
- State your decision as to whether to support or reject the Court's current judicial policy of judicial restraint on assisted suicide.
- Speaking for either the executive or legislative branch, explain what actions could be taken within their constitutional powers to either support or reject the Court's current judicial policy.
- Describe what you consider the impact of your decision.



Federalism

Activator 8

Unit Description

In this unit, students will gain an understanding of federalism as outlined in the Constitution. They explore how power is divided under federalism between federal, state, and local governments. They then role-play state or local government officials facing challenges that involve both federal and state jurisdictions and develop a plan to address those challenges.

Before You Begin

Read through the lesson plan and familiarize yourself with the teaching sequence and materials. Consider your students' abilities and needs, available class time, and your curriculum requirements in selecting the activities.

Make Copies

You may need to reproduce the items in this list of masters, depending on the activities you have chosen. Keep in mind that the activities may dictate the number of copies you will need.

- **Historical Background Essay**—*one for each student*
- **Background Essay Graphic Organizer**—*one for each student*
- Activity Instructions Day 2a: **Diagramming Federalism**—*one for each student*
- Activity Instructions Days 2b and 3: **Federalism Scenarios**—*one for each student*

Word Bank

(words and terms appear in the **Background Essay**)

- confederation
- unitary government
- federalism
- dual sovereignty
- expressed powers
- concurrent powers
- reserved powers
- municipalities
- dual federalism
- cooperative federalism
- regulated federalism
- New Federalism

Introduce the Unit

Introduce this activity by telling students that federalism is a fundamental structure of the U.S. government defined in the Constitution. In federalism, the people set up two sovereign governments—federal and state—whose powers and authority are separate, but sometimes are shared. This dual system of government was established because the framers of the Constitution understood that a country as large as the United States would need attention on a national as well as a local level.

Daily Directions

Prepare the Activity

Make copies of all the necessary handouts. Take time to review the procedures for Days 2 and 3 to ensure you have ample time to conduct the activities.

Day 1: Provide Historical Context

Opening activity:

To give students a sense of the concept of shared responsibility, conduct this quick opening activity before you begin the unit. Have students create a Venn diagram of two intersecting circles on a sheet of paper or provide them with a similar Venn diagram handout. On the front board, write the following three statements:

- Decisions my parents make for me
- Decisions my parents and I make together
- Decisions I make myself

Next, in the left circle, have students list the decisions their parents make. The decisions they make themselves should go in the right circle, and decisions they and their parents make together should go in the middle overlapping space.

Review several students' answers with the whole class. After that, discuss the following:

- Did all the lists have the same ideas as to who might make certain decisions? Why do you think this is so?
- Have you and you parents ever had a conflict over who gets to make certain decisions? Give examples.
- Why is it important that some decisions get made by your parents and others get made by you?

Next, tell students that they are going to be studying the concept of federalism, the dual sovereignty system that forms the U.S. government. Like the relationship they might have with their parents, the federal government has some responsibilities, the states have some, and together they share additional responsibilities. It's also true that sometimes state governments and the federal government disagree on who should have responsibility for certain tasks or areas of governance.

Use the **Historical Background Essay**, **Graphic Organizer**, and **Word Bank** to provide students with historical context for the activity. Students can



Individual



Whole class

examine these as homework or as an in-class activity. As necessary, discuss what students learned from the essay and the graphic organizer. The graphic organizer can help you check for understanding and be used as part of the students' assessment. It also provides important information for the lesson's main activity.

Day 2: Activity Instructions

In this activity, students will learn of the nature of federalism and how powers are shared between federal, state, and local governments. Students then assume the role of government officials having to address challenges that involve federal and state jurisdiction, and develop a plan to address these challenges.



Small group

Procedure:

1. Divide students into small groups of two or three.
2. Distribute copies of the **Diagramming Federalism** handout. Explain to students that the large circles represent federal, state, and local governments, and that where the circles intersect are the areas of shared powers and responsibilities. For example, the federal government provides funds for education, such as grants and funds for special projects. The states disburse these funds to local school districts, which work cooperatively with the states (and follow any federal guidelines) to administer the project.

Name: _____ Date: _____

Diagramming Federalism

Arrange the items from the list below into the correct circles of influence as shown on the Venn diagram below to help you complete the diagram, refer to Article I, Section 8 of the U.S. Constitution (which describes federal responsibilities), and think about governmental systems you are familiar with in your state or local area in order to help you fill in the other two circles.

- Create an army and navy
- Conduct elections
- Levy and collect taxes
- Establish and operate courts
- Declare and wage war
- Establish and regulate public schools
- Establish a postal system
- Create and enforce building codes
- Regulate interstate trade
- Pass and enforce criminal laws
- Build, maintain, and operate water and sewer services
- Negotiate treaties with foreign governments
- Print and coin currency
- Provide and maintain street lighting
- Establish and enforce immigration laws
- Pass and enforce traffic laws
- Issue hunting and fishing licenses

- Provide ambulance/paramedic services
- Establish national parks and historic sites
- Regulate interstate trade
- Pass laws for establishing new cities and towns

3. Review the instructions with students and provide time for them to complete the exercise. Point out to students that the spheres of power and responsibility are not static—they can expand and contract at times.

Referring back to the **Historical Background Essay**, mention that during the Great Depression the size of the federal government's responsibilities grew as state and local governments found themselves unable to provide for their citizens.



Whole Class

4. After students have finished their charts, review the following questions:
 - Quickly run through the list of different powers/responsibilities at the top of the chart and have students identify the agency or department (federal, state, or local) that is entrusted with these powers.
 - Which powers/responsibilities were expressly given to the federal government? Why do you think these are exclusive to the federal government?

- Which powers did all types of government share? Why do you think this is?
- Which powers/responsibilities did state and local governments share? Why do you think this is?
- Which powers/responsibilities were more suited to local governments rather than state or federal governments? Why do you think this is?
- Describe a scenario in which all three forms of government need to work together and coordinate their areas of responsibility in order to address a need or concern.
- What problems might result if all three groups are not sure of their responsibilities or fail to take responsibility?

With any time remaining in the class, distribute copies of the **Federalism Scenarios** handout and review the directions with the class.

Divide the class into six groups. Assign or have students choose which of the scenarios they will address.



Small group

Day 3: Activity Instructions

Provide time for students to finish their plans to address the scenarios, and then have each group present their plan. Have students review the steps in formulating the plan to check to see that each presentation has covered all the bases. Students can have a brief Q&A session after each presentation to check for understanding.

Day 4: Debrief

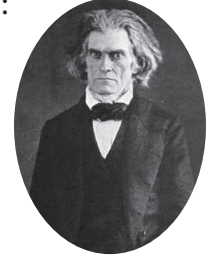
Discuss the following questions with the class:

Option A

- What federal, state, and local agencies were involved in your plan?
- Which level of government took the bulk of the responsibility? Why was this necessary?
- What other groups (if any) did you also called upon to help facilitate your plan?
- What do you see as the major strength in your plan?
- What do you see as the major weakness?
- What would you do differently if given the chance to address the problem again?

Option B

- Conduct the debrief activity from Option A.
- Contact people in appropriate local agencies in your county or city government and ask if they might have the time to review your plans to provide students with additional information on the complexities in federalism that might arise with such an event.
- Look into doctrine of interposition used during the 19th century and the following events in which federalism was challenged: the Kentucky and Virginia Resolutions, and John C. Calhoun's claim that South Carolina could nullify the tariffs of 1828 and 1832. Explain how this doctrine was later used by 11 states to secede from the Union in 1860–61. How might the doctrine be used today by individual states on such issues as gay marriage, physician-assisted suicide, or medical marijuana?

**Assessment**

Evaluate the Graphic Organizer, the **Diagramming Federalism** chart, and the **Federalism Scenario** role play, as well as cooperative learning skills.

Federalism

Historical Background Essay

American democracy has been referred to as an experiment, and the Constitution as a “living document.” This means that the United States government was built to change with the times. Since 1789, the right to vote has been expanded to include blacks, women, and citizens over the age of 18. In 1865, the 14th Amendment extended the protections of the original Bill of Rights to the states, but the protections were not fully implemented until the 20th century. Today, America continues to experiment and fine-tune its political engine to adjust to the ever-changing times and conditions.

When the United States first declared its independence, the people already had considerable political experience with colonial government. Three thousand miles of ocean separating the British Crown from America gave the colonists plenty of opportunities. By 1776, the colonists had been effectively governing themselves for over 150 years. When Americans set up a new government, they placed the bulk of governing authority in the institutions they knew best: the state governments. The framers of these documents (the Articles of Confederation) believed that a **confederation**, a loose organization of states united for a common purpose, would be the best government for the new republic. After the Revolutionary War, protecting individual rights was first and foremost on their minds, and it seemed that centering power with the states was the best way to accomplish this.

However, as the United States left the protection of the British Empire and ventured into the world on its own, it faced many problems, and found itself hampered by a government that didn't have the authority to do what was necessary to address these problems. By placing the power in the hands of the states under a confederation, the states

acted independently from—and at times at odds with—one another. They quarreled over borders, printed their own paper money, and failed to honor financial obligations and treaties. The country nearly fell apart. When the federal convention met in Philadelphia in 1787 to “make adjustments” to the Articles, they faced a dilemma: how to “form a more perfect union” while at the same time managing to “secure the blessings of liberty.” Of the two major forms of government available to them—a unitary government and a confederation—past experience told them neither would work. The **unitary** government of the British Crown and Parliament had proved to be tyrannical, and the **confederation** of the Articles had proved to be too weak. The framers of the Constitution thus devised a federal system with exclusive powers granted to either the national government or the state governments, and powers that both governments shared.

Federalism means **dual sovereignty**: the people are governed by two governments—state and national. Power is defined by three categories: expressed powers, concurrent powers, and reserved powers. **Expressed** powers are those specifically granted to the national government in the Constitution, Article I, Section 8: taxation, coining money, making treaties, setting up a postal system, regulating interstate trade, and declaring war. **Concurrent** powers are those that both national and state governments need so as to fulfill their responsibilities: levying taxes, providing for public safety, establishing courts, borrowing money, and constructing and maintaining roads. **Reserved** powers are powers not expressly given to the national government, but instead are reserved to the states under the Tenth Amendment.

Like any system, federalism has its pluses and minuses. On the plus side, federalism

promotes unity without imposing uniformity. Since states are allowed to have their own governments, they function as laboratories of democracy, working on ideas in order to better serve their citizens. Their reserved powers allow them to act as another check on the federal government, and because the states are closer to their residents and can respond more quickly to their needs, federalism promotes political participation. On the minus side, federalism lacks consistency because laws differ from one state to the next. In addition, federalism often lacks clarity in identifying who is responsible for what. Finally, federalism creates a very complex system in which conflicts and competition can occur between the levels of government.

However, federalism is more than just a relationship between the state and federal governments. There are also thousands of counties, **municipalities** (areas that are not cities, but are self-governing like cities), townships, and local service districts (e.g., schools, water, sewer, and fire districts) that are also democratically elected and possess their own level of sovereignty. This complex structure of government—with its different, sometimes intersecting levels of authority and jurisdictions—sometimes works in harmony with a clear delineation of authority, and other times conflicts with the different levels of government, accepting or rejecting any authority or responsibility. This offers another indication that American democracy remains an experiment.

From 1789 to 1933, national and state governments maintained a strict division of powers under federalism, a system sometimes referred to as a “layer cake,” in which the two systems formed part of a whole but possessed clear divisions of authority. The Supreme Court articulated this **dual federalism** in cases such as *McCulloch v. Maryland* (1819), *Gibbons v. Ogden* (1824), and *Barron v. Baltimore* (1833).

During the Great Depression in the 1930s, federalism took on a new form of cooperation as national, state, and local governments worked to address the nation’s severe economic problems. **Cooperative federalism** took on the form of a “marble cake,” with national and state government sharing responsibilities. In the 1960s, President Lyndon Johnson set out to end poverty, eliminate racial injustice, and improve the environment. He established a **regulated federalism** in which the federal government created programs to help states and provided funds that carried strict regulations on how states could spend the money. States welcomed the money, but not the regulations. They were even more unhappy about unfunded mandates: regulations imposed on state and local governments without adequate funding. These came about because some pressure groups demanded more services, while others pushed for lower federal taxes. As a result, federal programs designed programs to solve nationwide problems but states had to find the money to pay for them.

Possibly in response to people who value state and local control, federalism has in recent years gone through yet another transition. The so-called **New Federalism** began in the 1970s and 1980s under presidents Nixon and Reagan. The federal government mandated that the states find their own solutions to their problems, since they had a better understanding of them. The federal government continued to issue grants to help with state programs, but these “block grants” left the states free to decide how the money should be spent.

Federalism represents a core principle of American democracy, and like American democracy, it continually undergoes experimentation in order to find the right balance of effective government and protection of rights.

Name: _____

Date: _____

Graphic Organizer: Federalism

1. Why do you think the framers of the Articles felt a confederation would be the best form of government for the new United States?
2. Explain why neither of the following governments was right for the United States after independence:

A confederation	
A unitary government	

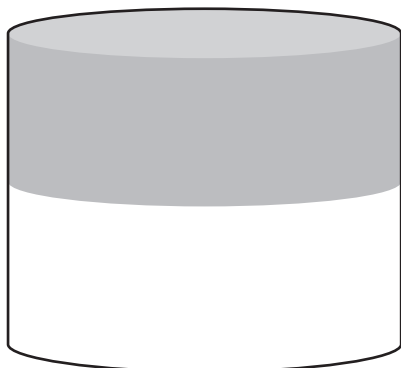
3. Define the following categories of powers given under federalism:

Expressed powers	Concurrent powers	Reserved powers

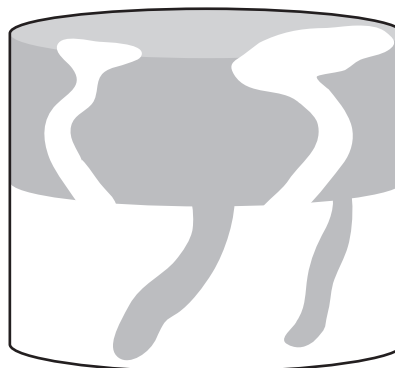
4. List the pluses and minuses of federalism:

Pluses	Minuses

5. Label the areas of government power on the “layer cake” and “marble cake” models below.

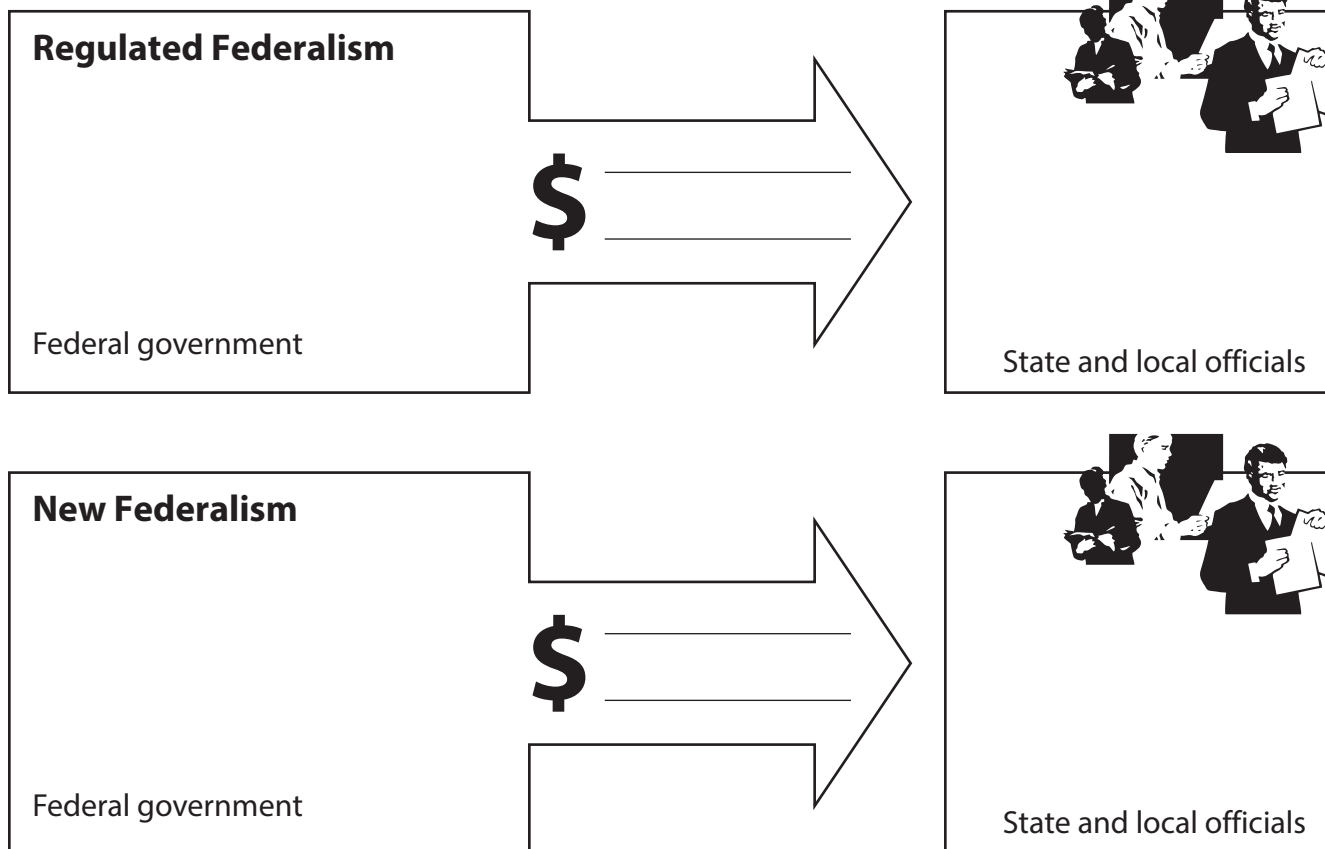


Dual Federalism



Cooperative Federalism

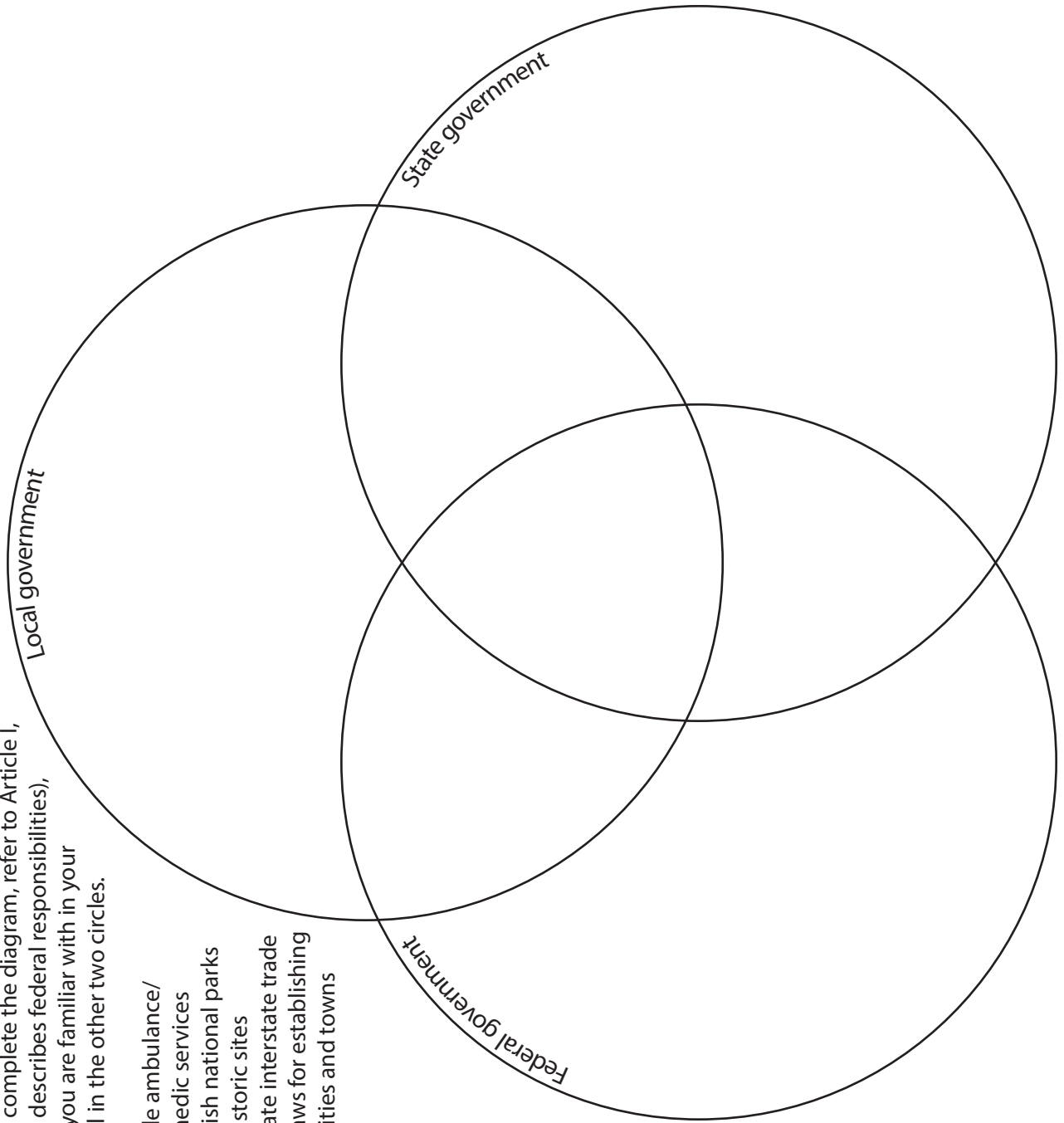
6. On the charts below, fill in the blank lines and explain how **regulated federalism** under President Lyndon Johnson and **New Federalism** under Presidents Nixon and Reagan operated.



Name: _____ Date: _____

Diagramming Federalism

Arrange the items from the list below into the correct circles of influence as shown on the Venn diagram below. To help you complete the diagram, refer to Article I, Section 8 of the U.S. Constitution (which describes federal responsibilities), and think about governmental systems you are familiar with in your state or local area in order to help you fill in the other two circles.



- Create an army and navy
- Conduct elections
- Levy and collect taxes
- Establish and operate courts
- Declare and wage war
- Establish and regulate public schools
- Establish a postal system
- Create and enforce building codes
- Regulate interstate trade
- Pass and enforce criminal laws
- Build, maintain, and operate water and sewer services
- Negotiate treaties with foreign governments
- Print and coin currency
- Provide and maintain street lighting
- Establish and enforce immigration laws
- Pass and enforce traffic laws
- Issue hunting and fishing licenses
- Provide ambulance/paramedic services
- Establish national parks and historic sites
- Regulate interstate trade
- Pass laws for establishing new cities and towns

Federalism Scenarios

Directions: In your group, review one of the assigned scenarios below. Be sure you understand all the details of the situation. If time allows, do a little research on the Internet or in the library for additional information on your subject. Work with members of your group to form a plan to address the problem; your plan should provide for coordination between local, state, and federal agencies. Follow the guide below.

Steps to formulate your plan:

- Identify in detail the initial problems you face.
- Identify some of the other issues or problems that might arise as you undertake this challenge.
- What federal departments or agencies can you call upon to assist you?
- What state and local agencies do you need to notify and coordinate to address the initial problem? What other departments, agencies, or organizations might your decision affect that should also be notified and possibly be included as part of your plan?
- Check with your state, county, and city governments' Web sites to identify the agencies that might become involved in your plan.
- Describe the public-relations campaign you will develop for the media, and what the public might say about your plan. (You don't have to create the PR campaign, but describe what you would say and how you would get the word out.)
- Draw up a diagram of a chain of command for your plan: who reports to whom, and who is ultimately responsible for each task.
- Be prepared to present your work on poster paper or a matte board to the class.

Disposing of Nuclear Waste

As the United States continues to look for energy alternatives, the prospect of increasing its output of electricity through nuclear power has begun to look more promising. In a lagging economy, the idea of relying less on foreign energy sources and producing energy at home is also very appealing. However, the nagging problem with nuclear power is how to dispose of the waste plants create. A typical nuclear reactor will produce 20 to 30 tons of high-level nuclear waste annually. The decaying rate of this waste is at least 10,000 years before it becomes safe. For the past 20 years, the U.S. government has considered Nevada's Yucca Mountain (along with several other places) as a waste disposal site. With reactors all located over the country, the nuclear waste would have to be transported from its reactor location to Yucca Mountain or to other storage facilities in other states. This has raised the concern of several state governors, who worry about the transportation of nuclear

waste through their states. Accidents and possible terrorist attacks represent just some of their concerns. The president had directed the Department of Energy to begin making plans for transporting nuclear waste to the Yucca Mountain facility and to begin looking at other states for additional storage sites. As governor of one of these states, you have agreed to comply with the president's plan. You need to develop a plan with the Department of Energy and your state and local agencies that will facilitate the transport of nuclear waste through your state.

Education Reform: Eliminating or Reducing the Summer Break

The U.S. Department of Education has been seriously considering mandating an extension of the school year and eliminating or drastically reducing the summer break. The idea is that the more students stay in school, the more they learn. The original summer break was based

on the farmer's calendar, when the United States was more agrarian. Parents on farms needed children to help out with harvesting the crops. Many believe this calendar has become outdated, since the majority of the U.S. school population now lives in urban areas and farming today relies mostly on mechanization rather than human labor. Furthermore, the United States is in last place compared to nearly all developed nations in the number of school days it offers; it lags behind many developing countries too. The long summer also means that many students don't retain the knowledge they acquired during the previous school year. Many experts believe the poor showing American students have on math and science tests in comparison to foreign countries directly correlates to the low number of days American kids spend in school. The secretary of the Department of Education has chosen your state as a test case for extending the school year. As superintendent of public instruction for your state, you have agreed to accept this invitation. You need to work with local school districts and schools to develop and implement a plan.

Dealing With an Environmental Dead Zone

This problem has an unfamiliar name: hypoxia, a lack of oxygen in a water system. In the Gulf of Mexico, it's killing the fish and seafood industry. Fishermen call it a "dead zone" in which their fishnets come up empty and their lines never have a strike. The zone fluctuates in size and moves around with the seasons but always returns. Studies indicate that the chief source of the dead zone begins far up the Mississippi River in America's breadbasket—the cornfields and hog farms of the Midwest. The culprit is runoff from nitrogen-based fertilizers and hog excrement. As the nitrogen moves down river into the gulf, it boosts plant life. The algae overpopulate, stealing the oxygen and choking off the marine ecosystem. Fish and shrimp

can flee the area, but slow-moving shellfish like crabs, snails, and mussels have trouble escaping. The U.S. Department of Agriculture has proposed a 20% reduction in the use of nitrogen-based fertilizer. However, Midwest family farmers complain that global competition in food production and big corporate agricultural businesses have already dug deep into their profits. They claim that a reduction in fertilizer will kill their industry, and with it their communities that are already suffering from a recent economic recession. Several groups have challenged the Department of Agriculture's findings, asserting that the report is narrowly focused science from biased experts who have jumped to conclusions. The opposition further states that dredging and building dikes on the Mississippi and the loss of wetlands is as much to blame for the dead zones. As governor of an agricultural and fishing state (in the last election, both industries provided you with strong support), you are in the precarious position of having to please both sides. Your only alternative is to organize a task force of federal, state, and local agencies to study the problem and come up with recommendations. The recommendations will come later: right now you need to put together that task force. What agencies, both state and federal, will you call together to be on the task force? Explain how each, with their area of authority and responsibility, will help you address the problem of dead zones.

Addressing the Problem of Homelessness

The national rise in homelessness over the past 20 to 25 years has hit your city in a big way. Homeless people lack fixed, regular, and adequate nighttime residences. In addition, families represent the fastest growing segment of homeless people. Statistics show that 39% of the homeless population is under the age of 18, and 42% of these children are under the age of

five. Two trends responsible for this condition are the growing shortage of affordable housing and a simultaneous increase in poverty. Though growing unemployment is a contributing factor, underemployment contributes more to homelessness. Some reports show that 25% of your city's homeless population is employed. However, workers need more than the minimum wage in order to afford a one- or two-bedroom apartment. City merchants and the local chamber of commerce have complained that the growing number of homeless individuals is hurting business and tourism. You know that several large urban areas in your state and adjacent states have the same problem. The federal government has indicated its willingness to help with funding and grants. You want to not only address the current problem, but also work out a plan that can help reduce the problem so that you don't have to revisit it again later on.

A Foreign Company Wants to Open a Manufacturing Plant in Your Area

As Secretary of Labor for your state, you attended several meetings on a recent economic trip to the Far East with executives of a major Asian manufacturing company. They expressed a strong interest in building a major manufacturing plant in your region, and are looking at your state as a possible location. They propose to construct one plant this decade somewhere in the United States that could employ 10,000 workers within two years. They will offer competitive wages to the local employees as well as healthcare and chances for advancement. However, in order to seal the deal, they would like to build on federal land and receive an temporary exemption from local business taxes. They also request an exemption from federal environmental protection laws while they build and operate the plant for the first five years. You find the offer enticing, since your state suffers from 25% unemployment

and lost two major companies last year, one to bankruptcy and another to offshore relocation. You and the governor don't want to lose this opportunity, but you know that it will take some careful coordination between you and the federal government. In addition, you will need to coordinate with the local city government near the proposed building site where most of the employment will come from in order to work out a deal on the tax exemption.

Planning for a Terrorist Attack

The unthinkable could happen: An individual or group plots to and succeeds in destroying a major structure in your city. Hundreds are presumed injured or dead. You don't know whether this represents an isolated incident or the first of many attacks. Recent laws enacted to combat global terrorism require government involvement at all levels—federal, state, and local. Your city has been invited to participate in the development of a disaster relief plan involving agencies at all levels. Here is the scenario: an unknown terrorist organization uses a truck bomb to blow up a federal building in the heart of downtown. The explosive could be a small nuclear device or a "dirty bomb" that scatters radioactive material in the area where it explodes. A group claims responsibility and promises more attacks in and around the state, but fails to identify itself or its motive. Is it homegrown terrorists or a foreign group? What agencies and organizations need to be called upon to address the emergency, stabilize the situation, and conduct an investigation? You need to consider all possibilities, including the chance of future attacks in and around your state and the law enforcement and emergency services that will need to be deployed to care for the wounded and remain on alert for other potential attacks. In addition, you need to coordinate with adjacent states as well as the federal government.

Bill of Rights—Personal Rights

Activator 9

Unit Description

In this activity, students examine the freedoms and limits of the First, Second, and Fourth Amendments. They explore how these freedoms and limits are determined through the decisions of the court system, ultimately ending in the Supreme Court. They then participate in a simulation involving Fourth Amendment freedoms. Finally, they write a reaction paper on the outcome of the simulation.

Before You Begin

Read through the lesson plan and familiarize yourself with the teaching sequence and materials. Consider your students' abilities and needs, available class time, and your curriculum requirements in selecting the activities.

Make Copies

You may need to reproduce the items in this list of masters, depending on the activities you have chosen. Keep in mind that the activities may dictate the number of copies you will need.

- **Historical Background Essay**—*one for each student*
- **Background Essay Graphic Organizer**—*one for each student*
- Large signs for six stations described in the Day 2 Activity
- One station card for each station
- **Bill of Rights Case Study Worksheet**—*one for each student*
- **Classroom Theft! Fourth Amendment Simulation**—*six copies, one for each group¹*

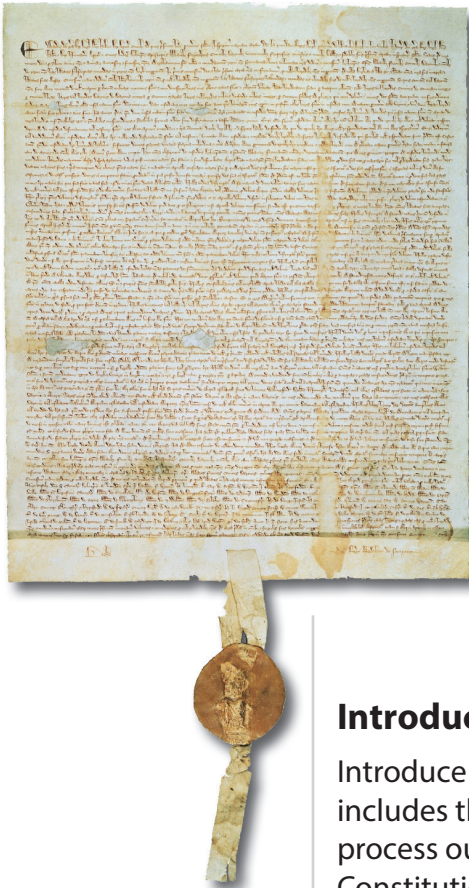
¹ Adapted from the lesson "Search and Seizure" by Lynn MacAusland, Skyline High School, Idaho Falls, ID (<http://www.col-ed.org/cur/sst/sst26.txt>)

Setup Directions

Bill of Rights—Personal Rights

Word Bank

(words and terms appear in the **Background Essay**)



- inalienable
- constitutional democracy
- civic virtue
- Magna Carta
- English Bill of Rights
- Mayflower Compact
- House of Burgesses
- Massachusetts Body of Liberties
- 1787 Federal Convention
- inclusion
- ratification

Introduce the Unit

Introduce this activity by reminding students that the Constitution also includes the Bill of Rights, which was added as part of the amendment process outlined in Article V. Explain that during the writing of the Constitution, some suggested adding a bill of rights, but the majority of the delegates to the 1787 Federal Convention thought it unnecessary. The Bill of Rights was later added as a condition for ratification when the first Congress met in 1789. Next, tell students that as part of every citizen's responsibility to participate in a democracy, they should petition the government anytime they feel their rights have been threatened. The Supreme Court is the final arbiter for determining whether a person's rights have been violated, and in the Court's history it has heard many cases in which citizens have fought to protect their rights.

Daily Directions

Prepare the Activity

Make copies of all the necessary handouts. Take time to review the procedures for Days 2 and 3 to ensure you have ample time to conduct the activities.

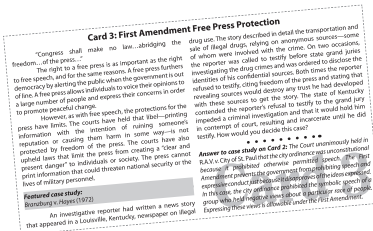
Day 1: Provide Historical Context

Use the **Background Essay**, **Graphic Organizer**, and **Word Bank** to provide students with historical context for the activity. (This can be done as homework or as an in-class activity.) As necessary, discuss what students learned from the essay and graphic organizer. The graphic organizer can help teachers check for understanding and be used as part of students' assessment. Students should use their completed graphic organizer during the main activity.

Day 2: Activity Instructions

This activity will help build students' understanding of the protections afforded in the First, Second, and Fourth Amendments, and the limits upon these protections. Before you begin this activity, set up the following six stations around the classroom:

- First Amendment: Freedom of Religion
- First Amendment: Freedom of Speech
- First Amendment: Freedom of the Press
- First Amendment: Freedom to Assemble and Petition
- Second Amendment: Freedom to Bear Arms
- Fourth Amendment: Freedom From Unreasonable Search and Seizure

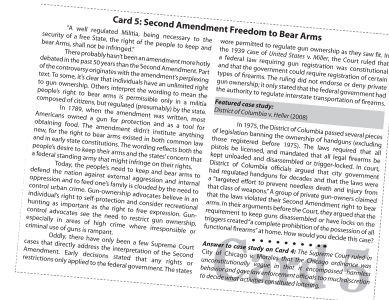


Place the appropriate sign and one **Station Card** at each station.

Open the activity by asking students to describe some of the rights they have in the Bill of Rights. (Answers will vary.) Ask students if they think

these rights are unrestricted or if they have limits. (*There are limits to all of these rights.*) Finally, ask students what they can do if they feel any of their rights have been violated. (*Go to court.*)

Next, divide the class into six groups and have each group go to one of the stations with their case study worksheets. Students have five minutes to review the station cards and, as a group, discuss the questions on their

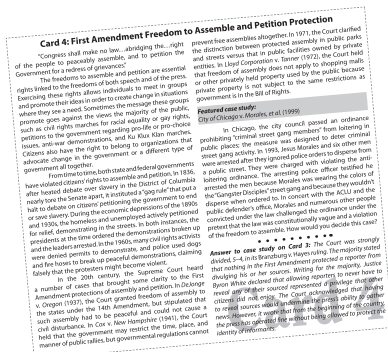


Whole class



Small group

- What rights does the Bill of Rights protect?
- How have the courts helped define the extent of those rights?
- How does knowing the historical background of these rights help us understand their importance today?
- What surprised you regarding your rights as you moved through each station?
- For which case(s) did you agree with the Supreme Court's ruling? Why? For which one(s) did you disagree? Why?



Set up the simulation by telling students they are going to explore some of the issues surrounding the Fourth Amendment in a simulation of an incident at school. Before beginning the activity, print out six copies of the **Classroom Theft! Fourth Amendment Simulation** handout.

Tell the class they have just come back from a study period at the school library. A student has reported to you that their wallet is missing. The student is sure they had the wallet early in the class when they got out their student ID card, but now it's gone. The student and the librarian looked for the wallet everywhere. There was a credit card and money in the wallet. Your class was the only group in the library during the period. Therefore, someone from the class must have taken the wallet.



Small group

1. Divide the class into six groups, with each group assuming the identity of one of the people on the student handout. Pass out the **Classroom Theft!** handout to each group and tell them to read silently. ***Tell each group not to reveal its identity.***
2. Tell students to work in their group to answer the first set of questions on their handout.
3. After each group has gone over the questions, have them meet as a full class and, without revealing their identity, report their responses to the first set of questions.
4. Next, have a full-class discussion on the following questions, with students answering according to their roles:



Whole Class

- Does any group seem more suspicious than the others? If so, which one and why?

- Reveal your role-play persona. Discuss whether answers given by any of the groups revealed their possible guilt.
- How would you feel if everyone were searched and no wallet was found?
- How would you feel about a full-class search if you were someone who didn't have the wallet, but had illegal substances in your possession?
- Do you think students should have a "reasonable expectation of privacy" in a situation like this?
- What do you think would happen if the same situation occurred with adults working in a library? Explain whether or not the Fourth Amendment should apply to students the same way it applies to adults, and why.

Day 4: Debrief

Option A

Review the following discussion questions as a whole class or in small groups with spokespersons reporting back to the class:

- Why can it be said that a monarchy is "top down" government and a constitutional democracy is "bottom up" government?
- What are some of the contributions of the Magna Carta and the English Bill of Rights to the American Bill of Rights?
- Why can it be said that less than 50% of the population enjoyed the benefits of the Bill of Rights when it was ratified in 1791? How has that changed?
- Review the case studies in the station-card activity. Which one(s) of the Supreme Court decisions surprised you? Why?
- Do you think a search of any kind should have been conducted in the **Classroom Theft!** simulation? Why or why not?
- How would any search be within the requirements of the Fourth Amendment?

Students should then write a short paper on how they would have resolved the situation in the **Classroom Theft!** simulation, and explain how their resolution would have aligned with the Fourth Amendment.

Option B

Review the discussion questions in Option A. Next, discuss with students how they would have resolved the situation in the simulation: Would they



Whole class

or



Small group



Whole class

Daily Directions

Bill of Rights—Personal Rights

have conducted a search of the whole class, a few suspects, or not conducted a search at all? What are their reasons? The Fourth Amendment requires “probable cause” to conduct a search. What probable cause would they have in this case? Next, assume a search was conducted either by the teacher or the police, and either of the entire class or of a few suspected of taking the wallet. As a result of the search, several students from different groups have filed a suit contending the search was illegal and a violation of their Fourth Amendment rights. Conduct a moot-court activity that looks at the constitutionality of this search. Details of how to set up a moot court can be found at Landmark Cases of the Supreme Court (<http://www.landmarkcases.org/mootcourt.html>). When the class has completed the moot-court activity, have students write a brief reaction paper on the case.

Assessment

You can use the **Graphic Organizer** and the **Bill of Rights Case Study Worksheet** handouts, discussion participation, and the essay from Debrief Option A or B for assessment.

Origins of the Bill of Rights

Historical Background Essay

It was Thomas Jefferson who wrote, “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights...” According to the laws of nature, people are born with **inalienable** rights that cannot be taken away. However, we know from history that not many governments have operated under this premise. For centuries, people had been subjugated by kings and governments who conquered them, bullied them, or tricked them into believing life could be better if they would give up some or all of those inalienable rights and let their leaders rule as they saw fit.

The United States was established under a different premise, as Jefferson so eloquently explained in the Declaration of Independence: “that to secure these rights Governments are instituted among Men, deriving their just powers from the consent of the governed.” The rights begin with the people, and then *the people* provide the government with enough power to effectively govern them, but not so much as to infringe on their rights. Herein lies the crucial element of a **constitutional democracy**: as citizens, we have a responsibility to know and understand the rights we have, to know their extent and their limits, and, in the process, make sure that the government protects these rights and does not violate them.

The history of the Bill of Rights reveals a constant balancing act between managing a government that has enough power to protect the rights of the whole while at the same time not infringing on the rights of the individual. Beginning with the protests against the Stamp Act in 1765, through hundreds of court cases where the people’s rights have been challenged, examined, and further explained and clarified, Americans have actively striven to define the meaning of liberty and freedom. Enjoying your rights and taking responsibility for them are

two inseparable actions. As citizens, we must be actively engaged with both or we will lose them.

The notion that “with rights come responsibilities” traces back to the Roman Republic. The Romans prided themselves in their **civic virtue**, in which people set aside their personal interests to promote the good of all. They believed that civic virtue didn’t come automatically, for in reality, its values run counter to human nature. The Romans understood that humans are basically selfish creatures. However, they also believed that people could be reminded of the virtues of generosity, courage, self-control, and fairness. They saw these qualities as innate in the human species.

The framers of the Constitution also understood human nature and built a government that protects against selfish behavior while allowing people to be virtuous. It is a government of laws, not of humans. And yet, humans run the government. The framers’ challenge was to create a government that took into account human nature, while at the same time giving those same humans the liberty and freedom to run the government the way *they* saw fit. To check the evils of human nature, the framers divided the main powers of government into three separate branches—executive, legislative, and judicial—and gave each branch certain powers to check the other branches. They then separated the powers once more between a national government and the existing state governments in a structure called “federalism.” Finally, to make sure the government really understood the extent of its power, they instituted a Bill of Rights, which unmistakably articulates that the government does indeed have limits when it comes to the people’s rights.

Of course, none of this was invented with the writing of the Declaration of Independence or the Constitution. In addition to drawing on some of the guiding principles of the Roman

Republic, the framers also drew from English law. The **Magna Carta** of 1215, which defined the limits of government to not tax without the people's consent, not take citizens' property without justly compensating them, and not conduct a trial without a jury of one's peers. The **English Bill of Rights** of 1689 provided further guidance by establishing that the people's voice—the legislative branch—was supreme over the king, that citizens had a right to petition the government when they had a grievance, that freedom of speech would be protected, and that no punishment would be administered without cause shown.

The framers drew from 150 years of colonial history that had put a lot of these principles not just into practice but into law as well. In 1620, the Pilgrims agreed in the **Mayflower Compact** to practice civic virtue and to obey the laws they enacted for the general good of the colony. A year before, the **House of Burgesses** in Virginia had elected representatives to an assembly; that assembly had the power to levy taxes and spend money to provide essential services. By 1641, Massachusetts had established the **Massachusetts Body of Liberties**. Modeled after the Magna Carta and the English Bill of Rights, this document guaranteed similar basic rights for the colonists.

It's important to point out that not all Americans benefited from the Bill of Rights when it was ratified in 1791. In fact, these rights were available only to a minority—white men with property. Women, who made up almost 49% of the population, couldn't vote or hold public office. In most states, married women had very limited rights when it came to their children or their property. In many states, citizens who were free but minorities of different ethnic or racial classes (approximately 10% of the population) were also denied the right to fully participate in government. In one of the most perplexing contradictions of the Constitution, the institution of slavery treated human beings as property. Of the nearly four million people living in the United

States in 1790, nearly 700,000 (almost one-fifth) were slaves. As property, their natural rights were virtually nonexistent. Some free blacks (making up about 1.5% of the population) owned property and ran businesses, but in most cases did not enjoy equal rights with whites.

Ironically, the Constitution almost had no bill of rights. In the waning days of the **1787 Federal Convention**, several delegates suggested including protections for some of the most basic rights such as trial by jury, freedom of speech, and freedom of the press. However, most of the delegates rejected these suggestions as unnecessary because the states already had these protections in their constitutions, and people believed that no branch of the federal government had the power to take them away. The **inclusion** of a bill of rights was advocated so strongly by several of the key delegates that they refused to sign the finished Constitution.

The lack of some statement protecting the most basic rights America had fought for during the Revolution dismayed people in many states. They feared it would create a too-powerful central government that was distant and not directly accountable to the people. During the **ratification** (approval) of the Constitution (particularly in Massachusetts, Virginia, and New York—three of the most populated states), a bill of rights became a condition for approval. This condition was met and when the first Congress convened in 1789 it made drafting and amending a bill of rights its first order of business.

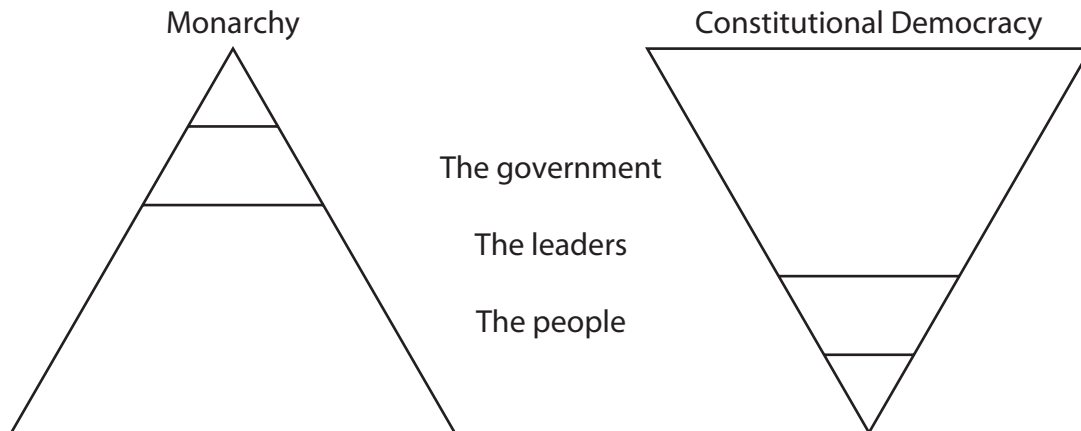
The framers created a government that requires participation, not just by voting, but by practicing civic virtue in protecting the rights granted. They understood this wouldn't be easy—they understood the selfish side of human nature, and they knew that people had to learn the importance of being responsible in exercising their rights in such a way so as to not infringe on the rights of their fellow citizens. The tools to protect those rights are built into America's government; it's up to the people to properly use these tools.

Name: _____

Date: _____

Graphic Organizer: Origins of the Bill of Rights

1. Diagram the two types of government described in the first two paragraphs of the background essay. Place the words from the middle in the proper section.

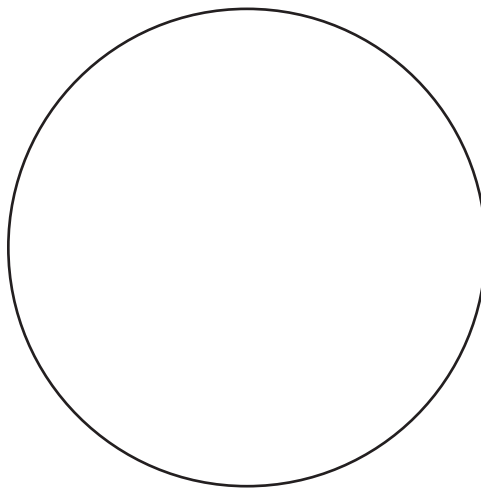


2. Draw diagrams below to show how the Constitution divides the powers three ways in the federal government, and then also divides power between the national and state governments.

3. Describe the guiding principles of the Magna Carta and the English Bill of Rights that underlie some of the principles in the U.S. Bill of Rights.

Magna Carta		English Bill of Rights	
Mayflower Compact			
House of Burgesses			
Massachusetts Body of Liberties			

4. Create a pie chart in the circle below by drawing the proportions of white men, women, and slaves who made up most of the population of the United States in 1790. Identify which segment of the population enjoyed full rights.



5. Explain why many of the delegates to the 1787 Federal Convention were reluctant at first to add a bill of rights to the Constitution, but then relented.

Card 1: First Amendment Freedom of Religion Protection

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof..."

The First Amendment's protection of freedom of religion is actually two clauses: the establishment clause, which prohibits the government from establishing or favoring a particular religion, and the free exercise clause, which prohibits the government from interfering with an individual's right to practice their beliefs.

The courts have taken both broad and narrow interpretations of these clauses. The broad interpretation holds that no part of the U.S. government—federal, state, or local, including school districts—can use public funds to give support to any religion or religious organization. The only exception is when the government provides the same kind of support given to all segments of society, such as police and fire protection.

The narrow interpretation holds that government is only prohibited from giving one religious group preference over another. The courts have provided three guidelines to determine whether aid to religious organizations is allowable: that the aid be solely intended for non-religious purposes, that it not advance the religion in any way, and that it not entangle the government in any aspect of the religion.

Featured case study:

Westside Community Schools v. Mergens (1990)

The Westside School administration denied a group of students permission to form a Christian club that would have the same privileges as other afterschool clubs, citing the establishment clause. The students sued in federal court, alleging that the school district's refusal violated the Equal Access Act, which requires that schools receiving federal funds provide "equal access" to student groups wishing to express "religious, political, philosophical, or other content." How would you decide this case?

Answer to case study on Card 6: In a 6–3 decision, the U.S. Supreme Court ruled in favor of the school. The Court recognized that schools have to balance a student's legitimate expectation of privacy with maintaining order and discipline. The Court's ruling went on to explain that school officials must have a reasonable suspicion that a student has violated a rule or law in order to conduct a search. In this case, there was reasonable suspicion that the student had been smoking cigarettes, and the subsequent search led to the discovery of other contraband that also violated school rules and was thus admissible in a court proceeding.

Card 2: First Amendment Free Speech Protection

"Congress shall make no law...abridging the freedom of speech..."

Freedom of speech is essential to the advancement and operation of a democracy. Free speech keeps the government accountable for its actions. It is an essential element in bringing about peaceful change because people who are unhappy or have a disagreement with the government are given a forum to express their grievances. Without this, the people's only recourse is submission or rebellion.

Free speech is an important tool for effectively controlling government. Not surprisingly, there have been several instances in U.S. history where the government has limited citizens' right to free speech. The Alien and Sedition Acts of 1798 outlawed criticism of the government. Though the act expired in 1801 and was never contested in court, several people went to jail for violating its provisions. During the Civil War, several people who spoke out against President Lincoln's handling of the war were jailed, without a trial. Then, as America entered WWI, Congress passed the Espionage Act in 1917, which prevented anyone from advocating resistance to the U.S. war effort. The following year, Congress passed a sedition act, which made it illegal to speak out against the government.

So what's the deal? Do we have free speech or not? In the 1919 case *Schenk v. United States*, the Supreme Court tried to clear up the confusion. Stating that every government has a right to protect itself, the Court introduced the concept of a "clear and present danger." Writing for the Court, Justice Oliver

Wendell Holmes explained that the right to free speech would not protect someone who shouted "fire" in a crowded theater, since some speech has to be limited in order to prevent panic or rebellion. However, people still have the right to criticize the government through free speech and petition and change government through voting.

Featured case study:

R.A.V. v. City of St. Paul (1992)

A group of teenagers allegedly burned a crudely fashioned cross on the lawn of an African American family. The teens were charged under a local anti-bias ordinance that prohibited the display of any symbol which "arouses anger, alarm or resentment in others on the basis of race, color, creed, religious or gender." The teens took the case to the Supreme Court, alleging the ordinance was overly broad and in violation of the First Amendment protection of free speech. How would you decide this case?

Answer to case study on Card 1: In *Westside Community Schools v. Mergens*, the Court ruled that since the school permitted other extracurricular groups, it had violated the Equal Access Act. The Court went on to say that the school would not be in violation of the establishment clause of the First Amendment because it was not sponsoring a religious organization, but only providing it equal access to meet on school property.

Card 3: First Amendment Free Press Protection

"Congress shall make no law...abridging the freedom...of the press..."

The right to a free press is as important as the right to free speech, and for the same reasons. A free press furthers democracy by alerting the public when the government is out of line. A free press allows individuals to voice their opinions to a large number of people and express their concerns in order to promote peaceful change.

However, as with free speech, the protections for the press have limits. The courts have held that libel—printing information with the intention of ruining someone's reputation or causing them harm in some way—is not protected by freedom of the press. The courts have also upheld laws that limit the press from creating a "clear and present danger" to individuals or society. The press cannot print information that could threaten national security or the lives of military personnel.

Featured case study:

Branzburg v. Hayes (1972)

An investigative reporter had written a news story that appeared in a Louisville, Kentucky, newspaper on illegal

drug use. The story described in detail the transportation and sale of illegal drugs, relying on anonymous sources—some of whom were involved with the crime. On two occasions, the reporter was called to testify before state grand juries investigating the drug crimes and was ordered to disclose the identities of his confidential sources. Both times the reporter refused to testify, citing freedom of the press and stating that revealing sources would destroy any trust he had developed with these sources to get the story. The state of Kentucky contended the reporter's refusal to testify to the grand jury impeded a criminal investigation and that it would hold him in contempt of court, resulting and incarcerate until he did testify. How would you decide this case?

Answer to case study on Card 2: The Court unanimously held in R.A.V. v. City of St. Paul that the city ordinance was unconstitutional because it prohibited otherwise permitted speech. The First Amendment prevents the government from prohibiting speech and expressive conduct just because it disapproves of the ideas expressed. In this case, the city ordinance prohibited the symbolic speech of a group who held negative views about a particular race of people. Expressing these views is allowable under the First Amendment.

Card 5: Second Amendment Freedom to Bear Arms

"A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

There probably hasn't been an amendment more hotly debated in the past 50 years than the Second Amendment. Part of the controversy originates with the amendment's perplexing text. To some, it's clear that individuals have an unlimited right to gun ownership. Others interpret the wording to mean the people's right to bear arms is permissible only in a militia composed of citizens, but regulated (presumably) by the state.

In 1789, when the amendment was written, most Americans owned a gun for protection and as a tool for obtaining food. The amendment didn't institute anything new, for the right to bear arms existed in both common law and in early state constitutions. The wording reflects both the people's desire to keep their arms and the states' concern that a federal standing army that might infringe on their rights.

Today, the people's need to keep and bear arms to defend the nation against external aggression and internal oppression and to feed one's family is clouded by the need to control urban crime. Gun-ownership advocates believe in an individual's right to self-protection and consider recreational hunting as important as the right to free expression. Gun-control advocates see the need to restrict gun ownership, especially in areas of high crime where irresponsible or criminal use of guns is rampant.

Oddly, there have only been a few Supreme Court cases that directly address the interpretation of the Second Amendment. Early decisions stated that any rights or restrictions only applied to the federal government. The states

were permitted to regulate gun ownership as they saw fit. In the 1939 case of *United States v. Miller*, the Court ruled that a federal law requiring gun registration was constitutional and that the government could require registration of certain types of firearms. The ruling did not endorse or deny private gun ownership; it only stated that the federal government had the authority to regulate interstate transportation of firearms.

Featured case study:

District of Columbia v. Heller (2008)

In 1975, the District of Columbia passed several pieces of legislation banning the ownership of handguns (excluding those registered before 1975). The laws required that all pistols be licensed, and mandated that all legal firearms be kept unloaded and disassembled or trigger-locked. In court, District of Columbia officials argued that city government had regulated handguns for decades and that the laws were a "targeted effort to prevent needless death and injury from that class of weapons." A group of private gun-owners claimed that the laws violated their Second Amendment right to bear arms. In their arguments before the Court, they argued that the requirement to keep guns disassembled or have locks on the triggers created "a complete prohibition of the possession of all functional firearms" at home. How would you decide this case?

Answer to case study on Card 4: The Supreme Court ruled in City of Chicago v. Morales that the Chicago ordinance was unconstitutionally vague in that it encompassed harmless behavior and gave law enforcement officials too much discretion to decide what activities constituted loitering.

Card 4: First Amendment Freedom to Assemble and Petition Protection

"Congress shall make no law...abridging the...right of the people to peaceably assemble, and to petition the Government for a redress of grievances."

The freedoms to assemble and petition are essential rights linked to the freedoms of both speech and of the press. Exercising these rights allows individuals to meet in groups and promote their ideas in order to create change in situations where they see a need. Sometimes the message these groups promote goes against the views the majority of the public, such as civil rights marches for racial equality or gay rights, petitions to the government regarding pro-life or pro-choice issues, anti-war demonstrations, and Ku Klux Klan marches. Citizens also have the right to belong to organizations that advocate change in the government or a different type of government all together.

From time to time, both state and federal governments have violated citizens' rights to assemble and petition. In 1836, after heated debate over slavery in the District of Columbia nearly tore the Senate apart, it instituted a "gag rule" that put a halt to debate on citizens' petitioning the government to end or save slavery. During the economic depressions of the 1890s and 1930s, the homeless and unemployed actively petitioned for relief, demonstrating in the streets. In both instances, the presidents at the time ordered the demonstrations broken up and the leaders arrested. In the 1960s, many civil rights activists were denied permits to demonstrate, and police used dogs and fire hoses to break up peaceful demonstrations, claiming falsely that the protesters might become violent.

In the 20th century, the Supreme Court heard a number of cases that brought some clarity to the First Amendment protections of assembly and petition. In *DeJonge v. Oregon* (1937), the Court granted freedom of assembly to the states under the 14th Amendment, but stipulated that such assembly had to be peaceful and could not cause a civil disturbance. In *Cox v. New Hampshire* (1941), the Court held that the government may restrict the time, place, and manner of public rallies, but governmental regulations cannot

prevent free assemblies altogether. In 1971, the Court clarified the distinction between protected assembly in public parks and streets versus that in public facilities owned by private entities. In *Lloyd Corporation v. Tanner* (1972), the Court held that freedom of assembly does not apply to shopping malls or other privately held property used by the public because private property is not subject to the same restrictions as government is in the Bill of Rights.

Featured case study:

City of Chicago v. Morales, et al. (1999)

In Chicago, the city council passed an ordinance prohibiting "criminal street gang members" from loitering in public places; the measure was designed to deter criminal street gang activity. In 1993, Jesus Morales and six other men were arrested after they ignored police orders to disperse from a public street. They were charged with violating the anti-loitering ordinance. The arresting police officer testified he arrested the men because Morales was wearing the colors of the "Gangster Disciples" street gang and because they wouldn't disperse when ordered to. In concert with the ACLU and the public defender's office, Morales and numerous other people convicted under the law challenged the ordinance under the pretext that the law was constitutionally vague and a violation of the freedom to assemble. How would you decide this case?

Answer to case study on Card 3: The Court was strongly divided, 5–4, in its Branzburg v. Hayes ruling. The majority stated that nothing in the First Amendment protected a reporter from divulging his or her sources. Writing for the majority, Justice Byron White declared that allowing reporters to never have to reveal any of their sources represented a privilege that other citizens did not enjoy. The Court acknowledged that having to reveal sources would undermine the press's ability to gather news. However, it wrote that from the beginning of the country, the press has operated fine without being allowed to protect the identity of informants.

Card 6: Fourth Amendment Protection from Unreasonable Search and Seizure

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

The Fourth Amendment protects citizens from illegal search and seizure and is closely tied to the Third Amendment, which restricts the government from placing military personnel in people's homes or on other private property. The Third Amendment has appeared in only a few court cases over the past 200 years; however, the Fourth Amendment has come up many times. Case law has explained the limits placed on government intrusion into people's personal affairs as well as exceptions where intrusion is allowed.

The Fourth Amendment is commonly known as the one that protects our right to privacy, though the word "privacy" is not in the amendment. There are two clauses in the Fourth Amendment: the first outlines the people's right to be secure from unreasonable searches and seizures in their persons, houses, papers, and effects; the second explains the required procedure for obtaining a search warrant.

The protection against illegal search and seizure traces back to early English law, where the maxim "a man's home is his castle" was coined. However, the Fourth Amendment's had its greatest impetus from the colonists' experience with the British writs of assistance—essentially open search warrants for customs collectors to search any person's house for smuggled goods or untaxed items.

The Supreme Court put some force behind the Fourth Amendment's protection against illegal search and seizure when it established the "exclusionary rule" in the 1914 case of *Weeks v. United States*. The Court ruled that any evidence obtained through an unlawful search would be excluded as evidence in a trial, even if the evidence clearly proved the accused was guilty. The Court has also extended the protection against illegal seizure beyond the Fourth Amendment's listing of "persons, houses, papers, and effects" to also cover a person's electronically transmitted communication. In *Katz v. United States* (1967), the Supreme Court stated that "the Fourth Amendment protects people, not places" and explained that the Fourth Amendment establishes a "reasonable expectation of privacy," meaning the privacy generally recognized by society, such as a private telephone conversation or private e-mail. Of course, this can vary from person to person and in different circumstances, such as electronic communication at

home versus at work or school.

Over the last 30 years, the courts have refined the parameters of the exclusionary rule to identify justifiable exceptions where evidence can be obtained without a search warrant and be admitted in court. Automobiles and persons can be searched at border crossings, and people and possessions are scanned in airports and when entering public or government buildings. In emergency situations or when in plain view, evidence can be obtained without a search warrant. Also, police can stop and frisk a suspect if they feel the suspect is acting suspiciously, or in the process of arresting the subject.

Featured case study:

New Jersey v. T.L.O. (1985)

A teacher at Piscataway High School in New Jersey discovered two girls smoking cigarettes in the girls' lavatory. Since this act violated school rules, the teacher escorted the girls to the principal's office. During questioning by the school's assistant vice-principal, one girl admitted to smoking but the other, T.L.O., denied the allegation. (The courts used initials to protect the identity of the girl, who was a minor.) The assistant vice-principal demanded to see T.L.O.'s purse, where he found a package of cigarettes. As he removed them, he discovered rolling papers, a small amount of marijuana, and other evidence incriminating the girl in selling drugs. The police and the girl's mother were called, and T.L.O. was brought to the police station, where she admitted to selling marijuana at school. With the confession and evidence from the search, she was charged with possession and distribution of a controlled substance. T.L.O. argued that the search of her purse violated her Fourth Amendment rights against unreasonable search and seizure, and that all evidence found and her confession should have been excluded during her hearing. The school officials argued that the search was based on reasonable suspicion because the teacher had discovered the girls smoking cigarettes in the lavatory. How would you decide this case?

Answer to case study for Card 5: In District of Columbia v. Heller, the Supreme Court, in a 5–4 decision, articulated for the first time that the Second Amendment protects an individual's right to possess a firearm separate from service in the militia, and protects the right to use a firearm for traditionally lawful purposes, such as self-defense within a home. It ruled that the District of Columbia's laws infringed on this right and were therefore unconstitutional.

Name: _____

Date: _____

Bill of Rights Case Study Worksheet

Directions: As you go around to each station, review the station cards and, as a group, answer the following questions for each station card.

1. Describe the facts of the case:

Station 1	
Station 2	
Station 3	
Station 4	
Station 5	
Station 6	

2. What are the arguments for each side?

Station 1	
Station 2	
Station 3	
Station 4	
Station 5	
Station 6	

3. How is this case related to the language of the constitutional amendment featured on the Station Card?

Station 1	
Station 2	
Station 3	
Station 4	
Station 5	
Station 6	

4. How would you decide this case? Provide reasons for your decision.

Station 1	
Station 2	
Station 3	
Station 4	
Station 5	
Station 6	

5. How did the Supreme Court decide this case, and how was its decision similar to or different from yours? Did the Court's decision expand or limit the rights granted in the amendment?

Station 1	
Station 2	
Station 3	
Station 4	
Station 5	
Station 6	

Classroom Theft! Fourth Amendment Simulation

Setting the scene: You have been assigned to role-play one of the groups indicated below. Do not reveal your group's identity to the other groups. Your class has returned from a study period at the school library. A classmate has reported to your teacher that their wallet is missing. The student is sure they had the wallet early in the class when they got out their student ID card, but now it's gone. The student and the librarian looked for the wallet everywhere. There was a credit card and money in the wallet. Your class was the only group in the library during that period. Someone from the class must have taken the wallet.

Roles:

- The student who took the wallet
- An innocent girl
- A boy with cigarettes (prohibited in school) in his coat pocket
- A girl with an illegal prescription medication in her purse
- An innocent boy
- The person who lost the wallet

Quietly discuss with your group the following questions to prepare for the class meeting. Record your answers for class discussion later.

- Should everyone be searched? Why or why not?
- What probable cause is there to search anyone?
- Should the teacher or another school authority conduct the search?
- Would it be better if the police were brought in to conduct a search? Explain.
- Do you think anyone who conducts the search should obtain a search warrant first? Why or why not?
- In your role-play persona, what will you do if all students are searched?

Meet as a full class and, without revealing your identity, report your responses to the questions above.

- Stay in your role groups, and as a class discuss the following questions:
- Does any group seem more suspicious than the others? If so, which one and why?
- Reveal your role-play persona. Discuss whether answers given by any of the groups revealed their possible guilt.
- How would you feel if everyone were searched but no wallet was found?
- How would you feel about a full-class search if you were someone who didn't have the wallet, but had illegal substances in your possession?
- Explain whether you think students should have a "reasonable expectation of privacy" in a situation like this.
- What do you think would happen if the same situation occurred with adults working in a library? Explain whether or not the Fourth Amendment should apply to students in the same way it applies to adults, along with the reasons for your position.

Bill of Rights—Procedural Rights

Activator 10

Unit Description

In this unit, students examine key parts of the Fifth, Sixth, and Eighth Amendments through Supreme Court case studies. Students gain a historical understanding of the rights granted in these amendments through the Historical Background Essay. They then work in small groups to research individual cases that illustrate key parts of the amendments. The groups develop dramatized presentations of their assigned case studies for class review.

Before You Begin

Read through the lesson plan and familiarize yourself with the teaching sequence and materials. Consider your students' abilities and needs, available class time, and your curriculum requirements in selecting the activities.

Make Copies

You may need to reproduce the items in this list of masters, depending on the activities you have chosen. Keep in mind that the activities may dictate the number of copies you will need.

- **Historical Background Essay**—*one for each student*
- **Background Essay Graphic Organizer**—*one for each student*
- **Case Studies on the Fifth, Sixth, and Eighth Amendments**—*one for each student*
- **Case Study Sheet**—*separate into individual sheets, one sheet per group*
- **Case Study Analysis and Evaluation Sheet**—*one for each student*

Setup Directions

Bill of Rights—Procedural Rights

Word Bank

(words and terms appear in the **Background Essay**)

- procedural
- due process
- grand jury
- double jeopardy
- self-incrimination
- speedy and public trial
- impartial jury
- accusation
- cruel and unusual punishment
- bail
- legal counsel
- capital punishment

Introduce the Unit

Introduce this activity by reviewing with students the reasons for the establishment of the Bill of Rights. Remind them that adding a Bill of Rights was part of an agreement to get the Constitution ratified, since many had concerns about possible abuses of power by the new federal government. Next, explain to students that the provisions in the Bill of Rights have been further defined and refined in subsequent court cases in which citizens complained that their rights had been violated. The Supreme Court is the “court of last resort” for these cases and through the power of judicial review, the Court determines the meaning of the Bill of Rights’ language.



Daily Directions

Prepare the Activity

Make copies of all the necessary handouts according to the list above.

Day 1: Provide Historical Context

Use the **Background Essay**, **Graphic Organizer**, and **Word Bank** to provide students with historical context for the activity. (This can be done as homework or as an in-class activity.) As necessary, discuss what students learned from the essay and graphic organizer. The graphic organizer can help you check for understanding and be used as part of students' assessment. Students should use their completed graphic organizer during the main activity.

Day 2: Activity Instructions

This activity has three parts that will have students review individual Supreme Court cases that dealt with key parts of the Fifth, Sixth, and Eighth Amendments. This activity asks students to research their cases online or in a law library to find out the facts of the case, the arguments of the litigants, and the Court's decision. It would be best to give students the experience of researching these cases themselves, but if that is not possible you can provide students with case summaries from any of the sources listed on their handout.

Divide students into 11 small groups. Tell students they will be looking at Supreme Court cases that established or clarified the rights granted in the Fifth, Sixth, and Eighth Amendments.

Distribute copies of the **Case Studies on the Fifth, Sixth, and Eighth Amendments** handout to all students and provide each group with one case study sheet. Review the instructions on the handouts with students and provide class time for them to work on their cases. When students have finished their research, they can plan their case presentations for Day 3.



Small group

Day 3: Activity Instructions

Each presentation should be 3–5 minutes in length



This activity is an extension of the previous activity. Students working in their groups will present to the class the case study they examined in Day 2's activity. The presentations should be only about 3–5 minutes in length.

Distribute to all students the **Case Studies Analysis and Evaluation Sheet** handout. Have students listen to the case study presentations, record essential information on each case presented, and determine the outcome of each case.

Day 4: Debrief

Option A

Discuss the following questions with the class:

- What were some of the historical precedents for the Bill of Rights?



Whole class

Daily Directions

Bill of Rights—Procedural Rights



Individual

- Why is due process so important?
- How do the provisions in the Sixth Amendment further articulate some of the protections in the Fifth Amendment? Why do you think the framers of the Bill of Rights felt further articulation was needed?
- Do you feel the protections of the Fifth and Sixth Amendments unjustly favor the accused? Explain your answer.
- Why is a fair bail important for both the accused and the prosecution?
- Why does the doctrine of “evolving standards of decency” apply to some methods of capital punishment and not others? How might this change over time?
- Which of the three amendments you studied do you think is the most important? Why?

Have students write a reflection essay on one of the case studies they didn’t present to the class. Students should include the following information:

- Title of the case
- Brief description of the facts of the case
- Positions held by the petitioner and respondent
- How they decided the case when it was presented in class and the reasons for their decision
- How the case was decided by the U.S. Supreme Court and the reasoning behind the decision
- Students’ reasons for agreeing or disagreeing with the Court’s decision

Option B

Have students investigate some of the controversies surrounding certain provisions in the Fifth, Sixth, or Eighth Amendments. Have them write a newspaper op-ed column or work with a few other students to set up a debate that discusses these controversies. Make sure students provide historical background on the establishment of the provision in the Bill of Rights as well as detailed background on the controversy.

Assessment

Evaluate students’ performance on the quality of their responses on the Graphic Organizer on the Fifth, Sixth, and Eighth Amendments; the **Case Study Sheet** on cases involving the Fifth, Sixth, and Eighth Amendments; the **Case Studies Analysis and Evaluation Sheet**, discussion participation, and the essay from Debrief Option A or B.

The Fifth, Sixth, and Eighth Amendments

Historical Background Essay

History is a good teacher—it provides examples of what works and what doesn't. As the authors of the Bill of Rights gathered to amend the Constitution, they looked back on English and colonial history. They studied Greek and Roman law, which had prohibitions against trying someone for the same crime twice. They also studied the Magna Carta, which provided protections against delayed justice and excessive fines. They looked at British history and the practice of the 17th-century Stuart kings, who frequently used “star chambers” (closed courts with no juries) to extract confessions through torture and intimidation. As British subjects, the colonists enjoyed these rights, and when England violated these rights in the years prior to the Revolution, the colonists strongly protested and listed the violations as grievances in the Declaration of Independence.

The defense against unreasonable prosecution and punishment is rooted in the principle of “a person is innocent until proven guilty.” The Fifth, Sixth, and Eighth Amendments provide specific protections against government abuse and specify procedures the government is obligated to take when investigating and prosecuting a crime. These **procedural** amendments to the Constitution spell out a **due process**—one for enforcing the law while protecting people's rights. However, in the rush to bring evildoers to justice, people's emotions sometimes take over their judgment, and this principle can get lost. The degree to which a society follows due process is an indicator of its respect for human dignity—even when people are scared and angry.

Due process is embedded in the Fifth Amendment. The amendment states that every person accused of a crime is entitled to a fair procedure. The Fifth Amendment guarantees everyone's right to a **grand jury**

(a jury that decides whether enough evidence exists to bring a case to trial) investigation, to not be tried twice for the same crime (**double jeopardy**), to not be a witness against themselves (**self-incrimination**), and to not have their life, liberty, or property taken away unless the government follows the proper procedure (due process). If the government takes property, it must compensate the owner in a just and fair way.

The Sixth Amendment goes further to articulate specific rights given to the accused regarding trial procedure. The amendment guarantees the right to a **speedy and public trial** and the right to be heard by an **impartial** (unbiased) **jury** of one's peers in the location where the crime was committed. This prevents the government from indefinitely holding individuals it deems undesirable or conducting a secret court where rights could be violated. The accused have the right to know the nature and cause of the **accusation** against them, to be able to confront their accusers, to have witnesses speak on their behalf, and to be assisted by legal counsel. Again, the fundamental principle of the American justice system is that a person is innocent until proven guilty, and the system takes every measure possible to ensure this principle by balancing the enormous power of the state to prosecute crimes against the power of the individual to prove their innocence.

The Eighth Amendment establishes guidelines for bail, fines, and punishment, stating that none of these shall be excessive nor “**cruel and unusual**” (a phrase that is open to interpretation). Much of the Eighth Amendment's language comes from English law dating back to the 1500s. Parliament enacted prohibitions on cruel and unusual punishments, believing that people would

have more respect for a fair government than a cruel one. The authors of the Bill of Rights wrote the clause prohibiting excessive bail so that accused persons could be free to prepare their defense. Requiring some type of **bail** allows the government to place a financial hold on suspects in order to ensure they will appear in court. For some cases, the courts can deny bail if they feel a defendant is a danger to the community or a flight risk. Over time, the meaning of cruel and unusual punishment has changed. What was considered acceptable punishment in the early years of the republic has changed. In 1958, the Supreme Court set out to address possible changes in society's views on **capital punishment** (the death penalty) in the case of *Trop v. Dulles*, where it established that in questioning whether any penalty might be cruel or unusual, society "must draw its meaning from evolving standards of decency."

Even though the provisions in these amendments protect individuals from governmental persecution, they sometimes become the subject of concern and criticism. The Fifth Amendment requires that grand juries be composed of common citizens who hear evidence to determine whether someone should be held over for trial. Some critics contend that common citizens can't understand the highly technical nature of some cases, or that they won't be able to keep secret about sensitive testimony. Some people feel the other rights in the Fifth Amendment go too far. The protection against self-incrimination has sometimes run afoul of law enforcers who obtain a voluntary confession before a person has been told they can remain silent or consult with **legal counsel** (i.e., a lawyer). The courts deem such confessions inadmissible. In cases involving alleged terrorists or enemy combatants, many feel the protections against self-incrimination and due process should not be allowed.

The Sixth Amendment attempts to provide a "level playing field" between the

power of the state and the efforts of individuals to prove their innocence. However, in recent year, courts of original jurisdiction have become overburdened with cases, making speedy scheduling difficult while also not allowing ample time for the defendants to prepare their case. The accused have the right to face their accusers. However, such an arrangement can be difficult in cases involving things such as child abuse because the child might not be emotionally mature enough to face the accused. The right to an attorney has also run into controversy in two ways: If a suspect confessed to a crime but was not informed of the right to counsel, any evidence or confessions obtained would be inadmissible in court. For those who cannot afford an attorney, the court must appoint one. However, some have expressed concern about the quality of public defenders (court-appointed attorneys), who are sometimes inexperienced and have to deal with large caseloads, and therefore may not be able to provide the best defense for their clients.

Capital punishment has existed in the United States since colonial times, and for years many states made the death penalty a mandatory punishment for serious crimes, such as murder. In the second half of the 20th century, several states began to question whether the death penalty constituted cruel and unusual punishment, which the Eighth Amendment prohibits. Academic studies brought into question the effectiveness of capital punishment as a deterrent to crime and presented evidence that some forms of executions might constitute cruel and unusual punishment. As the appeals process in capital offences became more complicated, the cost of executions to the states often became more expensive than incarcerating someone for life. In more recent years, DNA evidence has proven that several individuals on death row didn't commit the crimes they were convicted of. This has once again brought into question the use of capital punishment.

Name: _____

Date: _____

Graphic Organizer: The Fifth, Sixth, and Eighth Amendments

1. Explain how a society that follows the doctrine of “innocent until proven guilty” respects human dignity.
2. List the provisions of the Fifth Amendment.
3. List the provisions of the Sixth Amendment.
4. List the provisions of the Eighth Amendment.

5. Identify some of the controversies surrounding the Fifth, Sixth, and Eighth Amendments on the chart below.

Amendment	Clause	Controversy
Fifth Amendment	Use of grand juries	
	Protection against self-incrimination	
	Self-incrimination and due process	
Sixth Amendment	Speedy and public trial	
	Right to face accusers	
	Right to an attorney	
Eighth Amendment	Cruel and unusual punishment	



Case Studies on the Fifth, Sixth, and Eighth Amendments

Background: The Fifth, Sixth, and Eighth Amendments provide some of the most important protections against abuse by the government. They list specific prohibitions on governmental power in the areas of criminal prosecution and punishment. The basic principles of “innocent until proven guilty,” double jeopardy, self-incrimination, and due process are highlighted.

Directions: As a group, review the case study you’ve been assigned. Follow the guide below and take notes on the facts of the case.

Analyzing the case:

- What happened in this case?
- Who were the parties involved?
- What facts are important?

Next, as a group, determine how you think the case should have been decided and write your decision on the case study sheet.

Next, use any of the research Web sites listed below or visit a law library to find out more about the arguments of the case and the Court’s decision.

- Justia.com (<http://supreme.justia.com/index.html>)
- The Oyez Project (www.oyez.org)
- FindLaw (<http://www.findlaw.com/cascode/supreme.html>)
- Legal Information Institute (<http://www.law.cornell.edu/supct/>)

Use your research information to fill out the questions on the Case Study Sheet.

Name: _____

Date: _____

Case Study Sheet

***Fifth Amendment Right Against Double Jeopardy: Benton v. Maryland (1969)***

John Dalmer Benton was tried on charges of larceny and burglary. He was acquitted of the larceny charge, but found guilty of burglary and sentenced to ten years in prison. The jury members in his case had all been required to swear that they believed in God. After Benton's conviction, the Maryland appeals court ruled that this requirement was unconstitutional. Benton was given the option of a new trial, and he chose to do so. In the second trial, the state charged Benton with both larceny and burglary as they had in the first case. Benton was found guilty of both charges. He appealed his convictions believing he had been tried twice for the same crime. **How would you decide this case?**

Was Benton's right against double jeopardy violated?

Group decision _____

Supreme Court decision _____

Look up the case and research and respond to the following questions:

- What actions led to this situation coming before the court? _____
- What was the position and what were the arguments of the petitioner? _____
- What was the position and what were the arguments of the respondent? _____
- What constitutional issue was involved in this case? _____

Develop a short case-study presentation to share with the class, with all members of your group participating. The presentation should only be 3–5 minutes long. Parts can be dramatizations to explain the facts of the case, presentations of the arguments of the petitioner and respondent before the court, or other imaginative ways to communicate the information.

Name: _____

Date: _____

Case Study Sheet

***Fifth Amendment Right Against Self-Incrimination: Brown v. Mississippi (1934)***

Three African American tenant farmers were arrested for the murder of Raymond Stewart, a white planter. At the trial, the major piece of evidence against the three men was their confessions to police officers. During the trial, several of the prosecution's witnesses freely admitted that the defendants only confessed after being brutally treated by the police. The confessions were nevertheless submitted into evidence in the one-day trial. The defendants were convicted and sentenced to be hanged. The defendants appealed their case on the grounds that they had been forced to incriminate themselves. **How would you decide this case?**

Were the defendants denied their right against self-incrimination?

Group decision _____

Supreme Court decision _____

Look up the case and research and respond to the following questions:

- What actions led to this situation coming before the court? _____
- What was the position and what were the arguments of the petitioner? _____
- What was the position and what were the arguments of the respondent? _____
- What constitutional issue was involved in this case? _____

Develop a short case-study presentation to share with the class, with all members of your group participating. The presentation should only be 3–5 minutes long. Parts can be dramatizations to explain the facts of the case, presentations of the arguments of the petitioner and respondent before the court, or other imaginative ways to communicate the information.

Name: _____

Date: _____

Case Study Sheet

***Fifth Amendment Right to Due Process: In re Gault (1966)***

Gerald Gault was a 15-year-old boy arrested for allegedly making obscene phone calls to a neighbor. He denied he ever made the calls. His parents were at work and the police did not notify them of his arrest. Gault's mother later found him at the Children's Detention Home, but was not allowed to take him home. A preliminary hearing was held the next morning to determine if the case should go to trial. The judge said he'd think about it, so Gault remained in custody. After several days, Gault was released and later ordered to appear at a hearing, whereupon the judge declared him a juvenile delinquent and sentenced him to reform school until the age of 21. Gault and his parents appealed, stating he was not granted due process. **How would you decide this case?**

Was Gault's right to due process violated?

Group decision _____

Supreme Court decision _____

Look up the case and research and respond to the following questions:

- What actions led to this situation coming before the court? _____
- What was the position and what were the arguments of the petitioner? _____
- What was the position and what were the arguments of the respondent? _____
- What constitutional issue was involved in this case? _____

Develop a short case-study presentation to share with the class, with all members of your group participating. The presentation should only be 3–5 minutes long. Parts can be dramatizations to explain the facts of the case, presentations of the arguments of the petitioner and respondent before the court, or other imaginative ways to communicate the information.

Name: _____

Date: _____

Case Study Sheet



Fifth Amendment Right Against Property Being Taken for Public Use Without Just Compensation: Lucas v. South Carolina (1992)

In 1986, David Lucas bought two residential oceanfront lots on the Isle of Palms, a South Carolina barrier island. He intended to build single-family homes, as some had done on adjacent lots in the area. In 1988, the South Carolina state legislature enacted the Beachfront Management Act, which aimed to protect erosion and destruction of the barrier islands. As a result, the law barred Lucas from erecting permanent habitable structures on this land. Lucas filed suit, asserting that the restriction on the use of his land essentially took his property without justly compensating him. **How would you decide this case?**

Was Lucas's property taken without just compensation?

Group decision _____

Supreme Court decision _____

Look up the case and research and respond to the following questions:

- What actions led to this situation coming before the court? _____
- What was the position and what were the arguments of the petitioner? _____
- What was the position and what were the arguments of the respondent? _____
- What constitutional issue was involved in this case? _____

Develop a short case-study presentation to share with the class, with all members of your group participating. The presentation should only be 3–5 minutes long. Parts can be dramatizations to explain the facts of the case, presentations of the arguments of the petitioner and respondent before the court, or other imaginative ways to communicate the information.

Name: _____

Date: _____

Case Study Sheet

***Sixth Amendment Right to a Speedy and Public Trial: Barker v. Wingo (1972)***

Willie Mae Barker was arrested for the murder of two elderly persons in 1958. The prosecution requested and obtained 16 continuances, in part so that it could put Barker's accomplice, Silas Manning, on trial. The prosecution planned to use Manning's conviction and testimony to convict Barker. The Manning trial went through six prosecutions because of hung juries and appeals. Barker was out on bond for some of this time and made no objections to his delayed trial until three-and-a-half years after his arrest. Barker's trial was postponed further because a key witness was ill. Finally, Barker was convicted in October 1963. He appealed his conviction on the grounds that he was denied a speedy trial. **How would you decide this case?**

Was Barker denied the right to a speedy trial?

Group decision _____

Supreme Court decision _____

Look up the case and research and respond to the following questions:

- What actions led to this situation coming before the court? _____
- What was the position and what were the arguments of the petitioner? _____
- What was the position and what were the arguments of the respondent? _____
- What constitutional issue was involved in this case? _____

Develop a short case-study presentation to share with the class, with all members of your group participating. The presentation should only be 3–5 minutes long. Parts can be dramatizations to explain the facts of the case, presentations of the arguments of the petitioner and respondent before the court, or other imaginative ways to communicate the information.

Name: _____

Date: _____

Case Study Sheet

***Sixth Amendment Right to a Jury Trial: Duncan v. Louisiana (1969)***

In October 1966, 19-year-old Gary Duncan, an African American, was arrested for slapping a white youth who had had an altercation with Duncan's cousins. Duncan and his cousins denied that Duncan had hit the boy. Duncan was charged with simple assault, a misdemeanor in Louisiana and not subject to a trial by jury. Duncan was convicted and received a 60-day sentence and a \$150 fine. He appealed on the grounds that the state of Louisiana had violated the Sixth and 14th Amendment rights that guaranteed him a jury trial. **How would you decide this case?**

Was Duncan's right to a jury trial violated?

Group decision _____

Supreme Court decision _____

Look up the case and research and respond to the following questions:

- What actions led to this situation coming before the court? _____
- What was the position and what were the arguments of the petitioner? _____
- What was the position and what were the arguments of the respondent? _____
- What constitutional issue was involved in this case? _____

Develop a short case-study presentation to share with the class, with all members of your group participating. The presentation should only be 3–5 minutes long. Parts can be dramatizations to explain the facts of the case, presentations of the arguments of the petitioner and respondent before the court, or other imaginative ways to communicate the information.

Name: _____

Date: _____

Case Study Sheet

***Sixth Amendment Right to Confront Witnesses: Pointer v. Texas (1965)***

Pointer was arrested on a robbery charge and brought before a judge at a preliminary hearing. The complaining witness testified, but Pointer, who had no counsel, didn't cross-examine the witness. Pointer was indicted on the robbery charge and held over for trial. Before the trial, the witness moved to another state, and during the trial, a transcript of the witness's testimony was introduced. Pointer objected to only the witness's transcript being admitted in court, claiming he was denied the right to confront his accuser. Pointer was subsequently convicted of the robbery charges. **How would you decide this case?**

Was Pointer denied his right to confront the witness at trial?

Group decision _____

Supreme Court decision _____

Look up the case and research and respond to the following questions:

- What actions led to this situation coming before the court? _____
- What was the position and what were the arguments of the petitioner? _____
- What was the position and what were the arguments of the respondent? _____
- What constitutional issue was involved in this case? _____

Develop a short case-study presentation to share with the class, with all members of your group participating. The presentation should only be 3–5 minutes long. Parts can be dramatizations to explain the facts of the case, presentations of the arguments of the petitioner and respondent before the court, or other imaginative ways to communicate the information.

Name: _____

Date: _____

Case Study Sheet



Sixth Amendment Right to Counsel: Escobedo v. Illinois (1964)

In January 1960, Danny Escobedo's brother-in-law was murdered. Escobedo was detained for questioning and interrogated for several hours, but upon the advice of his lawyer, he refused to make any statements. Another suspect, Benedict DiGerlando, told police that he saw Escobedo fire the gun that killed Escobedo's brother-in-law. Escobedo was arrested, told of DiGerlando's statements, and was urged to confess. On the way to the police station, Escobedo asked for his attorney but the police denied this request. At the police station, his attorney repeatedly asked to see his client, but was also denied. Police and prosecutors interrogated Escobedo for 14½ hours until he finally made some incriminating statements. Escobedo was tried and found guilty of murder based on his statements to the police. He appealed his case on the grounds that he had been denied his right to counsel and that counsel should have been present during interrogation. **How would you decide this case?**

Was Escobedo denied his right to counsel?

Group decision _____

Supreme Court decision _____

Look up the case and research and respond to the following questions:

- What actions led to this situation coming before the court? _____
- What was the position and what were the arguments of the petitioner? _____
- What was the position and what were the arguments of the respondent? _____
- What constitutional issue was involved in this case? _____

Develop a short case-study presentation to share with the class, with all members of your group participating. The presentation should only be 3–5 minutes long. Parts can be dramatizations to explain the facts of the case, presentations of the arguments of the petitioner and respondent before the court, or other imaginative ways to communicate the information.

Name: _____

Date: _____

Case Study Sheet

***Eighth Amendment Right Against Excessive Bail: Stack v. Boyle (1951)***

Twelve people were arrested for conspiring to violate the Smith Act, which made it unlawful to knowingly or willfully advocate the overthrow of the U.S. government by force. Their bail was initially fixed in amounts varying from \$2500 to \$100,000, but the district court judge set the bail at \$50,000 for each of them. The defendants moved to reduce bail, claiming that it was “excessive” under the Eighth Amendment. The prosecution produced evidence that four other persons previously convicted under the Smith Act (in another district in an unrelated case) had skipped bail, and asked that the bail remain where the judge had set it in order to ensure these defendants didn’t leave town. The request for reduced bail was denied. **How would you decide this case?**

Were the defendants’ rights against excessive bail violated?

Group decision _____

Supreme Court decision _____

Look up the case and research and respond to the following questions:

- What actions led to this situation coming before the court? _____
- What was the position and what were the arguments of the petitioner? _____
- What was the position and what were the arguments of the respondent? _____
- What constitutional issue was involved in this case? _____

Develop a short case-study presentation to share with the class, with all members of your group participating. The presentation should only be 3–5 minutes long. Parts can be dramatizations to explain the facts of the case, presentations of the arguments of the petitioner and respondent before the court, or other imaginative ways to communicate the information.

Name: _____

Date: _____

Case Study Sheet

***Eighth Amendment Right Against Cruel and Unusual Punishment: Trop v. Dulles (1958)***

In 1944, U.S. Army Private Albert Trop escaped from a military stockade at Casablanca, Morocco, where his superiors had confined him for disciplinary reasons. One day later, Trop voluntarily surrendered to Army authorities. Despite turning himself in, Trop was convicted in a general court-martial of desertion and sentenced to three years hard labor, ordered to forfeit all pay and allowances, and given a dishonorable discharge. The conviction also resulted in Trop being denied his application for a U.S. passport because his conviction and dishonorable discharge for a wartime desertion meant that he had lost his citizenship. Trop appealed to the Supreme Court, alleging that the loss of citizenship for a wartime desertion constituted cruel and unusual punishment. **How would you decide this case?**

Had Trop been subjected to cruel and unusual punishment?

Group decision _____

Supreme Court decision _____

Look up the case and research and respond to the following questions:

- What actions led to this situation coming before the court? _____
- What was the position and what were the arguments of the petitioner? _____
- What was the position and what were the arguments of the respondent? _____
- What constitutional issue was involved in this case? _____

Develop a short case-study presentation to share with the class, with all members of your group participating. The presentation should only be 3–5 minutes long. Parts can be dramatizations to explain the facts of the case, presentations of the arguments of the petitioner and respondent before the court, or other imaginative ways to communicate the information.

Name: _____

Date: _____

Case Study Sheet



Eighth Amendment Right Against Cruel and Unusual Punishment: Gregg v. Georgia (1976)

Troy Leon Gregg was convicted of killing two men while robbing them at gunpoint. During the penalty stage of the trial, the judge instructed the jury that it could recommend either a death sentence or life in prison. The jury found that Gregg had committed the murders while engaged in another capital offense and recommended the death sentence. Gregg challenged the sentencing as cruel and unusual punishment under the Eighth and 14th Amendments. **How would you decide this case?**

Did Gregg's sentence constitute cruel and unusual punishment?

Group decision _____

Supreme Court decision _____

Look up the case and research and respond to the following questions:

- What actions led to this situation coming before the court? _____
- What was the position and what were the arguments of the petitioner? _____
- What was the position and what were the arguments of the respondent? _____
- What constitutional issue was involved in this case? _____

Develop a short case-study presentation to share with the class, with all members of your group participating. The presentation should only be 3–5 minutes long. Parts can be dramatizations to explain the facts of the case, presentations of the arguments of the petitioner and respondent before the court, or other imaginative ways to communicate the information.

Case Studies Analysis and Evaluation Sheet

Directions: View each case study presented and then analyze them using the form below.

Fifth Amendment Right Against Double Jeopardy: *Benton v. Maryland* (1969)

What were the facts of this case?

What were the positions of petitioner and respondent?

What constitutional issue was involved in this case?

How would you have ruled in this case?

How did the Court decide this case?

Fifth Amendment Right Against Self-Incrimination: *Brown v. Mississippi* (1934)

What were the facts of this case?

What were the positions of petitioner and respondent?

What constitutional issue was involved in this case?

How would you have ruled in this case?

How did the Court decide this case?

Fifth Amendment Right to Due Process: *In re Gault* (1966)

What were the facts of this case?

What were the positions of petitioner and respondent?

What constitutional issue was involved in this case?

How would you have ruled in this case?

How did the Court decide this case?

Fifth Amendment Right Against Property Being Taken for Public Use Without Just Compensation: *Lucas v. South Carolina* (1992)

What were the facts of this case?

What were the positions of petitioner and respondent?

What constitutional issue was involved in this case?

How would you have ruled in this case?

How did the Court decide this case?

Sixth Amendment Right to a Speedy and Public Trial: *Barker v. Wingo* (1972)

What were the facts of this case?

What were the positions of petitioner and respondent?

What constitutional issue was involved in this case?

How would you have ruled in this case?

How did the Court decide this case?

Sixth Amendment Right to a Jury Trial: *Duncan v. Louisiana* (1969)

What were the facts of this case?

What were the positions of petitioner and respondent?

What constitutional issue was involved in this case?

How would you have ruled in this case?

How did the Court decide this case?

Sixth Amendment Right to Confront Witnesses: *Pointer v. Texas* (1965)

What were the facts of this case?

What were the positions of petitioner and respondent?

What constitutional issue was involved in this case?

How would you have ruled in this case?

How did the Court decide this case?

Sixth Amendment Right to Counsel: *Escobedo v. Illinois* (1964)

What were the facts of this case?

What were the positions of petitioner and respondent?

What constitutional issue was involved in this case?

How would you have ruled in this case?

How did the Court decide this case?

Eighth Amendment Right Against Excessive Bail: *Stack v. Boyle* (1951)

What were the facts of this case?

What were the positions of petitioner and respondent?

What constitutional issue was involved in this case?

How would you have ruled in this case?

How did the Court decide this case?

Eighth Amendment Right Against Cruel and Unusual Punishment: *Trop v. Dulles* (1958)

What were the facts of this case?

What were the positions of petitioner and respondent?

What constitutional issue was involved in this case?

How would you have ruled in this case?

How did the Court decide this case?

Eighth Amendment Right Against Cruel and Unusual Punishment: *Gregg v. Georgia* (1976)

What were the facts of this case?

What were the positions of petitioner and respondent?

What constitutional issue was involved in this case?

How would you have ruled in this case?

How did the Court decide this case?

Graphic Organizer Answer Key

Roots of American Democracy

Magna Carta

1. No taxes could be imposed without consent of the council of lords.
2. The monarch could not seize property without paying a fair price for it.
3. People arrested could not be put in jail without a trial.
4. The punishment for violating the law had to be in line with the offense.
5. The monarch could not take people's property without fair compensation.

Petition of Right

1. The king must honor the rights stated in the Magna Carta.
2. The king could not tax without consent nor imprison people without a trial.
3. The king couldn't house soldiers in people's homes without their consent.
4. He could not declare martial law when there was no war or danger to the kingdom.

English Bill of Rights

1. Established the power of Parliament over the monarchy.
2. The monarch could not suspend laws without Parliament's consent.
3. Freedom of speech was protected during sessions of Parliament, which would be held frequently.
4. English citizens would have the right to petition the government.
5. Citizens could elect their representatives to Parliament.
6. Prohibited the monarch from maintaining an army during peacetime without Parliament's consent.
7. Required the monarch uphold the individual rights of English citizens.

Principles of American Democracy

People's rights: People possess the rights to life, liberty, and property—no one individual or government can take a person's rights away without a reason as defined by law

People's relationship to the government: The people are sovereign and have power over the government. No one can be subjected to the power of another without their consent.

The social contract between the people and the government: To ensure government doesn't interfere with the people's rights, a social contract with government is established under which the

people agree to honor and obey the laws of the government and the government agrees to keep order, provide basic needs, and protect the people's rights.

The structure of government: Since government can be prone to abuse its power, it's best to invoke the principle of a separation of powers, dividing the government into executive, legislative, and judicial branches with checks on the power of each branch.

Actions the people can take if the government violates the social contract: Since the people are sovereign, they have the right to take back the government's power if it has not obeyed these principles and protected their rights. This can be done by electing different government officials, voting for a new government, or, if need be, starting a revolution.

Roots and Principles of American Democracy

1. Powers granted:

- establishing standards for weights and measures
- could appoint high-ranking military officers
- could print money
- could borrow money
- could declare war
- could raise an army and navy
- could make treaties with foreign governments

Powers denied:

- all laws passed had to have a nine-state majority
- couldn't tax to raise funds for pay for essential services, operate an army and navy, or pay off the war debt
- couldn't pay for a military to enforce the treaties
- had no authority to enforce federal court decisions
- was denied the power to regulate how the states traded with foreign countries and themselves
- amending the Articles to give the central government more power required the unanimous consent of all 13 states

2. **Treasury problems:** The national treasury was nearly broke. The country was \$60 million in debt, some owed by the federal government and some owed by the states. Since Congress didn't have the power to tax, it had to rely on individual states to make voluntary contributions to the national treasury to help pay the debt. While Congress could print more money, this could result in inflation.

Commerce problems: Having lost its “favored-nation trading status” with England, the United States became vulnerable to open and hostile trade competition. England continued to trade with the United States but restricted American ships from unloading at some ports in the British Empire, causing a loss in income for U.S. merchants. England also imported cheap goods to the United States. While this was great for consumers, it hurt home industries that could not compete with the less expensive goods. This “dumping” of cheap imports threatened to put many American companies out of business.

Foreign affairs problems: Britain, Spain, and France constantly harassed American merchant ships on the high seas. Spain closed down the port of New Orleans, cutting off exports down the Mississippi River. Congress had no way to pay for an army or navy to defend its trading interests. Pirates off the Barbary Coast of North Africa had been preying on European and American shipping for decades. When ransoms couldn’t be paid, the American crews were sold into slavery.

Interstate problems: Individual states operated as independent countries, not a unified nation. They bickered with fellow states over control of waterways and borders. Some states printed their own paper money, which led to inflation. Some states established treaties with foreign governments, neglecting to consider the interests of other states. Citizens in several states threatened insurrection or secession.

The Legislative Branch

1. **Powers granted:** power to collect taxes, borrow money, regulate interstate and foreign trade, establish uniform rules and laws for naturalization and bankruptcies, coin money, establish post offices, and declare war.

Powers denied: suspending the writ of habeas corpus, passing bills of attainder or ex post facto laws, taxing goods traded between states, giving trade preference to one state over another, taking money from the Treasury without a specific law, or granting a title of nobility to any officeholder.

2. ***In order to form a more perfect union:*** regulate interstate trade, establish post roads
Establish justice: establish uniform rules and laws for naturalization and bankruptcies, constitute Tribunals inferior to the supreme Court
Insure domestic tranquility: regulate interstate and foreign trade, establish uniform rules and laws for naturalization and bankruptcies, coin money, establish post offices
Provide for the common defense: collect taxes, borrow money, raise and support armies
Promote the general welfare: coin money, establish post offices
Secure the blessings of liberty to ourselves and our posterity: declare war

Analysis Questions

1. Anyone can present an idea for a bill to Congress. Answers will vary.
2. A congressional committee holds hearings to gather important information related to the bill. A subcommittee then determines the bill’s final language. When it has been determined that the bill is ready, the committee votes on whether to report the bill to the full House or Senate for floor debate and approval or rejection. Committees are important because this is where most of the work is done to pass a bill.

3. Legislators might want to amend a bill because they need to keep their political party and constituents happy. The advantage of this procedure is that everyone gets a say to ensure that the bill serves everyone's needs. The disadvantages are that the process ends up taking a long time and some bills don't end up making it through.
4. At the time, the country was a loose collection of independent states. The two chambers were created so that all states, large and small, felt equally represented. Having both houses approve a bill made sure that each state had their say.
5. The rules for floor votes are different because the House has more members and they need to limit the amount of debate time given to each representative.
6. The purpose of a conference committee is to act as an arena for the two houses to compromise on differences between two versions of a bill.

The Executive Branch

1. The framers of the Constitution believed that selecting the president required careful consideration, and that the president therefore should not be directly elected by the people. In their view, popular election of the president was too much democracy. They believed the public was too prone to emotion, and that this would cloud their decision making.
2. In order to form a more perfect union: The president is required to report to Congress in a yearly State of the Union address.

Establish justice: The primary duty of the president is to enforce the laws. He also grants reprieves and pardons.

Insure domestic tranquility: The president appoints justices to the federal courts and officers to the executive departments.

Provide for the common defense: The president commands the armed forces.

Promote the general welfare: The president decides upon his or her goals and introduces a budget designed to set out the nation's economic agenda.

Secure the blessings of liberty to ourselves and our posterity: The president makes treaties with foreign nations, is chief diplomat of the country, and officially receives ambassadors and public ministers from other countries.

3. **Chief of state:** The Secretary of State would assist the president by building relationships with representatives of other countries.
Chief executive: The United States Attorney General is the chief law-enforcement officer under the president and would assist the president in times of emergency.
Chief foreign-policy maker/chief diplomat: The Secretary of State, Secretary of Commerce, and Secretary of Homeland Security all assist the president with foreign relations and handling issues with foreign governments.
Commander-in-chief: The Secretary of State, Secretary of Defense, and Secretary of Homeland Security would all assist the president in times of war.

Chief of party: All departments would be involved as the president would attempt to get members of his or her party jobs in these departments.

Watchdog of the economy/Chief guardian of the economy: The Secretary of the Treasury and Secretary of Commerce would assist the president in economic matters.

Legislative lobbyist/chief legislator: The United States Attorney General would assist the president with legislation.

The Judicial Branch

1. **Vague language of Article III:** When the Constitution's framers wrote Article III, they left much of the details of forming a judiciary up to Congress. The article identifies a supreme court and lower courts, establishes the U.S. Supreme Court as an appellate court with limited original jurisdiction, and reaffirms the right to a jury trial. However, Article III is not specific about the powers of the Supreme Court.

The Court's first session in 1790: Its first session in 1790 had no cases; the justices met for two hours and went home.

"Riding circuit": The justices were required to "ride circuit," traveling to the 13 judicial district courts throughout the country twice a year. Traveling over footpaths and two-rut roads in a horse-drawn carriage was brutal and nearly killed some of the justices.

2. **Describe the dilemma Chief Justice Marshall faced when deciding *Marbury v. Madison*:** If he forced Jefferson to deliver Marbury's commission, Jefferson might refuse, leaving the Court weak. If he ruled in Jefferson's favor, it would seem as if the Court were a tool of the executive branch.

Describe the power of judicial review: The power to interpret what the Constitution means.

How does it balance the power of the other two branches? It allows the judicial branch the authority to limit the power of the other two branches when either of their actions go beyond their constitutional authority.

3. **Criminal courts**

What's being disputed? Someone accuses someone else of breaking the law

Who's involved? Plaintiff and defendant

What is the procedure? The plaintiff files official charges, and the government acts as the prosecution to present evidence and witnesses against the defendant in an open court, usually before a jury of peers. The defendant has the right to defend his- or herself with evidence and witnesses in open court.

Civil courts

What's being disputed? A petitioner feels someone else (or the government) has violated their rights or taken advantage of them

Who's involved? Petitioner and respondent

What is the procedure? The respondent responds to the charges against them with evidence in open court.

4. **"Courts of last resort":**

Federal courts: U.S. Supreme Court

State courts: State supreme court

Appellate jurisdiction

Federal courts: U.S. Court of Appeals

State courts: State court of appeals

First level of courts with original jurisdiction

Federal courts: U.S. district courts

State courts: Municipal courts and superior courts

5. Answers will vary.

Checks and Balances

1. **Civic virtue:** Acting in a way that promotes the common good.

Self-interest: Acting in a way that benefits yourself.

2. If people always possessed and acted on civic virtue, rather than promoting their own self-interest, then no government would be necessary to benefit and protect people.
3. **Separating power among the branches of government:** Separation of powers into executive, legislative, and judicial branches decentralizes power amongst different groups and helps ensure no one group can dominate the government.

Establishing checks and balances among the branches of government: One branch can check the power of another if it feels that branch has gone beyond its constitutional authority.

4. See chart in Historical Background Essay.

Federalism

1. Answers may vary but students should mention that the framers wanted to protect individual rights and to center power with the states.
2. **A confederation:** The states acted independently from—and at times at odds with—one another. They quarreled over borders, printed their own paper money, and failed to honor financial obligations and treaties.
A unitary government: A unitary government was tyrannical
3. **Expressed powers:** Powers specifically granted to the national government in the Constitution, Article I, Section 8: taxation, coining money, making treaties, setting up a postal system, regulating interstate trade, and declaring war.
Concurrent powers: Those that both national and state governments need so as to fulfill their responsibilities: levying taxes, providing for public safety, establishing courts, borrowing money, and constructing and maintaining roads.
Reserved powers: Powers not expressly given to the national government, but instead are reserved to the states under the Tenth Amendment.
4. **Pluses:** Promotes unity without imposing uniformity. Since states are allowed to have their own governments, they function as laboratories of democracy, working on ideas in order to better serve their citizens. Their reserved powers allow them to act as another check on the federal government, and because the states are closer to their residents and can respond more quickly to their needs, federalism promotes political participation.

Minuses: Lacks consistency because laws differ from one state to the next. In addition, federalism often lacks clarity in identifying who is responsible for what. Finally, federalism creates a very complex system in which conflicts and competition can occur between the levels of government.

5. One side of each cake should read “National Government,” and the other side should read “State Government.”
6. **Regulated Federalism:** The federal government created programs to help states and provided funds that carried strict regulations on how states could spend the money. States welcomed the money, but not the regulations. They were even more unhappy about unfunded mandates: regulations imposed on state and local governments without adequate funding.
New Federalism: The federal government mandated that the states find their own solutions to their problems, since they had a better understanding of them. The federal government continued to issue grants to help with state programs, but these “block grants” left the states free to decide how the money should be spent.

Origins of the Bill of Rights

1. **Monarchy**
 The government
 The leaders
 The people
Constitutional Democracy
 The people
 The leaders
 The government
2. Student’s diagrams should include the executive, legislative, and judicial branches of government and also show the national and state governments.
3. **Magna Carta:** Defined the limits of government to not tax without the people’s consent, not take citizens’ property without justly compensating them, and not conduct a trial without a jury of one’s peers.
English Bill of Rights: The people’s voice—the legislative branch—was supreme over the king, that citizens had a right to petition the government when they had a grievance, that freedom of speech would be protected, and that no punishment would be administered without cause shown.
Mayflower Compact: Practice civic virtue and to obey the laws they enacted for the general good of the colony.
House of Burgesses: Had elected representatives to an assembly; that assembly had the power to levy taxes and spend money to provide essential services.
Massachusetts Body of Liberties: Modeled after the Magna Carta and the English Bill of Rights, this document guaranteed similar basic rights for the colonists.

4. Women: 49%
White men: 10%
Slaves: 20%
5. Most of the delegates rejected a bill of rights as unnecessary because the states already had these protections in their constitutions, and people believed that no branch of the federal government had the power to take them away. The inclusion of a bill of rights was advocated so strongly by several of the key delegates that they refused to sign the finished Constitution. The lack of some statement protecting the most basic rights America had fought for during the Revolution dismayed people in many states. During the ratification of the Constitution, a bill of rights became a condition for approval.

The Fifth, Sixth, and Eighth Amendments

1. The degree to which a society follows due process is an indicator of its respect for human dignity.
2. The amendment states that every person accused of a crime is entitled to a fair procedure. The Fifth Amendment guarantees everyone's right to a grand jury investigation, to not be tried twice for the same crime, to not be a witness against themselves, and to not have their life, liberty, or property taken away unless the government follows the proper procedure. If the government takes property, it must compensate the owner in a just and fair way.
3. The amendment guarantees the right to a speedy and public trial and the right to be heard by an impartial jury of one's peers in the location where the crime was committed. The accused have the right to know the nature and cause of the accusation against them, to be able to confront their accusers, to have witnesses speak on their behalf, and to be assisted by legal counsel.
4. Establishes guidelines for bail, fines, and punishment, stating that none of these shall be excessive nor "cruel and unusual."
5. **Use of grand juries:** Some critics contend that common citizens can't understand the highly technical nature of some cases, or that they won't be able to keep secret about sensitive testimony.

Protection against self-incrimination: The protection against self-incrimination has sometimes run afoul of law enforcers who obtain a voluntary confession before a person has been told they can remain silent or consult with legal counsel. The courts deem such confessions inadmissible.

Self-incrimination and due process: In cases involving alleged terrorists or enemy combatants, many feel the protections against self-incrimination and due process should not be allowed.

Speedy and public trial: Courts of original jurisdiction have become overburdened with cases, making speedy scheduling difficult while also not allowing ample time for the defendants to prepare their case.

Right to face accusers: Such an arrangement can be difficult in cases involving things such as child abuse because the child might not be emotionally mature enough to face the accused.

Right to an attorney: If a suspect confessed to a crime but was not informed of the right to counsel, any evidence or confessions obtained would be inadmissible in court. Some have expressed concern about the quality of public defenders, who are sometimes inexperienced and have to deal with large caseloads, and therefore may not be able to provide the best defense for their clients.

Cruel and unusual punishment: In the second half of the 20th century, several states began to question whether the death penalty constituted cruel and unusual punishment. Academic studies brought into question the effectiveness of capital punishment as a deterrent to crime and presented evidence that some forms of executions might constitute cruel and unusual punishment. As the appeals process in capital offences became more complicated, the cost of executions to the states often became more expensive than incarcerating someone for life. In more recent years, DNA evidence has proven that several individuals on death row didn't commit the crimes they were convicted of.

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