

REPORTING CATEGORY 1:
ORIGINS AND PURPOSES OF LAW AND GOVERNMENT

SS.7.C.1.1: Recognize how Enlightenment ideas including Montesquieu's view of separation of power and John Locke's theories related to natural law and how Locke's social contract influenced the Founding Fathers.

Baron de Montesquieu: The Founding Fathers were heavily influenced by French philosopher Charles Secondat, Baron de Montesquieu when drafting the Constitution, most notably in connection with the separation of powers. The Founding Fathers, most especially James Madison, drew upon Montesquieu's theory of the separation of powers when drafting the Constitution. Montesquieu argued that the best way to secure liberty and prevent a government from becoming corrupted was to divide the powers of government among different actors who would check each other. For example, Montesquieu warned that "Were the executive power not to have a right of restraining the encroachments of the legislative body, the latter would become despotic; for as it might arrogate to itself what authority it pleased, it would soon destroy all the other powers."

Madison and the Founding Fathers took heed of Montesquieu's warning by establishing an independent executive (the President), legislative (the Congress), and judiciary (the Supreme Court) in the federal Constitution. Madison masterfully protected the separation of powers by establishing a thorough system of checks and balances as well.

John Locke: Natural Rights to Life, Liberty, and Property. He expressed the radical view that government is morally obliged to serve people, namely by protecting life, liberty, and property. He explained the principle of checks and balances to limit government power. He favored representative government and a rule of law. He denounced tyranny. He insisted that when government violates individual rights, people may legitimately rebel.

SS.7.C.1.2: Trace the impact that the Magna Carta, English Bill of Rights, Mayflower Compact, and Thomas Paine's "Common Sense" had on colonists' views of government. P

Magna Carta: includes 63 clauses protecting the human rights of the English people from the abuses of their king. Its legal mandates extended to the American colonies, and gave American Revolutionary leaders multiple instances to denounce King George for his abuses of the colonists' rights and offered legitimacy for their push for independence from England. The Supreme Court refers to the Magna Carta on occasion, as it forms the foundation for the Bill of Rights of the United States Constitution.

The Magna Carta outlines the foundation for the conception of what modern thinkers call human rights. It also establishes a law of the land that is higher than the laws of the king, what the English refer to as their common law today. The Magna Carta includes a mandate for the right of a trial for those accused of a crime. The Magna Carta contributes to the basis of modern democracies. The American republic's creators use portions of the Magna Carta as the inspiration for a system where law is the supreme sovereign, rather than the ruler.

The colonists in early America were subject to British rule and the leaders of the American Revolution were highly educated in English law. When King George III violates common law in the American colonies, it gives the revolutionaries just cause to warrant succession from England, which Thomas Jefferson outlines the Declaration of Independence.

The Bill of Rights is a section of the United States Constitution which originally did not exist in the document, and is, in part, inspired by provisions in the Magna Carta. The right to due process, trial by a jury of one's peers, no cruel or unusual punishment, the right to a speedy trial without bias, and protection against excessive fines or bail first appear in the Magna Carta, and later in the Bill of Rights. The Supreme Court of the United States occasionally refers back to the Magna Carta for decisions on cases concerning human rights

English Bill of Rights : The importance of the Bill of Rights as a focal point for individual rights and the idea of free and fair government.

The Mayflower Compact: signed by 41 English colonists on the ship Mayflower on November 11, 1620, was the first written framework of government established in what is now the United States.

Thomas Paine's Common Sense: Published in 1776, Common Sense challenged the authority of the British government and the royal monarchy. The plain language that Paine used spoke to the common people of America and was the first work to openly ask for independence from Great Britain.

SS.7.C.1.3: Describe how English policies and responses to colonial concerns led to the writing of the Declaration of Independence.

Mercantilism: This was the idea that colonies existed for the benefit of the Mother Country. The American colonists could be compared to tenants who were expected to 'pay rent', i.e., provide materials for export to Britain. Britain's goal was to have a greater number of exports than imports allowing them to store up wealth in the form of bullion. According to mercantilism, the wealth of the world was fixed. To increase wealth a country had two options: explore or make war. By colonizing America, Britain greatly increased its base of wealth.

Events Leading to the Declaration of Independence

1. The French and Indian War was a fight between Britain and France that lasted from 1754-1763. Because the British ended in debt, they began to demand more from the colonies. Further, parliament passed the Royal Proclamation of 1763 which prohibited settlement beyond the Appalachian Mountains.
2. Beginning in 1764, Great Britain began passing acts to exert greater control over the American colonies which had been left more or less to themselves until the French and Indian War.
 - A. In 1764, the **Sugar Act** increased duties on foreign sugar imported from the West Indies. A Currency Act was also passed that year banning the colonies from issuing paper bills or bills of credit because of the belief that the colonial currency had devalued the British money.
 - B. **Quartering Act in 1765**: This ordered colonists to house and feed British soldiers if there was not enough room for them in the barracks.
 - C. **Stamp Act passed in 1765**: This required stamps to be purchased or included on many different items and documents such as playing cards, legal papers, newspapers, and more. This was the first direct tax that Britain had imposed on the colonists. The money from it was to be used for defense. In response to this, the Stamp Act Congress met in New York City. 27 delegates from nine colonies met and wrote a statement of rights and grievances against Great Britain. In order to fight back, the Sons of Liberty and Daughters of Liberty secret organizations were created. They imposed non-importation agreements. Sometimes, enforcing these agreements meant tarring and feathering those who still wished to purchase British goods.
 - D. **Townshend Acts in 1767**: These taxes were created to help colonial officials become independent of the colonists by providing them with a source of income. Smuggling of the affected goods meant that the British moved more troops to important ports such as Boston. The increase in troops led to many clashes including the famous Boston Massacre. The colonists continued to organize themselves. Samuel Adams organized the Committees of Correspondence; informal groups that helped spread information from colony to colony.

E. 1773 the **Tea Act**: giving the British East India Company a monopoly to trade tea in America. This led to the Boston Tea Party where a group of colonists dressed as Indians dumped tea from three ships into Boston Harbor. In response, the Intolerable Acts were passed. These placed numerous restrictions on the colonists including the closing of Boston Harbor.

F. **Response to the Intolerable Acts**: 12 of the 13 colonies met in Philadelphia from September-October, 1774. This was called the First Continental Congress. The Association was created calling for a boycott of British goods. The continuing escalation of hostility resulted in violence when in April 1775, British troops traveled to Lexington and Concord to take control of stored colonial gunpowder and to capture Samuel Adams and John Hancock. Eight Americans were killed at Lexington. At Concord, the British troops retreated losing 70 men in the process.

May, 1775 brought the meeting of the Second Continental Congress. All 13 colonies were represented. George Washington was named the head of the Continental Army with John Adams backing. The majority of delegates were not calling for complete independence at this point so much as changes in British policy. However, with the colonial victory at Bunker Hill on June 17, 1775, King George III proclaimed that the colonies were in a state of rebellion. He hired thousands of Hessian mercenaries to fight against the colonists.

On June 11, 1776, the Continental Congress appointed a committee of five men to draft the Declaration: John Adams, Benjamin Franklin, Thomas Jefferson, Robert Livingston, and Roger Sherman. Jefferson was given the task of writing the first draft. Once complete, he presented this to the committee. Together they revised the document and on June 28 submitted it to the Continental Congress. The Congress voted for independence on July 2. They then made some changes to the Declaration of Independence and finally approved it on July 4.

SS.7.C.1.4: Analyze the ideas (natural rights, role of the government) and complaints set forth in the Declaration of Independence.

1. Natural rights as expressed in the Declaration of Independence.
2. The natural rights specifically that are expressed in the Declaration of Independence (life, liberty, and the pursuit of happiness).
3. The relationship between natural rights and the role of government: 1. People are endowed by their Creator with certain unalienable rights; 2. Governments are instituted among men to secure these rights; 3. Governments derive their just powers from the consent of governed; and 4. Whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute new government.
4. There is a connection between specific grievances in the Declaration of Independence and natural rights' violations.
5. The colonial complaints as identified in the Declaration of Independence (imposing taxes without the consent of the people, suspending trial by jury, limiting judicial powers, quartering soldiers, and dissolving legislatures).

SS.7.C.1.5: Identify how the weaknesses of the Articles of Confederation led to the writing of the Constitution.

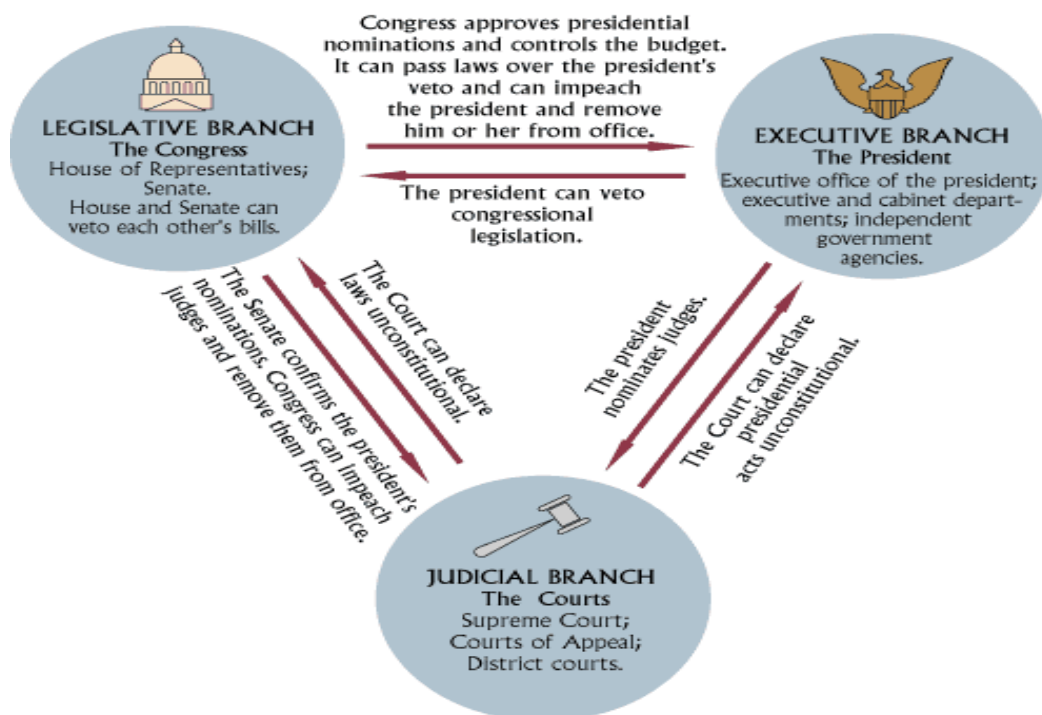
The weaknesses of the government under the Articles of Confederation (i.e., Congress had no power to tax, to regulate trade, or to enforce its laws; the national government lacked a national court system [judicial branch] and central leadership [executive branch]; and changes to the Articles required unanimous consent of the 13 states).

SS.7.C.1.6: Interpret the intentions of the Preamble of the Constitution.

1. The Preamble serves as an introduction to the U.S. Constitution, establishing the goals and purposes of government.
2. Students will identify the goals and purposes of government as set forth in the Preamble of the U.S. Constitution (i.e., form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity).
3. Students will recognize that the intention of the phrase “We the People” means that government depends on the people for its power and exists to serve them.

SS.7.C.1.7: Describe how the Constitution limits the powers of government through separation of powers and checks and balances.

1. The concept of limited government as set forth in the U.S. Constitution.
2. separation of powers: independence of branches of government: the constitutional requirement that each of the three branches of the U.S. government, executive, judicial, and legislative, be autonomous and distinct from the others
 - a) **Executive Branch:** Headed by the president. The president carries out federal laws and recommends new ones, directs national defense and foreign policy, and performs ceremonial duties. Powers include directing government, commanding the Armed Forces, dealing with international powers, acting as chief law enforcement officer, and vetoing laws.
 - b) **Legislative Branch:** Headed by Congress, this includes the House of Representatives and the Senate. The main task of these two bodies is to make the laws. Its powers include passing laws, originating spending bills (House), impeaching officials (Senate), and approving treaties (Senate).
 - c) **Judicial Branch:** Headed by the Supreme Court. Its powers include interpreting the Constitution, reviewing laws, and deciding cases involving states' rights.
3. checks and balances : a system in which the different parts of an organization (such as a government) have powers that affect and control the other parts so that no part can become too powerful
4. Example: The checks and balances of the federal government shown below:



SS.7.C.1.8: Explain the viewpoints of the Federalists and the Anti-Federalists regarding the ratification of the Constitution and inclusion of a bill of rights.

<p>Anti-Federalist objections to the Constitution Antifederalists -- states' rights advocates, backcountry farmers, poor farmers, the ill-educated and illiterate, debtors, & paper-money advocates. In general, the poorer classes of society.</p> <p>Ratification Positions:</p> <ol style="list-style-type: none">1. Articles of Confederation were a good plan.2. Opposed strong central government. Opposed a standing army and a 10 square mile federal stronghold (later District of Columbia).3. Strong national government threatened state power.4. Strong national government threatened rights of the common people. Constitution was created by aristocratic elements. Suspected a sinister plot to suppress liberty of the masses.5. Constitution favored wealthy men and preserved their power. Opposed the dropping of annual elections for representatives.6. Constitution lacked a bill of rights. State governments already had bills of rights but they might be overridden by the Constitution.7. Argued against 2/3 ratification plan. Articles of Confederation required unanimous consent.8. Opposed omitting any reference to God.	<p>Federalist defenses of the Constitution Federalists -- Well educated and propertied class. Most lived in settled areas along the seaboard.</p> <p>Ratification Positions:</p> <ol style="list-style-type: none">1. Articles of Confederation were weak and ineffective.2. National government needed to be strong in order to function. Powers in foreign policy needed to be strengthened while excesses at home needed to be controlled.3. Strong national government needed to control uncooperative states.4. Men of experience and talent should govern the nation. "Mobocracy" threatened the security of life and property.5. National government would protect the rights of the people.6. Constitution and state governments protected individual freedoms without bill of rights. Since people could take back delegated power to the gov't, there was no risk that the national gov't would overreach.7. In favor of establishing the Constitution with almost any means possible.8. More sympathetic to separation of church and state.
--	---

SS.7.C.1.9: Define the rule of law and recognize its influence on the development of the American legal, political, and governmental systems.

1. **Rule of law:** the principle that all people and institutions are subject to and accountable to law that is fairly applied and enforced; the principle of government by law.
2. The rule of law protects citizens from arbitrary and abusive uses of government power.
3. The impact of the rule of law on governmental officials and institutions: (accountability to the law, fair procedures, decisions based on the law, consistent application, enforcement of the law, and transparency of institutions).

SS.7.C.3.10: Identify sources and types (civil, criminal, constitutional, military) of law.

Definition of civil law:

1. law of citizens' rights: the law of a state dealing with the rights of private citizens
2. ancient Roman law: the law of ancient Rome, especially the part concerned with private citizens
3. law based on Roman law: a system of law based on Roman law rather than common law or canon law

Definition of criminal law

1. branch of law dealing with crime: the branch of law that defines the nature of crimes and sets suitable punishments for them

Definition of constitutional law

1. the area of law that has to do with the subject matter and with the interpretation and construction of constitutions or that deals with the nature and organization of government, its sovereign powers and their distribution and mode of exercise, and the relation of the sovereign to the subjects or citizens

Definition of military law

1. legal system applying to military personnel: the legal system, including statutes, regulations, and procedures, that applies to military personnel

Definition of case law

1. Case Law is the decisions, interpretations made by judges while deciding on the legal issues (legal cases) before them which are considered as the common law or as an aid for interpretation of a law in subsequent cases with similar conditions. Case laws are used by advocates to support their views to favor their clients and also it influence the decision of the judges

Definition of common law

1. the system of law originating in England, as distinct from the civil or Roman law and the canon or ecclesiastical law.
2. the unwritten law, especially of England, based on custom or court decision, as distinct from statute law.
3. the law administered through the system of courts established for the purpose, as distinct from equity or admiralty.

Definition of Statutory law or statute law:

1. Statutory law or statute law is written law set down by a legislature or by a legislator. Statutes may originate with national, state legislatures or local municipalities.
2. Statutory laws are subordinate to the higher constitutional laws of the land.

	Civil Law	Criminal Law
Definition	Civil law deals with the disputes between individuals, organizations, or between the two, in which compensation is awarded to the victim.	Criminal law is the body of law that deals with crime and the legal punishment of criminal offenses.
Case filed by	Private party	Government
Decision	Defendant can be found liable or not liable, the judge decides this.	Defendant is convicted if guilty and acquitted if not guilty, the jury decide this.
Standard of proof	"Preponderance of evidence." Claimant must produce evidence beyond the balance of probabilities.	"Beyond a reasonable doubt":
Burden of proof	Claimant must give proof however, the burden may shift to the defendant in situations of Res Ipsa Loquitur (The thing speaks for itself).	"Innocent until proven guilty": The prosecution must prove defendant guilty.
Type of punishment	Compensation (usually financial) for injuries or damages, or an injunction in nuisance.	A guilty defendant is subject to Custodial (imprisonment) or Non-custodial punishment (fines or community service). In exceptional cases, the death penalty.
Examples	Landlord/tenant disputes, divorce proceedings, child custody proceedings, property disputes, personal injury, etc.	Theft, assault, robbery, trafficking in controlled substances, murder, etc.
Appeals	Either party (claimant or defendant) can appeal a court's decision.	Only the defendant may appeal a court's verdict. The prosecution is not allowed to appeal.
Jury opinion	In cases of civil law, the opinion of the jury may not have to be unanimous. Laws vary by state	In the criminal justice system, the jury must agree unanimously before a defendant is convicted.
Commencement of proceedings	State/People/Prosecution by summons or indictment	By way of pleadings, Representatives of the state, Prosecutor, Attorney General.