

US CONSTITUTION UNIT



NAME _____

PERIOD _____

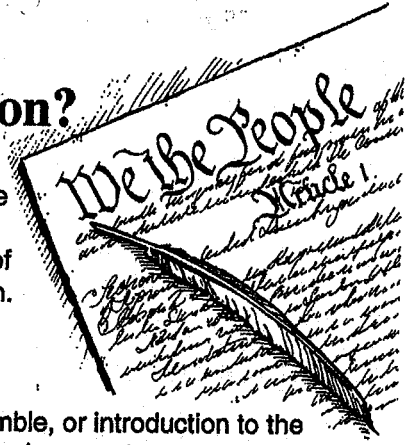
Practice 2: Preamble to the Constitution

Name _____

What Is a Constitution?

A constitution is a plan of government. It describes the kind of government a nation is to have and how that government is to be organized. It also explains the powers of those in control and lists the rights of the citizens they govern. Most countries have constitutions.

The Constitution of the United States is a unique document that has survived for over two hundred years. It is the reason Americans enjoy so many freedoms. In the Preamble, or introduction to the Constitution, the Founding Fathers named the six goals of the document.



Listed below are the six goals the writers of the Constitution included in the Preamble. Describe what you think each one means. Use a dictionary to find the meanings of any words you don't know.

1. To form a more perfect Union _____

2. To establish justice _____

3. To insure domestic tranquillity _____

4. To provide for the common defense _____

5. To promote the general welfare _____

6. To secure the blessings of liberty _____



The Constitution

US History

Name: _____

Do Now:

"Supporters of the Constitution called themselves Federalists. The name was chosen with care. It emphasized that the Constitution would create a federal system. Power would be divided between a central government and regional governments. They hoped the name would remind those Americans who feared a central government that the states would retain many of their powers. Opponents to the Constitution were called Antifederalists, a somewhat misleading name, as they were not truly against federalism [federalism is the American system of government today – it is a system of government where power is divided between a national or federal government and state governments]. The real issue, as far as they were concerned, was whether the national government or the state governments would be supreme. Two members of the Constitutional Convention, Edmund Randolph and George Mason, became Antifederalists because they believed the new Constitution should have included a bill of rights. Many Antifederalists were western farmers living far from the coast. These people considered themselves self-sufficient and were suspicious of the wealthy and powerful.

Although many influential American leaders opposed the new Constitution, several factors worked against the Antifederalists. First of all, their campaign was a negative one. The Federalists presented a definite program to meet the nation's problems. Although the Antifederalists complained that the Constitution failed to protect basic rights, they had nothing to offer in its place. The Federalists were also better organized than their opponents. Most of the nation's newspapers supported them. The Federalists' arguments for ratification were summarized in *The Federalist* – a collection of 85 essays written by James Madison, Alexander Hamilton, and John Jay. The essays explained how the new Constitution worked and why it was needed." ~ *The American Vision*

1. Federalism is best defined as a principle of government that

- (1) divides power between the central government and state governments
- (2) includes a system of checks and balances
- (3) allows the states to nullify national laws
- (4) places the most power in the hands of the legislative branch

2. What was the primary objection of the Antifederalists to ratification of the Constitution?

- (1) They opposed a bicameral legislature.
- (2) They believed the rights of the people were not protected.
- (3) They feared a weak central government.
- (4) They wanted to give more power to the executive branch.

3. Building support for the ratification of the United States Constitution was the purpose of the

- (1) Farewell Address of George Washington
- (2) Albany Plan of Union
- (3) Mayflower Compact
- (4) Federalist Papers

4. Which two groups debated the ratification of the new Constitution?

- (1) loyalists and revolutionaries
- (2) Federalists and Antifederalists
- (3) Democratic Party and Whig Party
- (4) executive branch and judicial branch

“The Constitution begins with its most famous paragraph, the Preamble. Then follows the main body of the document: which consists of seven major parts known as articles. Added to the document were ten amendments, known as the Bill of Rights. Seventeen other amendments have been adopted at different times in U.S. history.

Recall that that the Constitution’s creators – or Framers – wanted to improve upon the Articles of Confederation of 1781, which had established a loose association of states. Therefore, to give authority to the people of the entire nation, the Preamble asserts that the new U.S. government was being established by “we the people” rather than by the individual states. The Preamble identifies the goals of the new government as follows:

We the people of the United States, in order 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 to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

The Constitution gives the powers of government to three separate groups, or branches: the legislative branch, the executive branch, and the judicial branch. This is known as the principle of *separation of powers*.” ~ U.S. History and Government

1. What is a principle of government that is stated in the Preamble to the United States Constitution?

- (1) Federal laws must be subject to state approval.**
- (2) The power of government comes from the people.**
- (3) The right to bear arms shall not be infringed.**
- (4) All men and women are created equal.**

2. The term *supreme law of the land* refers to which document?

- (1) Fundamental Orders of Connecticut**
- (2) Constitution of the United States**
- (3) Articles of Confederation**
- (4) Declaration of Independence**

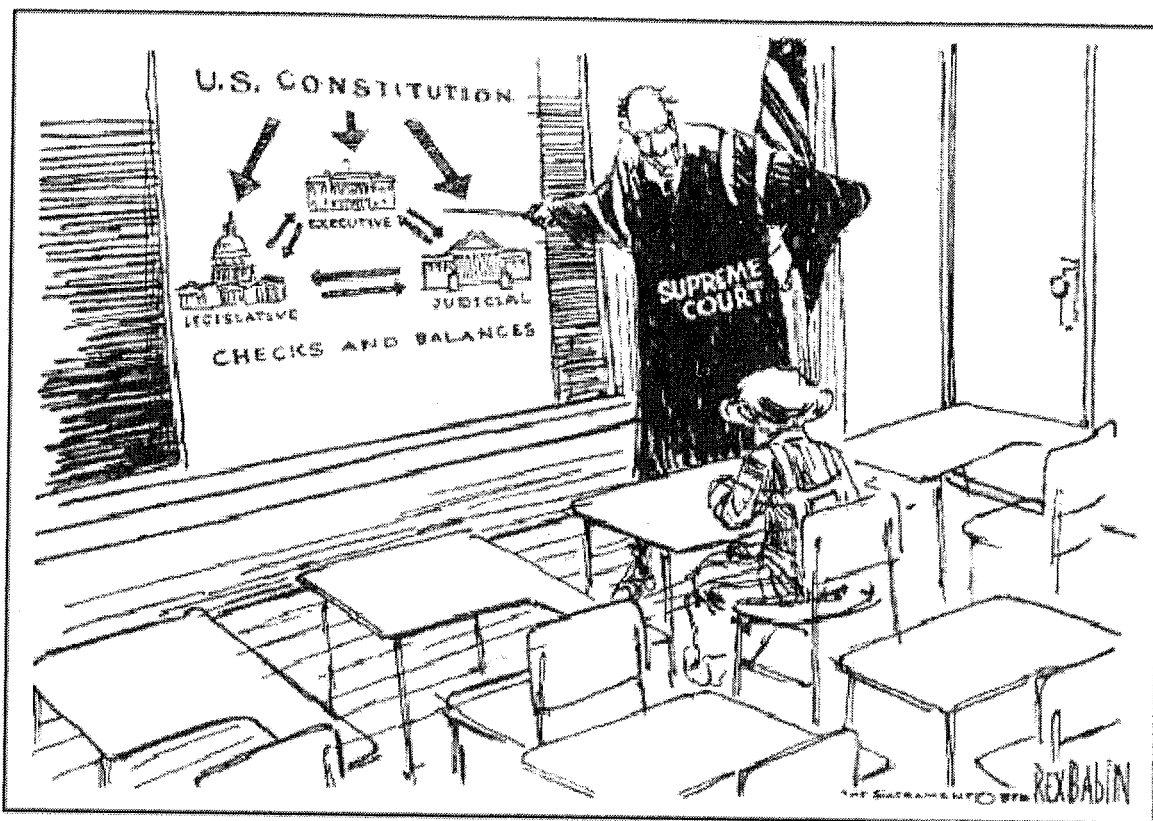
3. A major criticism of the Articles of Confederation was that too much power had been given to the

- (1) British monarchy**
- (2) House of Burgesses**
- (3) state governments**
- (4) national government**

4. We the people of the United States, in order 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 to ourselves and our posterity, do ordain and establish this Constitution for the United States of America. ~ Preamble to the United States Constitution

In this passage, the authors are stating that

- (1) both men and women should have equal voting rights**
- (2) state governments created the United States government**
- (3) sovereignty belongs to the people of the nation**
- (4) people obtain their rights from their monarch**

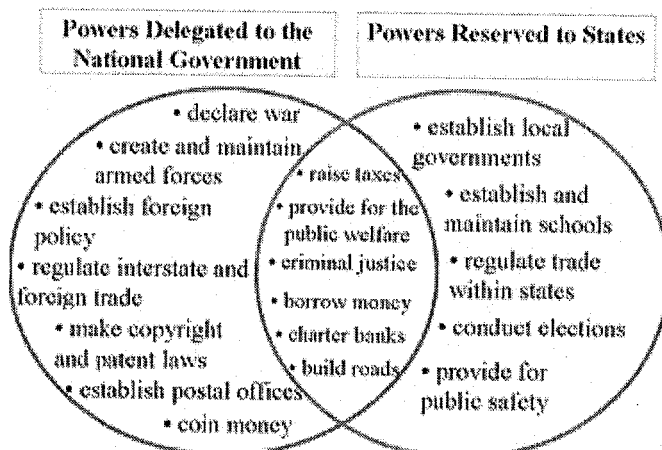


10. Which constitutional principle is the focus of this cartoon?

- (1) Individual liberties (3) Freedom of speech
(2) Separation of powers (4) Federalism

Analyze the diagram:

Federalism



“The Constitution describes a federal system of government (Federalism). This is a system in which political power is divided more or less evenly between a central, or national, government and state governments. In September 1787, the Constitution was submitted to the states for their approval. A great debate followed on whether or not the new plan of government should be substituted for the Articles of Confederation. Favoring the ratification of the Constitution was a group called Federalists. Opposing ratification were the Anti-Federalists.” ~ U.S. History and Government

1- What is Federalism?

2- Using the diagram:

a) What is a power given only to the Federal Government?

b) What is a power given only to the State Governments?

c) What is a shared or concurrent power?

3- Using the diagram: Identify if the power is Federal or State or concurrent...

a) The power to declare war:

b) The power to establish and maintain schools:

c) The power to raise taxes:

d) The power to coin money:

e) The power to regulate trade within states:

f) The power to regulate trade between states (interstate commerce):

g) The power to establish postal offices:

h) The power to conduct elections:

i) The power to create and maintain armed forces:

j) The power to provide for the public welfare:

k) The power to borrow money:

4- Why do you think the framers created a federal system (federalism)?

5- Why do you think the framers allowed for some powers to be shared?

1. The United States and New York State constitutions establish republican forms of government because each provides for
- (1) a standing army
 - (2) elected representatives
 - (3) control over the money supply
 - (4) a system of implied powers

2. Which constitutional principle best protects the public from abuse by one branch of government?

- (1) equality
- (2) federalism
- (3) executive privilege
- (4) checks and balances

3. Which statement most accurately describes federalism?

- (1) The judicial branch of government has more power than the other two branches.**
- (2) The president and vice president divide executive power.**
- (3) Power is divided between the national government and the states.**
- (4) Power is shared between the two houses of Congress.**

4. Federalism is best defined as a principle of government that

- (1) divides power between the central government and state governments**
- (2) includes a system of checks and balances**
- (3) allows the states to nullify national laws**
- (4) places the most power in the hands of the legislative branch**

5. A constitutional power specifically delegated to the federal government is the power to

- (1) regulate marriage and divorce**
- (2) establish education standards**
- (3) declare war**
- (4) issue driver's licenses**

6. Passing marriage and divorce laws, creating vehicle and traffic regulations, and setting high school graduation requirements are examples of powers traditionally

- (1) exercised solely by local governments**
- (2) reserved to the state governments**
- (3) delegated entirely to the federal government**
- (4) shared by the national and local governments**

7. *Federalism* is a term used to define the division of power between the

- (1) president and the vice president**
- (2) Senate and the House of Representatives**
- (3) national and state levels of government**
- (4) three branches of government**

8. Separation of powers and federalism are constitutional principles that

- (1) Establish limits on the powers of government**
- (2) Ensure legislative and executive equality**
- (3) Increase the power of the national government and decrease the power of the states**
- (4) Settle conflicts between state and national authorities**

9. Which power was delegated to the federal government in the United States Constitution?

- (1) establishing an official religion**
- (2) controlling interstate commerce**
- (3) regulating marriage and divorce**
- (4) granting titles of nobility**

10. • The United States government taxes gasoline.

• New York State law requires a sales tax on many goods.

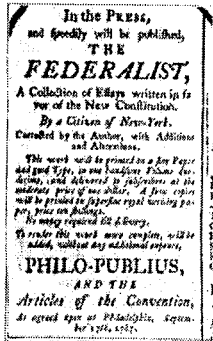
These two statements best illustrate the principle of

- (1) concurrent powers**
- (2) property rights**
- (3) reserved powers**
- (4) popular sovereignty**

11. Which statement is an example of the system of federalism?

- (1) Cabinet members are appointed by the president.**
- (2) Revenue bills must begin in the House of Representatives.**
- (3) The national government coins money, but states cannot.**
- (4) The president can negotiate treaties, but the Senate has the power to ratify them.**

Federalist No. 51 (1788)



“In this Federalist Paper, James Madison explains and defends the checks and balances system in the Constitution. Each branch of government is framed so that its power checks the power of the other two branches; additionally, each branch of government is dependent on the people, who are the source of legitimate authority.

‘It may be a reflection on human nature, that such devices [checks and balances] should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions.’

Madison also discusses the way republican government can serve as a check on the power of factions, and the tyranny of the majority. ‘[I]n the federal republic of the United States...all authority in it will be derived from and dependent on the society, the society itself will be broken into so many parts, interests, and classes of citizens, that the rights of individuals, or of the minority, will be in little danger from interested combinations of the majority.’ All of the Constitution’s checks and balances, Madison concludes, serve to preserve liberty by ensuring justice. Madison explained, ‘Justice is the end of government. It is the end of civil society.’

Madison’s political theory as expressed in this *Federalist Paper* demonstrated the influence of Montesquieu’s *The Spirit of the Laws* on the Founders.”

~ *Bill of Rights Institute*

- 1- Explain checks and balances.
- 2- According to Madison, why is it necessary to “control” government?
- 3- According to Madison, how does republican government check “the tyranny of the majority”?
- 4- Explain Montesquieu’s key political belief.

Two Views on the Constitution:

Strict Constructionist

Held that the Constitution should be read literally and that the elastic clause should be used only for expanding the powers of Congress in cases where the expansion is absolutely necessary.

Loose Constructionist

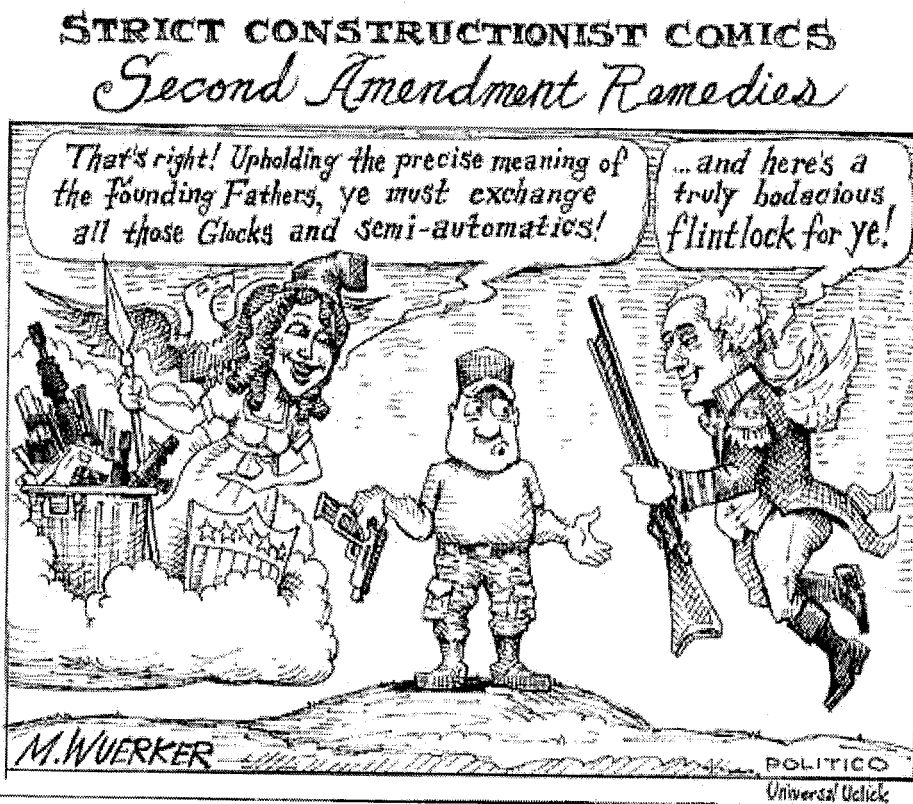
Held that the Constitution, and specifically the elastic clause, should be read broadly and that the framers had intended the clause to mean that Congress should have the 'proper' powers resulting from its other powers.

Questions:

1- What did Strict Constructionists believe regarding the Constitution and the elastic clause?

2- What did Loose Constructionists believe regarding the Constitution and the elastic clause?

3- Analyze the following political cartoon:



- a) The Second Amendment states: 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.
- b) Explain the meaning of the political cartoon.

Strengths and Weaknesses of Our Constitutional System:

“How can we explain the remarkable fact that a constitution created more than 200 years ago is still the basis for one of the most successful and stable governments in the world? Some reasons are as follows:

***The Constitution is a brief and flexible set of guidelines, allowing the government to adapt to change. Thus, each generation has been able to interpret the Constitution in terms of changing needs and conditions. At the same time, the traditional values and principles of the Constitution are still respected.**

***The Preamble emphasizes that the Constitution is a document of the people, not of the states.**

***The principles of separation of powers and checks and balances have helped to block the possibility of one of the three branches wielding absolute power.**

***The Bill of Rights has served to protect individual liberties.**

***Amendments to the Constitution have extended voting rights to all groups in the adult population.**

Although the original Constitution had many strengths, it has been criticized for its omissions with regard to equality. These criticisms include the following:

***The Constitution failed to guarantee that women receive equal treatment, including the right to vote. Other rights denied to women were the right to hold property in their own name, and the right of women to be the legal guardians of their own children.**

***Although African Americans had fought in the Revolutionary War, the Constitution failed to abolish slavery.**

***The Constitution failed to guarantee the right to vote to all white males, many of whom were denied that right by states that maintained property qualifications for voting.”**

~ U.S. History and Government

Questions:

1- Why has the Constitution survived as the basis of government for over 200 years?

2- What does the Preamble emphasize?

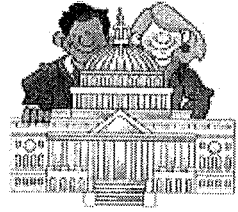
3- What prevents one of the three branches of government from wielding absolute power?

4- What does the Bill of Rights protect?

5- What did the original Constitution omit?

Analyze the following chart: The Three Branches of Government

The Legislative Branch: Congress



Article I describes the organization and powers of the legislative, or lawmaking, branch – the U.S. Congress.

- Congress consists of two groups of lawmakers, the House of Representatives and the Senate
- Lists the legislative powers of Congress (the laws it may make)
- Describes the method for electing members of each house
- Describes the qualifications for election and the terms of office in House and Senate
- Describes the procedures for making laws

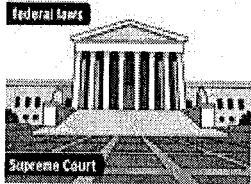
The Executive Branch: President and Vice President



Article II describes the law-enforcing branch, or executive branch.

- It says that the *chief executive* (the official in charge of the law-enforcing branch) shall be the President
- It also mentions the vice president but says little about his responsibilities
- Describes the president's powers
- The president's four-year term of office
- The method of electing the president and vice president
- The method for removing the president by *impeachment* (an accusation of wrongdoing followed by a trial)

The Judicial Branch: Supreme Court and Lower Courts



Article III describes the judicial branch – the federal court system that interprets the laws of Congress as they apply to specific cases.

- The Constitution mentions both “inferior” (lower) courts and a Supreme Court
- Describes the terms of office for federal judges
- Congress's power to establish new courts
- Concerning the jurisdiction (assigned area of responsibility) of the courts, it distinguishes between cases that go directly to the Supreme Court (the highest, most powerful court) and cases that may be heard first by lower federal courts

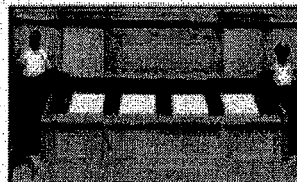
~ Adapted from U.S. History and Government

LG 2- Article 1: Legislative Branch- Congress

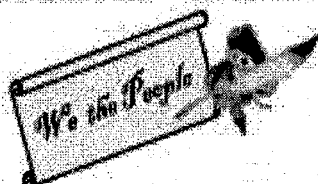
Anatomy of the Constitution Name: _____

How Do They Govern?

The U.S. Constitution is the document that creates our nation's government. The contents of the Constitution create the three branches of our government and give directions for how the federal government works. (It does this with a little over 4,500 words covering only four sheets of paper!) Although the Constitution was written over 220 years ago, it still guides our officials in running our country today. It is also the oldest written constitution in the world that is still in use.



The Constitution on display at the National Archives in Washington, D.C.



Introducing... The Preamble

Our Constitution is divided into nine parts. The first paragraph is called the *Preamble*. Its job is to introduce the Constitution, explain what the Constitution is meant to do, and describe the purpose of the new government.

Creating Congress: Article I

Article I is the first and longest part of the Constitution. It creates the legislative branch of our government. *Legislative* means law-making. This section is the longest because the people who wrote the Constitution believed that a legislative branch is very important in a government that represents the citizens. Members of the *Legislature*, or law-making body, are responsible for turning citizens' wants and needs into laws.



Represent Me!



The legislative branch makes our government a representative democracy. In a *representative democracy*, citizens elect people to represent their needs and concerns in government. Article I creates a legislature called Congress and divides it into two parts: the Senate and the House of Representatives. Article I describes how Congress should be organized, tells what qualifications legislators must have, and says how often Congress should hold elections and meet as a group. It also describes other details of operation that each house of Congress gets to decide for itself.

	The Senate	The House of Representatives
Qualifications	You must be at least 30 years old, been a U.S. citizen for at least 9 years, and live in the state you represent.	You must be at least 25 years old, been a U.S. citizen for at least 7 years, and live in the state you represent.
Size	2 senators per state = 100 total	Number per state depends on population = 435 total (in 2011)
They represent...	the interests of the citizens in the entire state for 6 years per term.	the interests of the citizens who live in the district they represent within the state for 2 years per term.
Special Duties	The Senate acts as a court during impeachments.	All bills that raise money must start in the House of Representatives.
Rule in Lawmaking	A bill must be approved by BOTH houses of Congress before it can go to the President to become a law.	

Name _____

Article I, Sections 1-3

The Makeup of Congress

Sections 1, 2, and 3 of Article I of the Constitution address the organization of the legislature. They state that Congress shall be made up of a Senate and a House of Representatives. These sections also list the required qualifications for senators and representatives.

Read the first three sections of Article I, then fill in the information below.

1. A representative in the House must be at least _____ years old.
2. A candidate for the House of Representatives must have been a U.S. citizen for at least _____ years.
3. Representatives are elected for terms of _____ years.
4. A candidate for the Senate must be at least _____ years of age.
5. A senator must have been a citizen of the United States for _____ years.
6. Senators are elected for terms of _____ years.
7. According to Article I, Section 3, senators were chosen by _____.
(The Seventeenth Amendment changed this. Senators are now chosen by the voters in their state.)
8. Why do you think the Founding Fathers placed age restrictions on representatives and senators? _____

9. Do you agree with the ages the Founding Fathers chose? Why or why not?

10. Why do you think it's important for representatives and senators to have lived in the United States for a number of years? _____

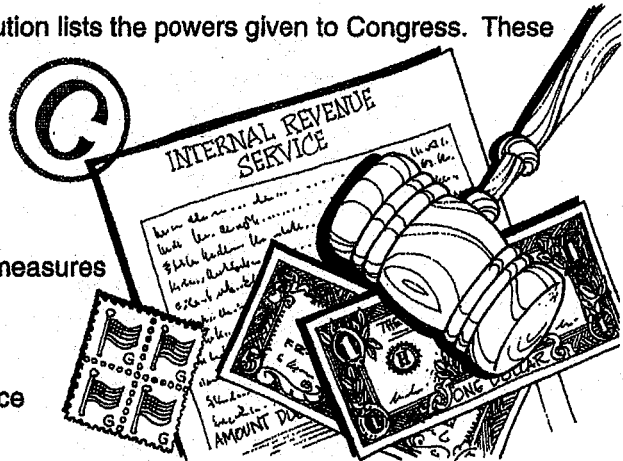
Name _____

Article 1, Section 8

The Powers of Congress

Article 1, Section 8 of the Constitution lists the powers given to Congress. These include the power to do the following:

- collect taxes
- establish post offices
- regulate trade
- make rules for citizenship
- coin money
- set standards for weights and measures
- grant copyrights and patents
- establish federal courts
- declare war
- raise and support an armed force



The powers mentioned above are **expressed powers**. Each is explained in the Constitution. Section 8 of Article 1 also states that Congress can "make all laws which shall be necessary and proper" to carry out its duties. This is the so-called "elastic clause" that has allowed the federal government to create many national services that the Founding Fathers could not foresee the need for when the Constitution was written. This clause is the basis of Congress's **implied powers**. All powers not expressed in the Constitution are granted to the states and are called **reserved powers**.

Read Article 1, Section 8 of the Constitution. On the line next to each of the following phrases, write whether the power falls under the category of expressed, implied, or reserved.

1. to declare war _____
2. to provide for education _____
3. to set standards for television _____
4. to regulate transportation _____
5. to issue marriage licenses _____
6. to determine citizenship rules _____
7. Name another expressed power. _____
8. Name another Implied power. _____
9. Name another reserved power. _____

Name _____

Special Powers of the Senate and the House

Congress is divided into the Senate and the House of Representatives. Each of these two divisions has powers that it alone enjoys. The Senate approves or disapproves treaties with foreign countries as well as all appointments the president makes to the executive and judicial branches of the federal government. It also sits as a jury in impeachment cases brought against federal officials by the House of Representatives. Finally, it chooses the vice president if no candidate receives a majority in the Electoral College.

The Constitution gives the House of Representatives three special powers. First, the House of Representatives initiates all tax bills that go through Congress. Second, only the House of Representatives can bring impeachment charges against federal officials. Third, the House of Representatives selects a president when no candidate receives a majority of the electoral votes.

Remember that the Senate approves appointments to the *federal* government. Must the Senate approve the following government appointments? Write *Yes* or *No* in each blank.

1. _____ a nominee to the U.S. Supreme Court
2. _____ a county judge
3. _____ a nominee for secretary of defense
4. _____ the president's choice for attorney general
5. _____ the head of the Federal Reserve Board
6. _____ the head of a state's highway patrol

Remember that the House of Representatives can try to impeach *federal* officials. Is the House empowered to bring impeachment charges against the following officials? Write *Yes* or *No* in each of the blanks.

7. _____ a federal judge
8. _____ the president
9. _____ a state senator
10. _____ the mayor of Washington, D.C.
11. _____ a state supreme court justice
12. _____ the chief justice of the U.S. Supreme Court
13. _____ a local congressman or congresswoman

14. Do you think the special powers of the Senate or those of the House of Representatives are more important? Explain your answer. _____

Flexibility – Elastic and Unwritten

US History/Napp

Name: _____

“Expressed powers are those powers directly stated in the Constitution. Most of the expressed powers of Congress are itemized in Article 1, Section 8. These powers are also called enumerated powers because they are numbered 1 to 18. Some of Congress’ enumerated powers are the right to coin money, to regulate commerce with foreign nations and among the several states (interstate commerce), the right to levy taxes, to make laws, and to declare war. The final enumerated power is often called the “elastic clause.” This clause gives Congress the right to make all laws “necessary and proper” to carry out the powers expressed in the other clauses of Article I. It is called the elastic clause because it lets Congress ‘stretch’ its powers to meet situations the Founders could not have anticipated. However, what the phrase ‘necessary and proper’ in the elastic clause means was a subject of dispute from the beginning. The issue was whether a strict or a broad interpretation of the Constitution should be applied. The dispute was first addressed in 1819, in the case of *McCulloch v. Maryland*, when the Supreme Court ruled in favor of a broad interpretation. The Court stated that the elastic clause allowed Congress to use its powers in any way that was not specifically prohibited by the Constitution.”

~ *The American Vision*

Are You a Strict Constructionist or a Loose Constructionist?

Strict Constructionist	Loose Constructionist
<ul style="list-style-type: none"> • The Constitution should be read literally • The elastic clause should be used only for expanding the powers of Congress in cases where the expansion is <u>absolutely necessary</u> 	<ul style="list-style-type: none"> • Held that the Constitution, and specifically the elastic clause, should be read broadly • And that the framers had intended the clause to mean that Congress should have the “proper” powers resulting from its other powers
<p>1. The elastic clause of the United States Constitution gives Congress the power to</p> <p>(1) “Make rules for the government and regulation of the land and naval forces...”</p> <p>(2) “Regulate commerce with foreign nations, and among the several states, and with the Indian tribes...”</p> <p>(3) “Lay and collect taxes, duties, imports and excises...”</p> <p>(4) “Make all laws which shall be necessary and proper for carrying into execution the foregoing powers...”</p> <p>2. A significant difference between a strict constructionist and a loose constructionist is</p> <p>(1) when to use the elastic clause</p> <p>(2) when to levy taxes</p> <p>(3) when to declare war</p> <p>(4) when to regulate interstate commerce</p>	<p>3. The major benefit of having the elastic clause in the United States Constitution is</p> <p>(1) it allows the government to respond to changing conditions</p> <p>(2) it protects the rights of racial minorities</p> <p>(3) it prevents one branch of government from becoming too powerful</p> <p>(4) it establishes a postal service</p> <p>4. The elastic clause and the amending process are all methods by which</p> <p>(1) Congress may check the power of the executive branch</p> <p>(2) the wording of the original Constitution may be altered</p> <p>(3) state governments may limit the power of the Federal Government</p> <p>(4) the Constitution may be adapted to meet changing conditions</p>

Justifying the Implied Powers of the Federal Government

The authors of the U.S. Constitution wanted to replace the weak national government of the Articles of Confederation with a stronger central government. However, they were concerned about giving the new national government too much power. They tried to limit the strength of Congress by specifically listing the powers that Congress could have. But they recognized that they could not anticipate every power that Congress would need in future decades and centuries, so they ended the list of enumerated (specifically listed) powers with a special power to address this problem. Article I, Section 8, Clause 18 of the Constitution is often called the necessary and proper clause, or the elastic clause.

Article I, Section 8, Clause 18 of the U.S. Constitution "[The Congress shall have Power] . . . [t]o make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof." ~ Street Law

Questions

- 1- Does this clause give unlimited power to Congress to make laws? Support your answer with evidence from the clause.

- 2- Why do you think this clause is sometimes called the elastic clause?

- 3- After studying the distinction between strict constructionists and loose constructionists, how do you think each group would interpret the amount of power the clause gives Congress?

According to the necessary and proper clause, Congress generally may assume additional powers not specifically listed in the Constitution, sometimes called implied powers, if there is a link to a power that is listed in the Constitution. For example, Congress may allocate money to test a missile-defense system (something not specifically listed in the Constitution) because Article I, Section 8, Clause 12 gives Congress the power to "raise and support Armies."

While this example may seem like an obvious extension of Congress's power, other powers that Congress has assumed over the years are not so obvious extensions of powers specifically listed in the Constitution.

- 4- Why is the elastic clause or the implied powers of Congress controversial even more so today?

The Unwritten Constitution

The “Unwritten Constitution” refers to the ideas and processes that are accepted as a needed part of American government, regardless of the fact that they are not actually in the Constitution. These ideas and processes came about through custom and precedent. Many aspects of the unwritten Constitution are so ingrained into our system that many do not even realize that they are not laws or provisions of the Constitution.

~ *Regents Prep*

1- President’s Cabinet

- George Washington was the first to have a cabinet of advisors to aid him in making decisions for the nation. Today, the president’s cabinet consists of the secretaries/heads of the 14 major departments of the executive branch (a few examples include: The Attorney General of the Justice Department, The Secretary of Defense of the Defense Department and The Secretary of State of the State Department).

2- Political Parties

- Political parties are as old as the Constitution itself; however the document makes no rules to govern them. The first political parties arose from the debates over Constitutional ratification (the Federalists Party lead by Alexander Hamilton and the Democratic-Republicans headed by Thomas Jefferson). It quickly became clear that political parties were to be the major forces in shaping American politics and by necessity rules and laws were established for their regulation, with no basis in the Constitution.

3- Congressional Committees

- Congressional committees have been referred to as the “backbone of Congress”. However, the system by which the majority of the work in Congress is accomplished is not defined in the Constitution. The work of Congress soon became so vast, that it became essential to the governing of the nation, to divide the work of legislating into specialized committees. These committees in both the House and the Senate serve to first consider specific legislation on topics such as the military (armed services committee), foreign policy (foreign relations committee) or spending (appropriations committee) before passing bills onto the entire House or Senate for consideration.

4- Judicial Review

- The most important power of the Supreme Court, that of Judicial Review or the ability to declare laws unconstitutional, is not in the Constitution. The power of Judicial Review was a precedent set in the 1803 *Marbury v. Madison* decision. Regardless, it has become one of the most fundamental concepts in American government. It also serves a check and balance on the laws passed by Congress and the actions and treaties of the President.

1- Which presidential action is an example of the use of the unwritten constitution?

- (1) signing a law passed by Congress**
- (2) calling a meeting of the cabinet**
- (3) ordering the navy to patrol the Persian Gulf**
- (4) nominating a federal court judge**

2- The major benefit of having the elastic clause in the United States Constitution is that it

- (1) allows the government to respond to changing conditions**
- (2) protects the rights of racial minorities**
- (3) prevents one branch of government from becoming too powerful**
- (4) establishes a postal service**

3- Which presidential action is an example of the use of the unwritten constitution?

- (1) holding a cabinet meeting at the White House**
- (2) submitting a treaty to the Senate for ratification**
- (3) nominating an ambassador to France**
- (4) vetoing a bill passed by Congress**

4- The establishment of the president's cabinet as part of the United States government was the result of a

- (1) law passed by Congress**
- (2) constitutional amendment**
- (3) precedent started by George Washington**
- (4) ruling of the United States Supreme Court**

5- The amendment process was included in the Constitution to

- (1) allow for change over time**
- (2) expand powers of the president**
- (3) increase citizen participation in government**
- (4) limit the authority of the United States Supreme Court**

6- The elastic clause of the United States Constitution gives Congress the power to

- (1) "Make rules for the government and regulation of the land and naval forces..."**
- (2) "Regulate commerce with foreign nations, and among the several states, and with the Indian tribes..."**
- (3) "Lay and collect taxes, duties, imports and excises..."**
- (4) "Make all laws which shall be necessary and proper for carrying into execution the foregoing powers..."**

7- A major purpose of the president's cabinet is to

- (1) offer advice on important issues**
- (2) nominate ambassadors**
- (3) conduct impeachment trials**
- (4) regulate the amount of money in circulation**

8- Which heading best completes the partial outline below?

- I. _____**
- A. National nominating conventions**
 - B. Political parties**
 - C. Congressional committees**

- (1) Articles of Confederation**
- (2) Constitutional Compromises**
- (3) Jeffersonian Democracy**
- (4) Unwritten Constitution**

9- The creation of the presidential cabinet and political parties are examples of

- (1) the unwritten constitution**
- (2) separation of powers**
- (3) the elastic clause**
- (4) judicial review**

10- Extending the right to vote in national elections to formerly enslaved African Americans, women, and all citizens at least eighteen years old was accomplished through

- (1) constitutional amendments
- (2) congressional laws
- (3) presidential executive orders
- (4) Supreme Court decisions

11- Which action is an example of the unwritten constitution?

- (1) Formation of the first cabinet by President George Washington
- (2) Admission of Vermont and Kentucky as states
- (3) Enforcement of the Alien and Sedition Acts by President John Adams
- (4) Declaration of war by Congress in 1812

12- Which idea did the Founding Fathers include in the Constitution that allows Congress to meet the needs of a changing society?

- (1) federalism
- (2) separation of powers
- (3) the elastic clause
- (4) States rights

13- Which heading best completes the partial outline below?

- I. _____
- A. Political parties
 - B. Committee system in Congress
 - C. Judicial review
 - D. President's cabinet

- (1) Unwritten Constitution
- (2) Constitutional Amendments
- (3) Electoral Process
- (4) Checks and Balances

14- Which action is considered part of the unwritten constitution?

- (1) ratification of a treaty by the Senate
- (2) formation of the first two political parties
- (3) creation of a system of federal courts including the Supreme Court
- (4) presidential veto of a bill passed by Congress

15- To provide for change, the authors of the United States Constitution included the amendment process and the

- (1) commerce clause
- (2) elastic clause
- (3) supremacy clause
- (4) naturalization clause

16- Which role of the president is considered part of the unwritten constitution?

- (1) nominating federal judges
- (2) signing or vetoing legislation
- (3) acting as the leader of his political party
- (4) serving as commander in chief of the armed forces

17- The development of political parties and of the committee system used in Congress illustrates the application of

- (1) constitutional amendments
- (2) federal legislation
- (3) the unwritten constitution
- (4) Supreme Court decisions

18- The necessary and proper clause, the amendment process, and the unwritten constitution are evidence that our constitutional system of government provides for

- (1) popular sovereignty
- (2) equal representation
- (3) flexibility
- (4) ratification

Name _____

Article II, Section 1

The Presidency

Article II, Section 1 of the Constitution requires that the president of the United States be at least thirty-five years old. He or she must also be a natural-born citizen who has lived in the United States for at least fourteen years. The president's term in office is set at four years.

The president is actually chosen by the Electoral College. When citizens vote for a president and vice president, they are voting for the group of electors that has pledged to vote for their chosen candidate. Each state has a number of electors equal to its combined number of senators and representatives. A candidate who carries, or wins, a particular state receives all of that state's electoral votes. The candidate with the most electoral votes becomes president. Originally, the person who became vice president was the candidate with the second highest number of electoral votes. This was changed in 1804 by the Twelfth Amendment. Since that time, electors have voted separately for a president and a vice president.

On the lines provided, explain why each of the following people cannot be president of the United States.

1. Boris Strukov, a man who emigrated from the former Soviet Union to the United States in 1975 _____

2. Christine Brown, a 30-year-old state representative from Raleigh, North Carolina _____

3. Jonathan Blakely, a natural-born U.S. citizen who has lived in France since he was five years old _____

4. What problems might arise from making the runner-up in the presidential election the vice president? _____

LG 2- Article II- Executive Branch- President

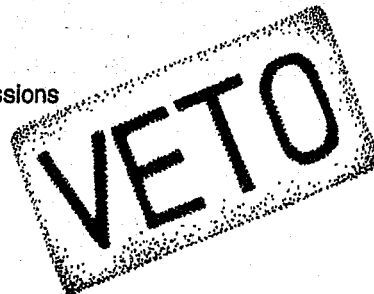
Name _____

Article II, Sections 2-4

The Powers of the President

The powers of the president can be grouped into categories. Diplomatic powers deal with the relations between countries. Military powers relate to the control of the U.S. armed forces. Legislative powers involve law-making. The judicial powers of the president allow him or her to act as a judge. Executive powers involve the carrying out of duties. Sections 2, 3, and 4 of Article II of the Constitution give the president the powers to do the following:

- serve as commander in chief of the armed forces
- make treaties
- appoint ambassadors to foreign countries
- call Congress together for special law-making sessions
- make appointments to the executive branch
- grant pardons and reprieves for federal crimes
- make appointments to the federal courts
- sign and veto bills
- carry out the laws of the United States



Fill in the information below to group the presidential powers listed above.

1. Two of the above powers fall under the category of diplomatic powers. They are
a. _____
b. _____
2. Name the president's military power. _____
3. Two legislative powers of the president are
a. _____
b. _____
4. The president has two judicial powers. They are
a. _____
b. _____
5. List two executive powers of the president.
a. _____
b. _____
6. Most of the president's decisions require the approval of the Senate. Do you think the president's powers should be limited in this way? Why or why not? _____

The Presidency: The Executive Branch

- The President must be a natural-born citizen
- The President must be at least 35 years old
- The President is elected for a four-year term of office
- Traditionally, Presidents only served two terms of office, until Franklin D. Roosevelt was elected four times [during the Great Depression and World War II]

* However, the Twenty-Second Amendment (1951) was ratified and it limits each President to two terms.

Identify three individuals that you personally know who could qualify to become President of the U.S.A.

- 1- _____
- 2- _____
- 3- _____

The Responsibilities of the Presidency:

I. Chief Executive:

- a. Enforces laws made by Congress
- b. In charge of a vast federal government bureaucracy and submits annual budget to Congress
- c. Can pardon, parole, or reprieve persons convicted of a federal crime

II. Chief of State:

- a. Is the ceremonial head of the U.S. Government
- b. Represents the country in the world community

III. Commander-in-Chief:

- a. Commands our armed forces and controls the use of our nuclear weapons

IV. Foreign-Policy Chief:

- a. Conducts our nation's foreign relations, negotiates treaties with foreign countries, receives foreign ambassadors and diplomats, and appoints American ambassadors.

V. Chief Legislator:

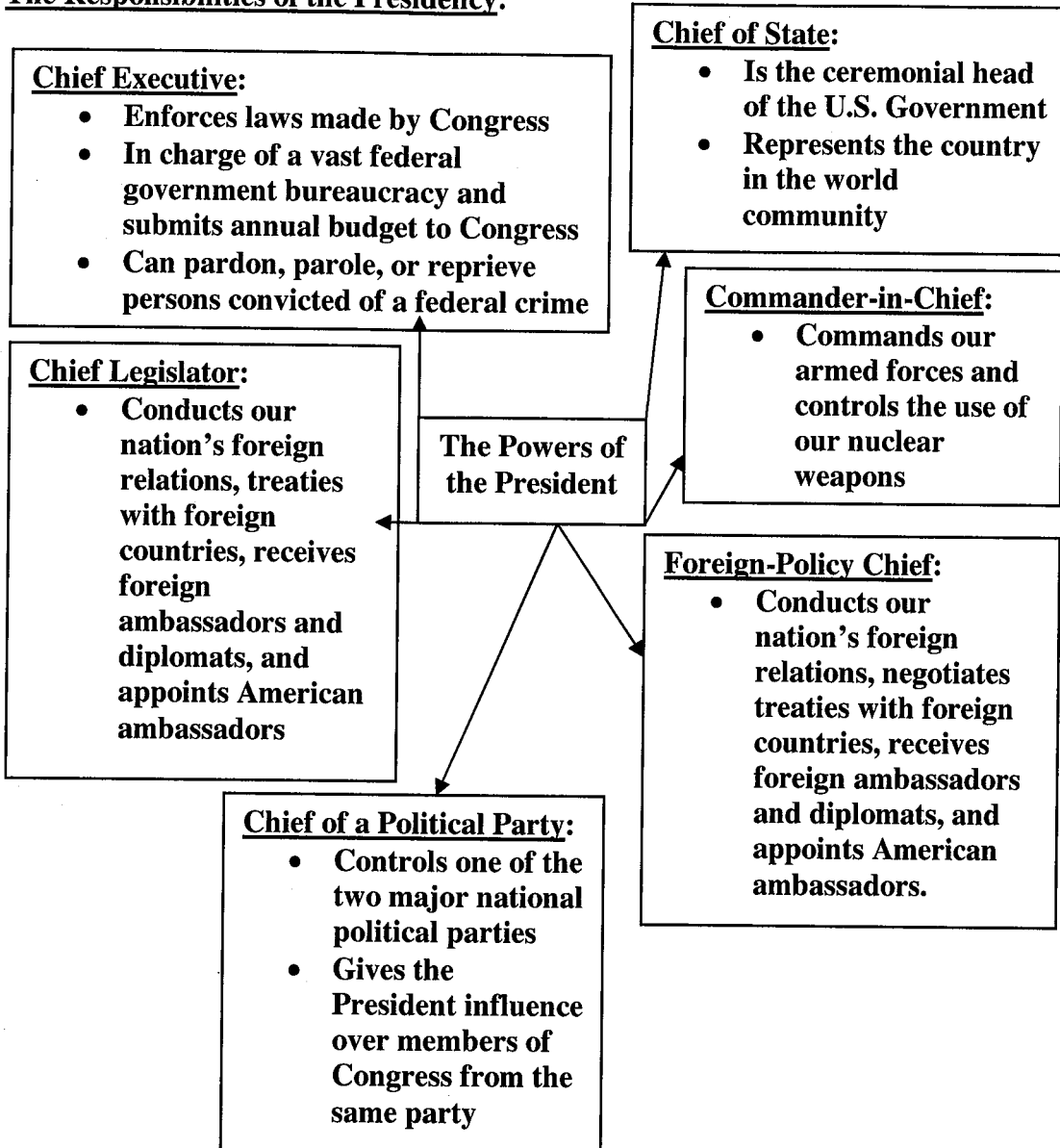
- a. Conducts our nation's foreign relations, treaties with foreign countries, receives foreign ambassadors and diplomats, and appoints American ambassadors

VI. Chief of a Political Party:

- a. Controls one of the two major national political parties
- b. Gives the President influence over members of Congress from the same party

Why is the Executive Branch of Government important? What are responsibilities only given to the Executive Branch?

The Responsibilities of the Presidency:



Question:

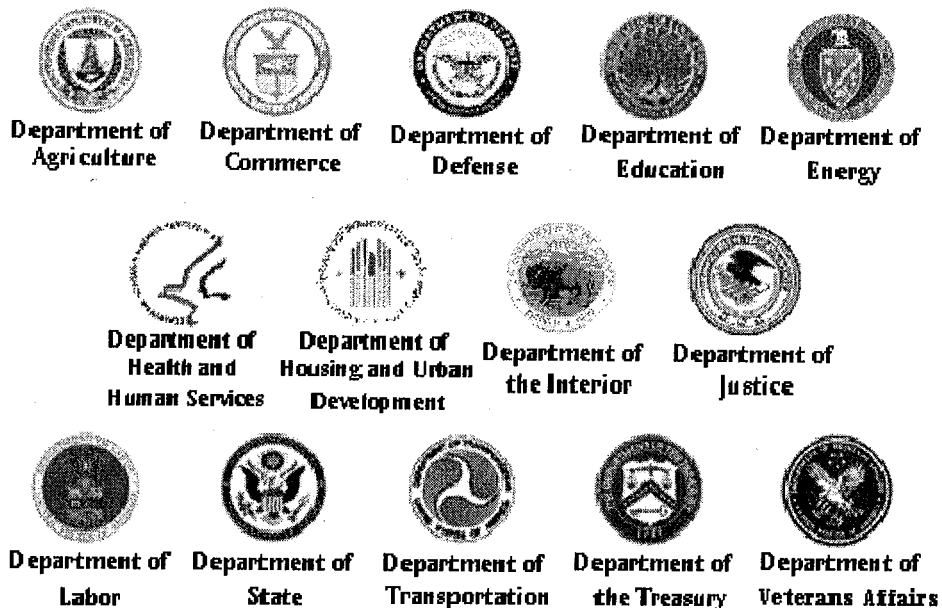
Why is the Executive Branch of Government important? What are responsibilities only given to the Executive Branch?

Reading:

“The tradition of the Cabinet dates back to the beginnings of the Presidency itself. Established in Article II, Section 2, of the Constitution, the Cabinet's role is to advise the President on any subject he may require relating to the duties of each member's respective office.

The Cabinet includes the Vice President and the heads of 15 executive departments — the Secretaries of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Homeland Security, Housing and Urban Development, Interior, Labor, State, Transportation, Treasury, and Veterans Affairs, as well as the Attorney General.”
~ whitehouse.gov

The President's Cabinet



Write a defense of the President's Cabinet. Why is the President's Cabinet important?

Becoming President of the United States and the Electoral College

US History

Name: _____

Do Now:

“The members of the Constitutional Convention did not fully trust the common people to elect the President directly. Instead, they turned the selection of the President over to special electors who formed the Electoral College. To become President, a candidate needs to win a majority of the votes of the Electoral College. The number of electors each state has is equal to the number of representatives in the House combined with the number of its Senators. The candidate with the most votes in a state wins *all* of the electors of that state. If no candidate wins a majority (270) of the Electoral College, the election must be decided in the House of Representatives. Each state gets one vote in the election, and a winner needs to receive a majority (26) of state votes.”

~ The Key to Understanding U.S. History and Government

Questions:

- 1- Who did the members of the Constitutional Convention not fully trust?

- 2- Why was their lack of trust surprising? Explain your answer.

- 3- What must a candidate win to become President of the United States?

- 4- What determines the number of electors each state has?

- 5- What does the candidate with the most popular votes in the state win?

- 6- What happens if no candidate wins a majority?

- 7- How many votes does each state get if the no candidate wins a majority of the Electoral College?

Annotate the following passage:

“The Electoral College has elected the president and vice president of the United States since the nation’s beginnings. Its 538 electors reflect Congress’s 100 senators and 435 representatives – which are apportioned to each state according to the national census conducted every 10 years – and three electors for the District of Columbia. With the exceptions of Nebraska and Maine, where electors are awarded according to congressional district, each state’s electoral votes are awarded in a winner-take-all fashion.

The current system encourages presidential campaigns to focus on the 10 or 12 so called ‘swing states,’ which could go to either party. This has prompted some activists to question the current system, arguing that it renders the large swath of votes in nonswing states irrelevant. Proponents of the Electoral College counter that a national popular vote would shift candidates’ focus to urban centers, and the current system protects the interests of rural populations. Furthermore, they say that the Electoral College preserves United States’ federal character, and that a national vote would lead to an even more centralized, bigger national government.” ~ U.S. News and World Reports

The Electoral College

US History

Name: _____

“Established in Article II, Section 1 of the U.S. Constitution, the Electoral College is the formal body which elects the President and Vice President of the United States. Each state has as many ‘electors’ in the Electoral College as it has Representatives and Senators in the United States Congress, and the District of Columbia has three electors. When voters go to the polls in a Presidential election, they actually are voting for their state’s electors vowing to cast their ballots for that ticket in the Electoral College.

Most states require that all electoral votes go to the candidate who receives the majority in that state. Very rarely have electors voted for someone other than for whom they pledged. ‘Faithless Electors’ have never decided a Presidency. After state election officials certify the popular vote of each state, the winning slate of electors meet in the state capital and cast two ballots – one for Vice President and one for President. Electors cannot vote for a Presidential and Vice Presidential candidate who both hail from an elector’s home state.

In the case of an Electoral College deadlock or if no candidate receives the majority of votes, a ‘contingent election’ is held. The election of the President goes to the House of Representatives. Each state delegation casts one vote for one of the top three contenders to determine a winner. Only two Presidential elections (1800 and 1824) have been decided in the House.” ~ United States House of Representatives

1. The system we use to elect the President is known as what?

- (1) Presidential Election Campaign
- (2) Electoral College
- (3) Popular Vote
- (4) Voter Registration Zone

2. The number of electors from each state is based on that states what?

- (1) Land Area
- (2) Number of laws passed
- (3) Date it entered the Union
- (4) Congressional Representation

3. Because of the winner take all system; candidates focus much of their attention on which type of states?

- (1) Most Northern
- (2) Smaller Populated
- (3) Larger populated
- (4) Older

4. How does one figure out how many electoral votes each state has?

- (1) Number of people in the State Legislature
- (2) Order the states by median income
- (3) Add the number of Representatives to the number of Senators
- (4) Size of the state divided by 370

5. Why did the framers of the Constitution decide to create an electoral college?

- (1) To prevent women from electing the President
- (2) So people would not elect the President directly
- (3) It was the way elections were determined in Britain
- (4) It was a more democratic system

6. What happens if no candidate receives a majority in the electoral college?

- (1) The election is determined by the Supreme Court
- (2) The election is determined by the House of Representatives.

Why the Electoral College?

“In order to appreciate the reasons for the Electoral College, it is essential to understand its historical context and the problem that the Founding Fathers were trying to solve. They faced the difficult question of how to elect a president in a nation that:

- **Was composed of thirteen large and small States jealous of their own rights and suspicious of any central national government**
- **Was spread up and down a thousand miles of Atlantic seaboard barely connected by transportation or communication (so that national campaigns were impractical)**
- **Believed that political parties were mischievous if not downright evil**
- **Felt that gentlemen should not campaign for public office**

How, then, to choose a president without political parties?

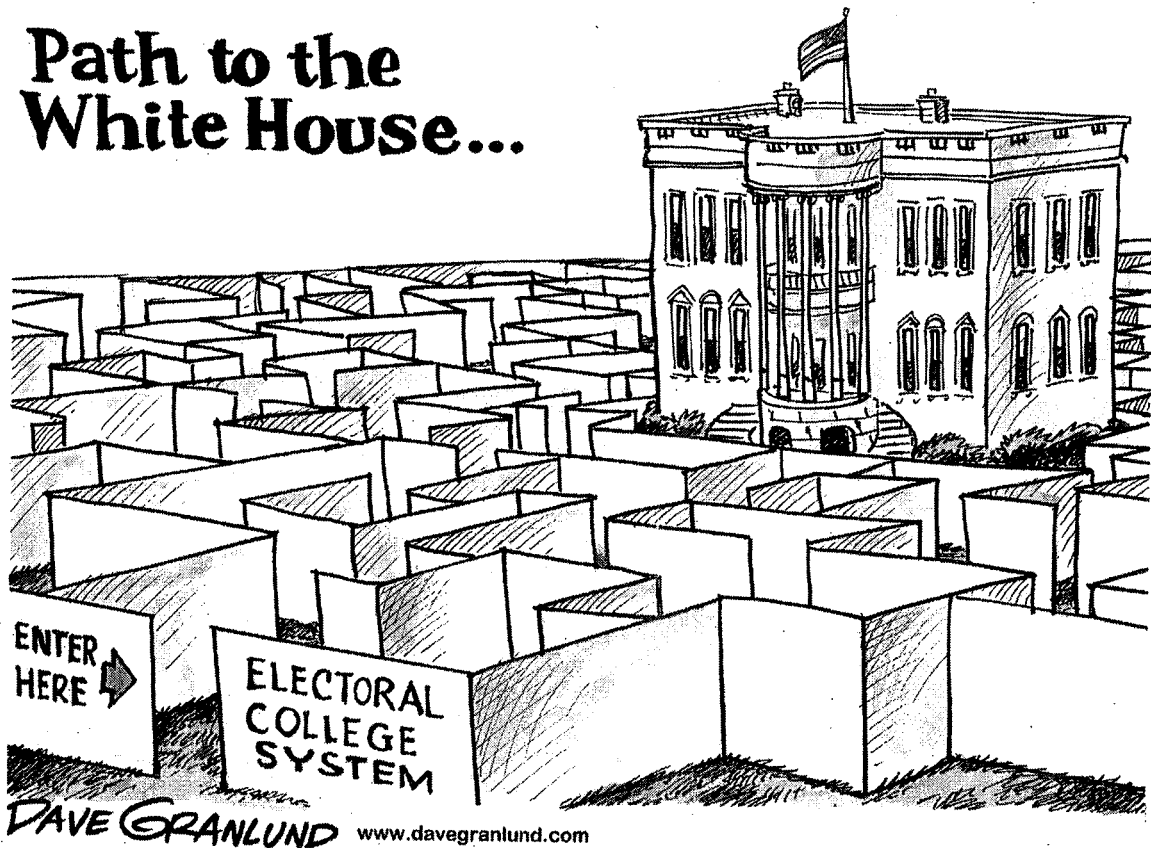
The Constitutional Convention considered several possible methods:

- **One idea was to have the Congress choose the president. This idea was rejected, however, because some felt that making such a choice would be too divisive an issue and leave too many hard feelings in the Congress. Others felt that such a procedure would invite unseemly political bargaining and corruption, and perhaps even interference from foreign powers. Still others felt that it would upset the balance of power between the legislative and executive branches of the federal government.**
- **A second idea was to have the State legislatures select the president. This idea, too, was rejected out of fears that a president so beholden to the State legislatures might permit them to erode federal authority.**
- **A third idea was to have the president elected by a direct popular vote. Direct election was rejected the Framers of the Constitution feared that without sufficient information about candidates from outside their State, people would naturally vote for a ‘favorite son’ from their own State or region. The choice of president would always be decided by the largest, most populous States with little regard for the smaller ones.**
- **Finally, an indirect election of the president through a College of Electors was proposed.” ~ Federal Election Commission**

Critical Thinking Question:

How did federalism and a system of checks and balances lead the framers of the Constitution to the conclusion that the Electoral College was the best method for electing the President of the United States?

Path to the White House...



Questions: (americanbar.org)

1- What do you see in the cartoon?

2- What does the layout of the maze convey about our electoral process?

3- What do you think this cartoon suggests?

4- Do you agree with the point that the cartoonist is making?

5- Why or why not? If not, how might you revise the cartoon to reflect your perspective?

Analyze the following chart of really close elections!

<u>Election of 1800</u>	<u>Election of 1876</u>	<u>Election of 2000:</u>
<u>Popular Vote:</u> No Record	<u>Popular Vote:</u>	<u>Popular Vote:</u>
<u>Electoral Vote:</u>	Samuel J. Tilden – 4,284,020	George W. Bush – 50,456,002
Thomas Jefferson – 73	Rutherford B. Hayes – 4,036,572	Al Gore – 50,999,897
Aaron Burr – 73	<u>Electoral Vote:</u>	<u>Electoral Vote:</u>
The House of Representatives Decided –	Tilden – 184 Hayes – 185	Bush – 271 Gore – 266
The Winner: Jefferson	The disputed election was resolved by a special commission in favor of Hayes.	“The outcome of the election hinged on Florida, where Governor Bush led Vice President Gore by about 1,800 votes the morning after Election Day. Because the returns were so close, Florida law called for an automatic machine recount of ballots...
<u>Question:</u>	The more popular candidate was defeated!	On December 12, 2000, the Supreme Court, in a 5-4 ‘per curiam’ (non-specially authored) decision, ruled that the Florida Supreme Court’s recount order was unconstitutional because it granted more protection to some ballots than to others, violating the Fourteenth Amendment’s Equal Protection Clause.” ~ pbs.org
<ul style="list-style-type: none"> Why the House of Representatives determine the outcome of the election? <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	<u>Question:</u> <ul style="list-style-type: none"> What is surprising about the election of 1876? <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	

What is surprising about the 2000 election?

Why did the Supreme Court order that the recount of ballots was unconstitutional?

What did you learn about the Electoral College that you did not know before the lesson began?

The Electoral College

Pros	Cons
<ul style="list-style-type: none"> • It is possible that a candidate might win the popular vote but lose in the electoral vote • The winner-take-all system means that the candidate that wins most of the popular votes in a particular state gets all of the electoral votes and therefore a candidate who fails to carry a particular state receives not a single electoral vote in that state • Another problem cited by critics is the possibility of "faithless electors" who defect from the candidate to whom they are pledged • Critics of the system also argue that the possibility that an election could be thrown into the House of Representatives is undemocratic and in such a case each state has a single vote which gives the sparsely populated or small states equal weight with more populous states such as California or New York 	<ul style="list-style-type: none"> • Those who argue in favor of retaining the present system state that there is too much uncertainty over whether any other method would be an improvement • They fear that reform could lead to a dismantling of the federal system • Another argument is that the present method serves American democracy well by fostering a two-party system and discouraging the rise of splinter parties such as those that have plagued many European democracies • The winner-take-all system means that minor parties get few electoral votes and that a president who is the choice of the nation as a whole emerges • Supporters also argue that the system democratically reflects population centers by giving urban areas more electoral power since that is where the most votes are

Your Turn: Are you in favor of the Electoral College or are you a critic of the Electoral College? Write a paragraph defending your point of view.

1. Many critics of the electoral college system point out that it

- (1) penalizes the states with the smallest population
- (2) encourages the formation of minor political parties
- (3) grants too much influence to the United States Senate
- (4) might not select the candidate with the largest number of popular votes

2. Which statement about the electoral college system is accurate?

- (1) The number of electoral votes a state receives is based on its geographic size.
- (2) A candidate can be elected president without the majority of the popular vote.
- (3) Presidential candidates are forced to campaign equally in every state.
- (4) The total number of electoral votes has increased with each census.

3. To win a presidential election, a candidate must win a

- (1) two-thirds vote of the state legislatures
- (2) two-thirds vote in Congress
- (3) majority of the popular vote
- (4) majority of the electoral college vote

4. In the 2000 presidential election, which aspect of the electoral college system caused the most controversy?

- (1) A state can divide its electoral votes among different candidates.
- (2) States with few electoral votes have no influence on election outcomes.
- (3) The selection of electors varies among states.
- (4) The winner of the popular vote might not get the majority of the electoral vote.

5. A major criticism of the electoral college system has been that

- (1) party loyalty is weakened after a presidential election
- (2) electors frequently fail to vote for a candidate
- (3) members of the electoral college are appointed for life terms
- (4) a president may be elected without receiving the majority of the popular vote

6. "Presidential Candidates Skip Campaigning in Low- Population States"

"Winner Of Popular Vote Loses Election"
These headlines refer to controversial issues most directly related to

- (1) judicial review
- (2) the electoral college
- (3) impeachment
- (4) checks and balances

7. Which criticism of the electoral college system is illustrated by the information in the table?

ELECTION OF	Popular Vote Total	Popular Vote Percentage	Electoral College Vote
1876			
H Hayes*	4,033,497	47.95	185
T Tilden	4,288,191	50.99	184
C Cooper	78,501	0.90	—
1888			
H Harrison*	5,449,625	47.82	233
C Cleveland	5,539,118	49.61	168
F Fisk	249,492	2.19	—
S Strooker	148,832	1.29	—
2000			
G George W. Bush*	50,456,002	47.89	271
A Albert Gore	50,996,592	48.40	266
R Ralph Nader	2,856,843	2.71	—

*elected by electoral college

Sources: 1876 and 1888, Presidential Elections, 1789-2000. CO Press, 2002.
2000, "Historical Election Results," U.S. Electoral College, National Archives
(nd)gfeeb

- (1) Presidential electors frequently do not vote for the person they were pledged to support.
- (2) A person can win the presidency without winning the most popular votes.
- (3) The vote of the people in each state has little relationship to the election outcome.

Name _____

Article III, Section 1

The Judicial Branch

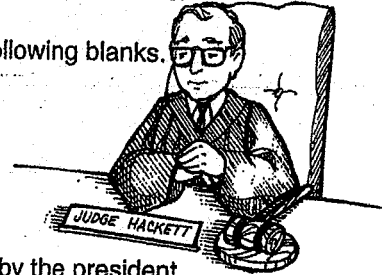
The federal judicial branch consists of the Supreme Court and the lower courts established by Congress. Federal judges are appointed by the president with the Senate's consent, and they hold office for life. They may be removed only through impeachment.

Article III, Section 1 of the Constitution deals with judicial power in the United States. The Supreme Court was the only court established by the Constitution. The Founding Fathers gave Congress the power to create lower courts as it saw fit. The first district courts were set up in 1789. Today there are about ninety-five district courts. There are also twelve U.S. courts of appeals and a number of lesser courts.

Write the letter of the correct answer in each of the following blanks.

1. _____ Federal judges hold office for
 - a. 5 years
 - b. 6 years
 - c. life
2. _____ Federal judges are
 - a. elected by the voters
 - b. appointed by the president
 - c. chosen by the U.S. Senate
3. _____ Which of the following courts did the Constitution establish?
 - a. the Supreme Court
 - b. the U.S. district courts
 - c. the courts of appeals
4. _____ Federal judges may only be removed from office
 - a. by the president
 - b. through the process of impeachment
 - c. by a vote of Congress
5. Describe an advantage of having federal judges appointed rather than elected.

6. Explain an argument in favor of electing federal judges.



Name _____

Article III, Section 2

The Jurisdiction of the Federal Courts

The federal courts obtain their authority from the Constitution and federal laws. Some federal courts have only **original jurisdiction**. A court that has original jurisdiction hears cases that have not yet been heard by other courts. Some courts have only **appellate jurisdiction**. They consider and rule on decisions made by lower courts. They do not try cases.

The United States Supreme Court has both original and appellate jurisdiction. It has original jurisdiction in two kinds of cases: those involving ambassadors and other foreign service officials, and those in which a state is a party. It has appellate jurisdiction with regard to cases coming from lower courts.

Most cases involving federal law start in the district courts. There are roughly ninety-five district courts in the U.S. and its possessions. District courts are the only federal courts that use juries. They hear most cases concerned with the violation of a federal law or with disputes between citizens of different states.

U.S. courts of appeals have no original jurisdiction. They only hear cases brought to them for review from the district courts.

Decide if the statements below are true or false. Write *T* or *F* in each blank.

1. ____ The Supreme Court has only appellate jurisdiction.
2. ____ If Butch Johnson is arrested for counterfeiting (a federal offense), his case would be tried in a local court.
3. ____ U.S. district courts are the only federal courts to use juries.
4. ____ U.S. courts of appeals have no original jurisdiction.
5. ____ Cases involving ambassadors are tried in U.S. district courts.
6. ____ Each state has at least one U.S. district court.
7. ____ A defendant who is not satisfied with the decision of a district court can ask a court of appeals to review his or her case.
8. ____ Appellate courts do not try cases.
9. ____ All cases involving federal laws are tried in the Supreme Court.
10. ____ All federal courts have appellate jurisdiction of some kind.

Judicial Review and the Power of the Courts

US History

Name: _____

Do Now:

“Although most of the Framers of the Constitution anticipated that the Federal judiciary would be the weakest branch of Government, the U.S. Supreme Court has come to wield enormous power with decisions that have reached into the lives of every citizen and resolved some of the most dramatic confrontations in U.S. history. The word of the Supreme Court is final. Overturning its decisions often requires an amendment to the Constitution or a revision of Federal law.

The power of the Supreme Court has evolved over time, through a series of milestone court cases. One of the Court’s most fundamental powers is judicial review – the power to judge the constitutionality of any act or law of the executive or legislative branch. Some of the Framers expected the Supreme Court to take on the role of determining the constitutionality of Congress’s laws, but the Constitution did not explicitly assign it to the Court. Marbury v. Madison, the 1803 landmark Supreme Court case, established the power of judicial review. From the modest claim of William Marbury, who sought a low-paying appointment as a District of Columbia Justice of the Peace, emerged a Supreme Court decision that established one of the cornerstones of the American constitutional system.” ~ archives.gov

Questions:

- 1- What did most of the framers of the Constitution anticipate about the Federal judiciary (the judicial branch of government)?

- 2- Were the framers correct in their view about the Federal judiciary?

- 3- What is one of the Supreme Court’s most fundamental powers?

- 4- Define “judicial review”?

- 5- What landmark Supreme Court case in 1803 established the power of judicial review?

- 6- Who was William Marbury?

Review the Chart Regarding John Marshall below:

Biographical Facts:

- Served as Chief Justice of the Supreme Court from 1801 to 1835
- His interpretations of the Constitution and his frequent use of judicial review laid the groundwork for establishing the importance of the federal judiciary and the supremacy of the national government over the states
- His decisions gave a unity to the nation by enormously expanding the power of the federal government

Key Decisions of the Marshall Court:

- 1- Marbury v. Madison (1803)**
 - a) Secretary of State James Madison had refused to deliver a commission (official appointment) to William Marbury, appointed by President Adams before leaving office**
 - b) Marbury asked the Supreme Court to require Madison to deliver his commission, based upon the Judiciary Act of 1789**
 - c) The Court ruled that this part of the Judiciary Act was unconstitutional and that the Court couldn't deliver the commission**
 - d) Thus, the Court established the principle of judicial review**
- 2- McCulloch v. Maryland (1819)**
 - a) Congress created the Bank of the United States, with a branch in Maryland**
 - b) Maryland's legislature passed a law requiring the branch to pay a state tax**
 - c) Bank officials refused to pay**
 - d) The Court ruled that a state could not tax an agency of the national government, such as the bank**
 - e) The Court further said that when a state law conflicts with a federal law, the federal law must be supreme**
 - f) Finally, the Court held that the creation of the national bank was constitutional**
 - g) Although the Constitution did not give Congress the expressed powers to create a bank, it was "necessary and proper" for Congress to do so to carry out its other powers**
- 3- Gibbons v. Ogden (1824)**
 - a) Ogden had been granted a monopoly by New York State to operate a steamboat between New York and New Jersey**
 - b) Gibbons was granted a similar license by the federal government**
 - c) Ogden sued to stop Gibbons**
 - d) Gibbons appealed to the Supreme Court**
 - e) The Court ruled that New York State had no right to grant the license**
 - f) Only the federal government, according to the U.S. Constitution, could regulate interstate commerce (trade between states)**

1- Who was John Marshall?

2- What important principle was established in Marbury v. Madison?

3- What important principles were established in McCulloch v. Maryland?

4- What important principle was established in Gibbons v. Ogden?

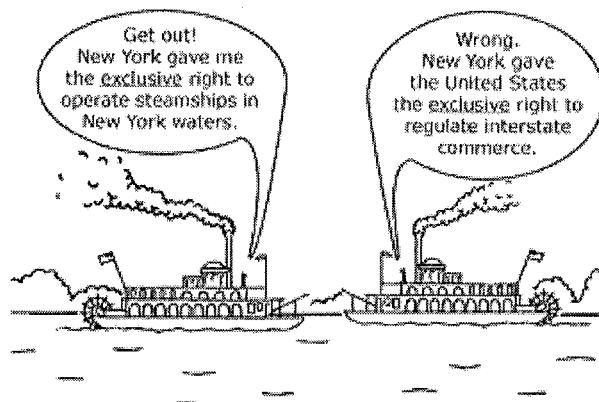
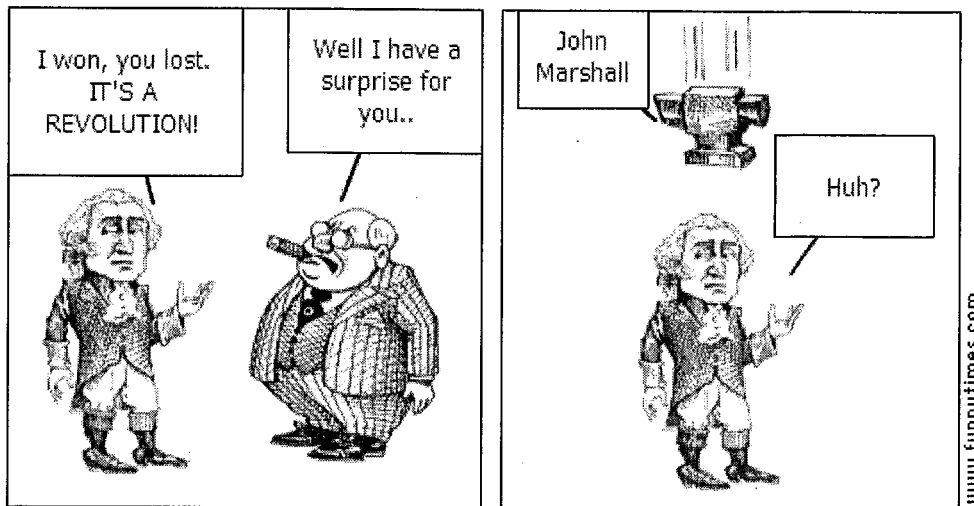
5- How did Chief Justice John Marshall increase the power of the judiciary?

6- How did Chief Justice John Marshall increase the power of the executive branch?

1. The decision in *Marbury v. Madison* (1803) was significant because it established that the Supreme Court
 - (1) had limited powers over state courts
 - (2) had the power to choose its own members
 - (3) could declare a federal law unconstitutional
 - (4) could impeach the president and other government officials
2. The establishment of judicial review in *Marbury v. Madison* (1803) gave federal courts the authority to
 - (1) decide whether a law is constitutional
 - (2) create lower courts
 - (3) approve foreign treaties
 - (4) appoint judges to lifetime terms
3. Judicial review is most accurately described as the power of the
 - (1) president to override a decision of the Supreme Court
 - (2) state courts to overturn decisions of the Supreme Court
 - (3) Senate to approve all presidential appointments to federal courts
 - (4) Supreme Court to determine the constitutionality of laws
4. What was one result of the Supreme Court's decision in *Gibbons v. Ogden* (1824)?
 - (1) The power of the federal government over interstate commerce was strengthened.
 - (2) The rights of accused individuals were expanded.
 - (3) The power of the judicial branch was limited.
 - (4) The Court declined to hear cases involving disputes between states.
5. Which power did the United States Supreme Court gain through the Court's decision in *Marbury v. Madison*?
 - (1) judicial review
 - (2) hearing appeals from lower federal courts
 - (3) deciding cases involving two or more states
 - (4) judicial independence through lifetime Appointments
6. Under the leadership of Chief Justice John Marshall (1801–1835), the United States Supreme Court issued decisions that
 - (1) declared racial segregation laws unconstitutional
 - (2) gave states the power to tax the Bank of the United States
 - (3) increased the ability of Congress to limit the powers of the president
 - (4) established the supremacy of federal laws over state laws
7. The power of judicial review allows the Supreme Court to
 - (1) repeal amendments to the Constitution
 - (2) determine the constitutionality of a law
 - (3) break tie votes in the electoral college
 - (4) impeach the president and other high-level officials
8. The Supreme Court has the power to
 - (1) control the federal budget
 - (2) vote to end a tie in the Senate
 - (3) approve presidential appointments
 - (4) interpret the Constitution
9. Which power is shared by the federal government and the New York State government?
 - (1) enacting immigration laws
 - (2) levying taxes
 - (3) granting patents and copyrights
 - (4) issuing passports

Analyze the following images:

Judiciary Act of 1801 by Riley



1819

Establishing a national
bank was "necessary" to
carry out Congress's
power to tax.



Exactly.
That's why we
want it stopped.



Summarize the main ideas of the images:



Tinker v. Des Moines (1969)

**Summary of Tinker v. Des Moines Independent School District
Decided by the United States Supreme Court in 1969 (icivc.org)**

In 1965, some middle and high school students wore black armbands to school to show their protest of the war in Vietnam. Before the day of the protest, the schools' principals had heard about the students' plan and told the students they could not wear the armbands. Five students were suspended from school for wearing the armbands.

Students and teachers have First Amendment rights even when they are at school. They do not leave their freedom of speech or freedom of expression behind when they walk through the schoolhouse gate. Even so, teachers and principals must keep order at school so that learning can take place. In a school setting, therefore, the First Amendment must be applied in a special way to protect free speech and keep order at the same time.

A student at school may express opinions, even about controversial subjects like war. However, the student may not disrupt learning or interfere with other peoples' rights. The First Amendment does not protect student speech that disrupts class or causes trouble between classes, and school rules can prohibit that kind of speech.

There is no evidence that the students' armbands disrupted class or any school activity. Outside class, a few students made nasty remarks to those who wore armbands. However, there were no threats or acts of violence on the school grounds.

The trial court had decided that, because the principals were afraid the armbands would be disruptive, it was reasonable for the principals to suspend the students for wearing them. The trial court, however, did not understand the importance of freedom of speech. In our legal system, a general fear of disruption is not enough to take away someone's right to freedom of expression. After all, a disruption could happen any time one person says something that another person disagrees with.

Schools cannot prohibit speech unless they have good evidence that the speech will be disruptive. They cannot prohibit speech only to avoid the uncomfortable situation of someone expressing an unpopular opinion.

Questions:

1- Under what circumstances are schools allowed to prohibit speech or expression?

2- One thing happened that shows the armbands might have caused disruption. (However, the Court did not think this was enough.) Identify what might have caused a disruption.

3- Next, the Court gives a hint about what would be enough to cause disruption. Identify the Court's hint.

4- Is it enough if the school is afraid there might be disruption? Explain your answer.

5- Would it matter if there is disruption at lunch or between classes instead of during class? Explain your answer.

6- Schools can prohibit speech if they have good ____ that the speech will be disruptive.

7- Do you agree with the Court's ruling? Explain your answer.

8- Summarize the Court's decision in Tinker v. Des Moines.

"It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate."

~ Justice Abe Fortas, in Tinker v. Des Moines, 1969

Judicial Review

US History

Name: _____

“Before their term expired, the Federalist majority in Congress passed the Judiciary Act of 1801. This act created 16 new federal judges. Before leaving office, President Adams appointed Federalists to these positions. These judges were nicknamed ‘midnight judges’ because Adams supposedly signed appointments until midnight on his last day in office.

The most important judicial appointment President Adams made before leaving office was to choose John Marshall as Chief Justice of the United States. Marshall served as Chief Justice for 34 years. He was more responsible than other justice for making the Supreme Court into a powerful, independent branch of the federal government.

Initially, the Supreme Court was a very minor body, but its role began to change in 1803 with the case of *Marbury v. Madison*. William Marbury was a Federalist who had been appointed justice of the peace in Washington, D.C., shortly before Adams left office. Although Adams had signed Marbury’s appointment, the documents were not delivered before Adams left office. The new Secretary of State, James Madison, was supposed to deliver the documents, but Jefferson told him to hold them, hoping Marbury would quit and allow Jefferson to appoint a Republican to the job.

Instead, Marbury asked the Supreme Court to issue a court order telling Madison to deliver the documents. Marbury based this request on the Judiciary Act of 1789, which stipulated that requests for federal court orders go directly to the Supreme Court. In *Marbury v. Madison*, the Supreme Court unanimously agreed with Chief Justice Marshall that the Court could not issue the order.

Marshall explained that the Court could not issue the order because it had no jurisdiction. The Constitution, Marshall pointed out, was very specific about the kind of cases that could be taken directly to the Supreme Court. A request for a court order was not one of those cases, making that section of the Judiciary Act of 1789 unconstitutional and invalid. The decision strengthened the Supreme Court because it asserted the Court’s right of *judicial review*, the power to decide whether laws passed by Congress were constitutional and to strike down those laws that were not.” ~ *The American Vision*

1. The decision in *Marbury v. Madison* (1803) was significant because it established that the Supreme Court

- (1) had limited powers over state courts
- (2) had the power to choose its own members
- (3) could declare a federal law unconstitutional
- (4) could impeach the president and other government officials

2. Which headline illustrates the use of judicial review?

- (1) “Congress Passes a Civil Rights Bill”
- (2) “Conference Committee Meets to Finalize Budget”
- (3) “New York State’s Reapportionment Plan Ruled Unconstitutional”
- (4) “President Signs SALT Agreement with Russia”

3. The establishment of judicial review in *Marbury v. Madison* (1803) gave federal courts the authority to

- (1) decide whether a law is constitutional**
- (2) create lower courts**
- (3) approve foreign treaties**
- (4) appoint judges to lifetime terms**

4. Which power did the United States Supreme Court gain through the Court's decision in *Marbury v. Madison*?

- (1) judicial review**
- (2) hearing appeals from lower federal courts**
- (3) deciding cases involving two or more states**
- (4) judicial independence through lifetime Appointments**

5. The power of judicial review allows the Supreme Court to

- (1) repeal amendments to the Constitution**
- (2) determine the constitutionality of a law**
- (3) break tie votes in the electoral college**
- (4) impeach the president and other high-level officials**

6. Which action can be taken by the United States Supreme Court to illustrate the concept that the Constitution is "the supreme law of the land"?

- (1) hiring new federal judges**
- (2) voting articles of impeachment**
- (3) declaring a state law unconstitutional**
- (4) rejecting a presidential nomination to the cabinet**

7. When John Marshall was Chief Justice, United States Supreme Court decisions tended to strengthen the power of

- (1) the National Government**
- (2) state and local governments**
- (3) labor unions**
- (4) trusts and monopolies**

8. What was the result of many of the Supreme Court decisions made under Chief Justice John Marshall between 1801 and 1835?

- (1) The system of slavery was weakened.**
- (2) The federal government was strengthened.**
- (3) The rights of workers were supported.**
- (4) Antitrust laws were upheld.**

9. "It is emphatically the province and duty of the judicial department to say what the law is..." ~Marbury v. Madison, 1803

This statement expresses the Supreme Court's claim that courts must abide by a

- (1) strict interpretation of the Constitution**
- (2) federal laws must be approved by the courts before they can take effect**
- (3) the judicial branch must have a role in the amendment process**
- (4) the power of judicial review belongs to the courts**

10. The case of *Marbury v. Madison* concerned

- (1) Foreign alliances.**
- (2) "Midnight justices."**
- (3) "High crimes and misdemeanors."**
- (4) The National Bank.**
- (5) The election of 1800.**

11. Why did the Supreme Court declare Judiciary Act of 1789 unconstitutional and invalid?

- (1) The Constitution was very specific about the kind of cases that could be taken directly to the Supreme Court**
- (2) Chief Justice Marshall was a political enemy of President Adams**
- (3) The Act gave Congress the right of judicial review**
- (4) The Constitution prohibited the appointment of "midnight judges"**

“John Marshal served as chief justice of the United States from 1801 to 1835. He was remarkably successful in establishing the Supreme Court as an independent and influential force in the federal government. Two more of Marshall’s most important decisions are summarized here.” ~ Adapted from *U.S. History and Government*

<p><u>McCulloch v. Maryland (1819)</u></p> <ul style="list-style-type: none"> - At issue in this case was whether a state government (Maryland) could collect a tax from a bank that had been chartered by the U.S. government. - Marshall argued that the states could not tax a federal agency because, according to the Constitution, the federal government was meant to be supreme. - On another question, Marshall argued that Congress’s powers could be interpreted loosely to authorize the creation of a national bank. - This case established the idea that a state law could be <i>nullified</i> (declared void) if it was found to be in conflict with a federal law. 	<p><u>Gibbons v. Ogden (1824)</u></p> <ul style="list-style-type: none"> - At issue in this case was whether a state (New York) could grant to one steamship company the exclusive right to operate an interstate waterway (the Hudson River). - In his decision Marshall stated that trade is commerce and that commerce between states was controlled by the U.S. Congress. - Therefore, New York’s law was invalid. - The ruling clarified the concept of interstate commerce and increased the authority of the federal government to regulate businesses that operate in more than one state.
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

- 1. The lasting significance of Gibbons v. Ogden was that it**
- (1) Opened the way for steamboat travel on the Mississippi.
 - (2) Confirmed the state’s right to regulate commerce.
 - (3) Made peace between the Court and the Adams administration.
 - (4) Ruled that contracts could easily be violated.
 - (5) Freed transportation systems from restraints by the states.

- 2. John Marshall’s influence on the Supreme Court was so great that he**
- (1) Was able to get whomever he wanted appointed to the bench.
 - (2) More than anyone other than the framers themselves molded the development of the Constitution.
 - (3) Was able to ignore the other justices.
 - (4) Could single-handedly overturn acts of Congress.
 - (5) Could ignore the Constitution.

- 3. What was one result of the Supreme Court’s decision in Gibbons v. Ogden (1824)?**
- (1) The power of the federal government over interstate commerce was strengthened.
 - (2) The rights of accused individuals were expanded.
 - (3) The power of the judicial branch was limited.
 - (4) The Court declined to hear cases involving disputes between states.

“A constitution is, in fact, and must be regarded by the judges, as a fundamental law. It therefore belongs to them to ascertain its meaning, as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be an irreconcilable variance between the two, that which has the superior obligation and validity ought, of course, to be preferred; or, in other words, the Constitution ought to be preferred to the statute, the intention of the people to the intention of their agents.”

~ Alexander Hamilton, Federalist No. 78

“It is emphatically the province and duty of the judicial department to say what the law is.”

~ Chief Justice John Marshall, in *Marbury v. Madison*, 1803

“Who was the most influential American of the founding era of the United States: George Washington, due to his military and political achievements? Thomas Jefferson, for the Declaration of Independence and the acquisition of the Louisiana Purchase? James Madison, for his ‘writing’ of the Constitution and subsequent service in the House of Representatives, as Secretary of State, and President? Or might it be John Marshall, who served as Chief Justice of the U.S. Supreme Court for 34 years, longer than any other Chief Justice, and whose ground-breaking decisions still affect the lives of every American?

It is safe to say that as Madison was the ‘father’ of the Constitution and Washington the ‘father of the powers of the Presidency,’ Marshall was the ‘father of the Supreme Court,’ almost single-handedly clarifying its powers.

What if the Supreme Court did not have the power to review laws or executive decisions, to overturn those that are ‘unconstitutional’? How different might life be in the United States? Until 1803, it was not a foregone conclusion that the Supreme Court of the United States would have that power, despite the fact that judicial review had its origins in early seventeen-century England and had been asserted by James Otis in the period leading up to the American Revolution. A relatively minor lawsuit led to one of the most important Supreme Court decisions in American history, *Marbury v. Madison*, laying the foundation for the Court’s ability to render its decisions about laws and actions. In *Marbury v. Madison*, the Supreme Court claimed the power to review acts of Congress and the president and deem them unconstitutional, creating a precedent for an American process of judicial review.

Through the decision of Chief Justice John Marshall, then, the court assumed the powers with which it has since played such a vital role in American life.”

~ *The National Endowment for the Humanities*

Critical Thinking Prompt:

How did Chief Justice John Marshall change the role of the Supreme Court in American History and why is Chief Justice John Marshall considered one of the most influential Americans?

Rights

US History

Name: _____

"The first 10 amendments to the U.S. Constitution are known as the Bill of Rights (1791). These amendments limit the powers of the federal government. The First Amendment protects the civil liberties of individuals in the United States. The amendment freedoms are not absolute, however. They are limited by the rights of other individuals. During the campaign to ratify [approve] the Constitution, the Federalists had promised to add such a bill. James Madison, one of the leaders in Congress, made the passage of a Bill of Rights top priority. He hoped it would demonstrate the good faith of federal leaders and build support for the new government.

In drafting the Bill of Rights, Madison relied heavily on the Virginia Declaration of Rights that George Mason had prepared in 1776 and the Virginia Statue for Religious Freedom that Thomas Jefferson had written in 1786. In late September 1789 after many debates, Congress agreed on 12 constitutional amendments. They were then sent to the states for ratification, but only 10 were approved. These 10 went into effect in 1791. They are generally referred to as the Bill of Rights, although only the first 8 protect the rights of individuals against actions of the federal government. The Ninth Amendment states that the people have other rights not listed. The Tenth Amendment states that any powers not specifically given to the federal government are reserved for the states."

~ *The American Vision*

Bill of Rights – The Ten Amendments

1 st - Freedom of religion, speech, and the press, and protects the right of assembly	
2 nd - Protects the right to keep and bear arms	
3 rd - Against the forced quartering of troops	
4 th - Against unreasonable searches and seizures	
5 th - Guarantees a trial by jury and "due process of law," and guards against double jeopardy (being charged twice for the same offense) and self-incrimination	
6 th - Outlines the rights of the accused, including the right to have a "speedy and public" trial, the right to be informed of the charges made against him, the right to call witnesses in his defense, and the right to have an attorney in his defense	
7 th - Lays out the rules of common law: in suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved	
8 th - Protects against "cruel and unusual punishments"	
9 th - Ensures that the individual rights that are not enumerated in the Constitution are secure – that is, that these rights should not be automatically infringed upon because they are omitted from the Constitution	
10 th - Limits the power of federal government by reserving for the states all powers that are not explicitly granted to the federal government by the Constitution, nor denied to the states	

1. The first amendment of the Constitution deals primarily with
 (1) states' rights
 (2) property rights
 (3) rights of the accused
 (4) rights of self-expression

2. The second amendment of the Bill of Rights protects the right of people to
 (1) practice free speech
 (2) bear arms
 (3) a speedy trial
 (4) assemble peacefully

3. According to the 3rd Amendment, No soldier shall be quartered in a house

- (1) Except during wartime.
- (2) Without the consent of the owner.
- (3) Except during time of peace.
- (4) Without paying the owner.

4. Which of these examples most clearly demonstrates a person exercising the rights protected by the IV Amendment?

- (1) A person receives a weapons permit and purchases a handgun.
- (2) A person attends a rally protesting the war in Iraq.
- (3) A person charged with a crime requests a trial by jury.
- (4) A person asks to see a search warrant before allowing police to enter his/her home.

5. The right of habeas corpus establishes the principle that

- (1) people accused of a crime have a right to a lawyer
- (2) all punishments for crimes should be reasonable
- (3) a person should not be forced to be a witness against himself
- (4) no person should be held in custody unless charged with a crime

6. The British government's use of writs of assistance against American merchants is one reason the Bill of Rights includes protection against

- (1) cruel and unusual punishment
- (2) self-incrimination
- (3) excessive bail
- (4) unreasonable search and seizure

7. The constitutional basis for the separation of church and state is the

- (1) establishment clause of the 1st Amendment
- (2) double jeopardy provision of the 5th
- (3) reserved powers of the 10th Amendment
- (4) equal protection clause of the 14th

Base your answers to questions 8 and 9 on the speakers' statements below and on your knowledge of social studies.

Speaker A: As it stands now, the Constitution does not protect civil liberties.

Speaker B: The system of checks and balances will control any abuse of power by a branch of government.

Speaker C: The demands of the majority will overwhelm the minority.

Speaker D: The amendment process will allow the Constitution to be changed when the need arises.

8. How was the concern of *Speaker A* resolved?

- (1) adoption of the elastic clause
- (2) establishment of the House of Representatives
- (3) creation of the federal court system
- (4) addition of the Bill of Rights

9. Which two speakers support the ratification of the Constitution?

- (1) *A* and *D* (3) *B* and *D*
- (2) *A* and *C* (4) *B* and

10. States rights are addressed in which amendment?

- (1) Third
- (2) Seventh
- (3) Sixth
- (4) Tenth

11. This amendment states that you don't have to say anything at your trial.

- (1) First
- (2) Third
- (3) Fifth
- (4) Seventh

Identify the Amendment:

~ Adapted from Standford.edu

1. A group of people built a statute of Elvis that looked like Elvis was weeping blood. The statue developed quite a following. A lot of people even think the statue is holy and the group has been collecting donations from people who want to visit the statue and pray. The cops want to bring down this whole weeping Elvis scheme but the group claims protection under which Amendment?	The Amendment is:
2. Although minors are not allowed to have guns, and felons are not allowed to have guns, no state can make a law saying that guns are illegal. Why?	The Amendment is:
3. When the Judge tried to make Rob Banks take the stand and testify at his own larceny trial, he refused, and there was nothing the Judge could do to force him to testify. Why not?	The Amendment is:
4. When Terri Bullock was charged with arson, her lawyer actually <i>slept</i> through her trial. The whole thing. He even snored. And drooled. After being sentenced to thirty years, Terri appealed her conviction, and argued that she should have a new trial. What amendment helped her win?	The Amendment is:
5. We learned not so long ago that if the police don't have a warrant, probable cause or your consent, and you are not on probation, in a school or at the airport, the police can't just randomly go through your house. Why not?	The Amendment is:
6. Reginald Rose gets called to jury duty. He hates jury duty. He tries to get out of it, but gets assigned to a complicated civil suit about a patent of a medical device – one company says another company copied the invention, and is suing for millions and millions of dollars. Reginald is so confused by the scientific evidence, and so bored he can barely stay awake. He wonders to himself, why the hell do I have to be here, anyway? Couldn't a judge just decide this by himself? Or an expert or something? Why does Reginald have to be there?	The Amendment is:
7. The U.S. Government can't torture people to death, no matter how heinous their crime. Why not?	The Amendment is:
8. Steve McQueen gets a speeding ticket. When he goes to pay it, he's told that the fine is \$1 million. Steve is outraged, and claims that such a fine is unconstitutional. Why?	The Amendment is:
9. What Amendment do people most frequently use to argue that the death penalty should not be allowed in America?	The Amendment is:

Know Your Rights

US History

Name: _____

Do Now:

“During the debates on the adoption of the Constitution, its opponents repeatedly charged that the Constitution as drafted would open the way to tyranny by the central government. Fresh in their minds was the memory of the British violation of civil rights before and during the Revolution. They demanded a ‘bill of rights’ that would spell out the immunities of individual citizens. Several state conventions in their formal ratification of the Constitution asked for such amendments; others ratified the Constitution with the understanding that the amendments would be offered.

On September 25, 1789, the First Congress of the United States therefore proposed to the state legislatures 12 amendments to the Constitution that met arguments most frequently advanced against it. The first two proposed amendments, which concerned the number of constituents for each Representative and the compensation of Congressmen, were not ratified. Articles 3 to 12, however, ratified by three-fourths of the state legislatures, constitute the first 10 amendments of the Constitution, known as the Bill of Rights.”

~ archives.gov

Questions:

1- What did opponents of the adoption of the Constitution repeatedly charge?

2- Why did opponents charge this?

3- What did many Americans want?

4- What is a ‘bill of rights’?

5- What did the First Congress propose in 1789?

6- How many amendments were ratified?

7- What are those amendments known as?

8- What does the word “amend” mean?

“The United States Constitution is unusually difficult to amend. As spelled out in Article V, the Constitution can be amended in one of two ways. First, amendment can take place by a vote of two-thirds of both the House of Representatives and the Senate followed by a ratification of three-fourths of the various state legislatures (ratification by thirty-eight states would be required to ratify an amendment today). This first method of amendment is the only one used to date. Second, the Constitution might be amended by a Convention called for this purpose by two-thirds of the state legislatures, if the Convention's proposed amendments are later ratified by three-fourths of the state legislatures.” ~law2.umkc.edu

9- Although there are two ways to amend the Constitution, describe the one way that thus far has been used?

The Bill of Rights:

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment II

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.

Amendment III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV

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.

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Amendment VII

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Now, in your own words, summarize the main ideas of each amendment:

Amendment I:**Amendment II:****Amendment III:****Amendment IV:****Amendment V:****Amendment VI:****Amendment VII:****Amendment VIII:****Amendment IX:****Amendment X:**

Quick Summary of Amendments 11 – 27 (Adapted from brighthubeducation.com):

Amendment XI: <ul style="list-style-type: none">• A citizen cannot sue a state if he or she is not a resident of that state. It also prohibits citizens of foreign countries from suing the United States or any state.
Amendment XII: <ul style="list-style-type: none">• The twelfth amendment retains the Electoral College and changes the process for electing the President and Vice President. According to the twelfth amendment, each Electoral College voter must cast a distinct ballot for both president and vice president. The two may not live in the same state. If the Electoral College vote does not produce a majority then the House of Representatives chooses a president. If the Electoral College does not produce a majority vote for Vice President, the Senate chooses one.
Amendment XIII: <ul style="list-style-type: none">• Slavery is not allowed.
Amendment XIV: <ul style="list-style-type: none">• The 14th amendment broadens the definition of citizenship to include former slaves. It prohibits states from denying United States citizens rights guaranteed by the Constitution. The fourteenth amendment prohibits Confederate officials from holding public office, repealable by a 2/3 vote in each house of Congress. The fourteenth amendment prohibits financial restitution to Confederate soldiers and slaveholders.
Amendment XV: <ul style="list-style-type: none">• The fifteenth amendment makes it illegal to deny someone the right to vote based on race or color. It also prevents states from denying the right to vote to freed slaves.
Amendment XVI: <ul style="list-style-type: none">• Congress has the right to levy federal income taxes.
Amendment XVII: <ul style="list-style-type: none">• The seventeenth amendment changes the method of electing United States senators. Senators are no longer chosen by state legislatures; they are now elected by popular vote. The amendment also sets forth the process for replacing senators who cannot fulfill their term: the governor of the state will call for an election and may, with approval from the state legislature, appoint a temporary replacement.
Amendment XVIII: <ul style="list-style-type: none">• The eighteenth amendment bans the sale and consumption of alcohol in the United States.
Amendment XIX: <ul style="list-style-type: none">• The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of sex. Congress shall have power to enforce this article by appropriate legislation.
Amendment XX: <ul style="list-style-type: none">• After an election, the president of the United States will assume office on January 20; U.S. senators and representatives will assume office on January 3. Congress shall meet at least once per year.
Amendment XXI: <ul style="list-style-type: none">• The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

Amendment XXII: <ul style="list-style-type: none"> The twenty-second amendment limits the president of the United States to two terms. Those assuming office may be elected twice only if they serve in the capacity of president for less than two years as the replacement president.
Amendment XXIII: <ul style="list-style-type: none"> Washington D.C. is allotted the right to send electors to the Electoral College for the election of the president of the United States according to the same rules that apply to individual states.
Amendment XXIV: <ul style="list-style-type: none"> The twenty-fourth amendment abolishes the poll tax, a tax paid for the right to vote.
Amendment XXV: <ul style="list-style-type: none"> The twenty-fifth amendment establishes the chain of authority if the president is unable to perform his duties.
Amendment XXVI: <ul style="list-style-type: none"> The twenty-sixth amendment lowers the voting age from twenty-one to eighteen.
Amendment XXVII: <ul style="list-style-type: none"> This amendment was actually proposed by the founding fathers in the Bill of Rights, but did not pass. It ensures that congressional pay raises will not take effect until an election is held after the raise has been approved.

Questions:

- 1- With what amendment did women get the right to vote?

- 2- What amendment was repealed?

- 3- What event led to the ratification of the 13th, 14th, and 15th amendments?

- 4- After which president was the 22nd amendment ratified?

- 5- Why is the 25th amendment important?

- 6- What is your favorite amendment? Why?

- 7- Why are amendments important?

- 8- What is a poll tax?

- 9- What does the 16th amendment state?

- 10- What does the 17th amendment change?

- 11- Of all of the amendments (including the Bill of Rights), what is your favorite amendment and why?

Base your answers to questions 1 and 2 on the speakers' statements below and on your knowledge of social studies.

Speaker A: As it stands now, the Constitution does not protect civil liberties.

Speaker B: The system of checks and balances will control any abuse of power by a branch of government.

Speaker C: The demands of the majority will overwhelm the minority.

Speaker D: The amendment process will allow the Constitution to be changed when the need arises.

1- How was the concern of *Speaker A* resolved?

- (1) adoption of the elastic clause
- (2) establishment of the House of Representatives
- (3) creation of the federal court system
- (4) addition of the Bill of Rights

2- Which two speakers support the ratification of the Constitution?

- (1) A and D (3) B and D
- (2) A and C (4) B and

3- The right of habeas corpus establishes the principle that

- (1) people accused of a crime have a right to a lawyer
- (2) all punishments for crimes should be reasonable
- (3) a person should not be forced to be a witness against himself
- (4) no person should be held in custody unless charged with a crime

4- The second amendment of the Bill of Rights protects the right of people to

- (1) practice free speech
- (2) bear arms
- (3) a speedy and public trial
- (4) assemble peacefully

5- Which of these examples most clearly demonstrates a person exercising the rights protected by the IV Amendment?

- (1) A person receives a weapons permit and purchases a handgun.
- (2) A person attends a rally protesting the war in Iraq.
- (3) A person charged with a crime requests a trial by jury.
- (4) A person asks to see a search warrant before allowing police to enter his/her home.

6- What happens to a proposed amendment after Congress approves it?

- (1) It is submitted to state legislatures for adoption.
- (2) It is voted on by all U.S. citizens.
- (3) It is added to the Constitution.
- (4) It is sent to the President for approval.

7- According to the 3rd Amendment, No soldier shall be quartered in a house

- (1) Except during wartime.
- (2) Without the consent of the owner.
- (3) Except during time of peace.
- (4) Without paying the owner.

8- How many members of the House and Senate must approve an amendment before it can be sent for ratification?

- (1) Half of the members
- (2) All of the members
- (3) Two thirds of the members
- (4) Three fourths of the members

9- Which statement best summarizes Amendment IX?

- (1) Rights not granted by the Constitution shall be determined by the states.
- (2) The people may have rights not specifically mentioned in the Constitution.

Analyze the following images:



THE LAST FEW BUTTONS ARE ALWAYS THE HARDEST.

—Chapin in the *St. Louis Star*.



