



Teaching the Unit

Unit 6: Establishing Government

Unit Summary

In Unit 6: Establishing Government, students will learn about the foundational principles that shaped the formation of state and national governments in the United States, including the process of creating constitutions for both the state of New Hampshire and for the United States. These fundamental ideas are at the root of the American democratic tradition and are essential to the development of good citizenship.

Although this unit offers more abstract themes than students of this age group traditionally review, the content provides a direct link to modern civics instruction (explored in Unit 18: Civics and Government Today), while also tracing how the 13 colonies transformed into an independent nation.

Full Educator Overview

Note to Educators

A word about civics and “Moose on the Loose” . . .

The New Hampshire Historical Society takes seriously its responsibility to offer high-quality civics resources. The material offered in “Moose on the Loose” covers not just the logistics of civics instruction but also the foundational principles that are so important to our nation’s past, present, and future. Although well within the grasp of children at the elementary grade levels, an introduction to these foundational principles is sadly curtailed, or even omitted, in most civics instruction today. “Moose on the Loose” hopes to remedy that.

“Moose on the Loose” includes numerous instructional resources on civics and government geared specifically for elementary students. Many of these resources appear throughout the “Moose,” interwoven with the state’s history, but two units in particular focus on these subjects. The first is Unit 6: Establishing Government, which explores the creation of both the New Hampshire and U.S. constitutions, beginning with the fundamental ideas that shaped the Founding Fathers’ decisions about the type of government best suited to support our liberty and prosperity. This unit also introduces the concept of rights. Note that this unit focuses on state and national constitutions as they were when they were created, not necessarily as they are today.

The second is Unit 18: Civics and Government Today, in which students return to these fundamental ideas as they learn about the characteristics of American democracy in our own times; the structure of national, state, and local governments; the rights and responsibilities of citizenship; and the importance of media literacy. This unit focuses on the way national, state, and local governments work today, not necessarily the way they worked when they were created. The lesson plans for this unit encourage more in-depth explorations of key concepts in American civics and government that are vitally important to our society today. Students are given many opportunities to both learn and take informed action in constructive ways that emphasize how our democratic processes are supposed to work.

The two units were designed to work together, and combined they offer a scaffold to expand civics instruction in later grades.



For more about the importance of incorporating our country's foundational principles into civics instruction, see the unit plan for Unit 18: Civics and Government Today.

The Big Picture

During and immediately after the American Revolution, Americans were faced with the challenge of creating new forms of government that embodied their views and beliefs while effectively promoting their economic and political development.

- Americans established a federal form of government, in which power was divided between local, state, and national governments. This system included some holdovers from the colonial period: town governments continued to function as they always had; state governments were based on colonial governments but without any reference to royal authority; and the national government was entirely new.
- In general, Americans held to some fundamental principles when it came to governance:
 - that the people and their rulers enter into a social contract of mutual responsibilities;
 - that governments are established to balance community and individual needs, but that balance usually tips in the direction of the common good;
 - that representative democracy provides the best means to be responsive to the will of the people while moderating their passions;
 - that America is governed by the rule of law and no one is above the law; and
 - that limited government offers the best chance to curb government abuses through the separation of powers and the use of checks and balances.
- The New Hampshire state constitution of 1776, meant as a war-time measure, was replaced in 1784 with a new constitution that enumerated people's rights while establishing a three-branch system of government that balanced the executive, legislative, and judicial functions of the state. The new state constitution included some unique provisions that emphasized the importance of town governance and openly acknowledged the people's right to rebel if rulers failed to live up to their responsibilities in the social contract.
- Two New Hampshire delegates participated in the Constitutional Convention in Philadelphia to create a national government, which was also a three-branch system that divided power and offered checks and balances to prevent any one branch from dominating the others. New Hampshire's delegates, like the rest of the state's political and economic elite, were enthusiastic supporters of the U.S. Constitution, but the small farmers who populated the state were less enamored of it. After some political maneuvering, New Hampshire became the ninth state to ratify the U.S. Constitution, which allowed the document to go into effect.

Introduction

By 1783, the Revolutionary War was over, and the British had accepted American independence. But the work to establish a new country had just begun. Americans needed to create a system of government that would promote their social and economic progress, a tall order when the state governments needed to be reshaped without royal authority and the federal government had to be made from scratch. Such efforts raised a number of questions:



- How were these systems to be established?
- Could governments be created that answered to the will of the people without giving into their passions?
- How would governments provide the stability needed for society to function without stifling innovation and opportunity?
- Would governments be able to balance the various competing factions and interests in ways that allowed for the passage of good laws in a just society?
- Who decided how the government should run?
- And where did minority rights end and the will of the majority begin?

Political philosophers had been pondering these questions for centuries, but the creation of the United States presented an opportunity to put a variety of political theories to the test and devise entirely new approaches to the relationship between the people and the government.

No one questioned that this new system of government would continue to divide power between local, state, and national entities, a concept known as federalism. Federalism was an old idea, dating back to ancient Greece, and it was widely employed around the world as the most efficient means to govern. Great Britain was also a federalist state, and the American colonies had incorporated this concept of shared responsibilities into their own systems of governance from their formation. Towns and cities continued to run themselves much as they had during the colonial period, but with the collapse of royal government during the American Revolution, each colony needed to create a new state government, and collectively, the 13 colonies needed to establish a national government that suited the nation's character and aspirations.

Town Government in New Hampshire

Did the way towns were governed in New Hampshire change after the American Revolution?

During the war, New Hampshire's towns continued to function as the chief governmental bodies in the state, aided by local committees of safety that worked with town officials in each community. When the war ended, the committees of safety were dissolved, and the running of town governments reverted solely to the control of the select boards. They continued to govern more or less as they had before the war, following traditional patterns of local governance developed during the colonial period.

Foundational Principles

What ideas were fundamental to the state and national governments being created during this period?

State and national governments needed to be crafted in their entirety. What sort of governments should they be? States had at least some guidance, being able to build on the colonial governments they were replacing. But a national union had almost no precedents to follow. No other country in the developed world was governed collectively by the people at this time. All other nations in the western world were ruled by monarchies. Sometimes the monarch shared power with a representative body of aristocrats and other elites, but many monarchs ruled alone and had absolute power in their domain. Ironically, the country that offered its people the most say in how they were governed was Great Britain, against whom the Americans had just rebelled.

How could the Americans best promote their collective prosperity while balancing the freedoms they had just fought a war to protect? How could they create a system that



managed the various competing factions within society? And how could the people participate in government without it descending into mob rule? These were important questions that political leaders discussed throughout the country as they devised different plans for state and national governments. In the process, some fundamental principles emerged that would provide the foundation upon which these new governments would be built.

The Social Contract. In the 18th century, political philosophers in Europe and America had gradually developed the idea of the social contract, which stated, in essence, that an agreement existed between the people and their rulers. The people agreed to give to the rulers some of their rights (i.e., allow the rulers to make decisions for them), but in exchange the rulers had to govern with the people's best interests at heart. If the people didn't like the way a ruler governed, they were entitled to make their grievances known, preferably through a well-defined and nonviolent process. The ruler was expected to listen when the people expressed their collective will. In return, the people agreed to follow the laws laid down by those who governed them, even if they didn't agree with them.

If rulers abused their power and ignored the will of the people, then they had broken the social contract and lost their authority to rule. All rights reverted to the people, who were then free to enter into a new social contract with a different ruler, one who would recognize that leaders were accountable to the people.

The American Revolution was the living embodiment of the social contract. Americans believed that the government of Great Britain—its king and Parliament—had abused its power and misruled the colonies, as Thomas Jefferson laid out in the charges he levied against King George III in the Declaration of Independence. Instead of recognizing the colonists' rights to self-governance, the British government made and enforced laws without the colonists' consent, prompting Americans to protest against "taxation without representation." From the Americans' viewpoint, their inability to participate in their own governance reduced them to a state of slavery—they had lost the ability of self-determination. The British government had broken the social contract, and the Americans were then free to form their own government, one that had a greater respect for their rights. All subsequent governments created in America were built on the foundation of the social contract.

The Common Good. Americans in the 17th and 18th centuries were committed to the idea of community. Although individual rights and liberties were valued, the needs of society, generally defined as the people in the local community, were valued just as much, if not more. (It was not until the 20th century that individual rights became more elevated in American society.) At that time, local communities provided much of the social and economic support that the state and federal governments provide today, particularly poor relief and assistance for those who could not care for themselves. Governments were expected to balance the rights of individuals with the needs of the community, but in the end, the common good was generally paramount during this period.

Representative Democracy. Political philosophers at this time also championed the idea of representative democracy as the best means to balance the will of the people with the threat of mob rule. Many European countries were moving toward representative democracies that functioned in conjunction with a monarch. The king or queen would work with a legislative body, such as the British Parliament or the French Estates-General. Even in Britain and France, though, only a small percentage of the population was represented in the legislature, which was dominated by the elite.



There was little support in America for the idea of a monarch or even a strong executive power. Americans had had enough of kings or those who acted like kings. Instead, the power of governance must reside primarily with the people, who would elect leaders to represent them and make decisions for them. The people had the power to vote out of office any representative who didn't satisfy their constituents.

As much as Americans touted the importance of democratic government, they were very suspicious of true democracy where the people would vote directly for political policies. They worried about the dangers of mob rule and the possibility that uneducated and ill-informed voters would vote irresponsibly, thus compromising the integrity of the government. All of the new governments created during this period included various means to check the passions of the people and allow, in their view, wiser, more educated heads to prevail.

Many Americans were not considered independent enough or educated enough to vote responsibly. Women, African Americans, and white men lacking property were not able to vote in state or national elections for this reason. Over the coming decades and centuries, voting rights were expanded for these groups, but even today not all Americans feel secure in their right to vote.

The Rule of Law. Americans recognized that a well-functioning society required consistently enforced laws that applied to all, a concept known as the rule of law. The idea was a simple one in theory but proved challenging to enact. The core idea was that people's bad behavior would be held in check by a system of laws that applied equally to all, even though at the time Americans meant just all white men. Nevertheless, even that idea—that all white men should be considered equal in the eyes of the law—was revolutionary for its time and offered a promise of equality to Americans, even if that promise was delayed by centuries for some. In contrast, European societies still had rigid legal systems based on social class that gave preferential treatment to the aristocracy. For example, members of the British House of Lords were tried separately by other aristocrats rather than through the legal system under which everyone else in Britain lived. The United States did not have an aristocracy, and all white men were subject to the same legal system, at least in theory.

Americans' belief in the universal application of the rule of law also extended to governments and those who served in government. The powers of governments must be clearly defined in written documents so there would be no confusion about the social contract into which the people had entered. Through written constitutions, state and national governments could be held to the rule of law just as individuals were. Constitutions became important templates for governments at the state and national levels in America, which is why so many Americans invested such substantial efforts in crafting constitutions during this period.

Limited Government. A power-hungry government that disregarded people's rights was the Americans' chief complaint when the colonies were under British rule. Charged with creating their own governments, Americans were determined that government power would not go unchecked in their new country. They had several mechanisms at their disposal to ensure governments did not exceed their authority.

- First and most important was the use of constitutions at the state and national level to spell out exactly what governments could and could not do. Constitutions also tried to clarify which powers were within the domain of the federal government and which powers were in the provenance of state governments.
- Second, government power was divided between separate branches—the legislative, executive, and judicial branches—in order to limit its growth. In the post-revolutionary period, the legislative branch was always the most powerful of the



three and the powers of the judicial branch were generally ill-defined, but the idea was that all three branches performed important roles in the government. Through a series of checks and balances, no one branch of the government could dominate the others, at least in theory. Americans were not naïve about the nature of power or the ambition of some to dominate. In effect, they hoped to use government power to check itself.

New Hampshire Becomes a State

How did New Hampshire establish a new state government?

On September 11, 1776, the New Hampshire legislature voted to stop calling New Hampshire a colony and start calling it a state. The government had already been functioning under a new constitution since January, one that made no reference to the British Crown. The 1776 state constitution, however, was only intended to govern New Hampshire during the course of the war. It was not supposed to establish a new state government to guide New Hampshire after independence had been secured.

In fact, the 1776 state constitution began to show its flaws almost immediately. Many people were unhappy with it for a variety of reasons:

- It made no provisions for either an executive or judicial branch of government. All power resided in the legislature.
- It did not list or acknowledge any of the people's rights.
- There was no mechanism to change or amend it.
- Only white men who owned a certain amount of property could vote in state elections.
- Perhaps most important, it was never ratified by the people. A committee appointed by New Hampshire's Provincial Congress drafted the 1776 state constitution, and the Provincial Congress accepted it without the people ratifying it or weighing in on it at all.

Opposition to the 1776 state constitution was particularly high in the Connecticut River Valley. People residing in these western towns concluded that they had more in common with the people who lived on the other side of the river—in Vermont—than with those who lived in the seacoast region, which dominated state government at this time. The westerners hoped to secede from New Hampshire and join Vermont, which was in the midst of trying to throw off the control of New York and establish itself as its own state. The government of Vermont encouraged New Hampshire's western towns to join them, including the new school that had recently been established in Hanover—Dartmouth College. In July 1777, Vermont declared its independence from New York and soon after, 38 towns in western New Hampshire voted to join Vermont.

Alarmed by the potential loss of the western towns and concerned with people's general dissatisfaction with the 1776 state constitution, New Hampshire's political leaders decided to take unprecedented action. They called for a constitutional convention—the first one ever called anywhere in the world—to write a new constitution for the state. Each town sent delegates to Exeter in 1778 so that the work could begin. Over the next five years, the convention produced draft constitutions and sent them to voters for their approval, but the constitutions were consistently voted down. In 1783, the proposed New Hampshire state constitution finally earned the required two-thirds majority for ratification, backed by the most prominent political figures in the state, men like Josiah Bartlett, William Whipple, John Langdon, Meshech Weare, and John Sullivan. By then, Massachusetts had produced its own constitution, ratified in 1780. Massachusetts' constitution is the oldest state constitution still in effect; New Hampshire's is the second oldest.



What was the organization of the new state government?

The New Hampshire state constitution of 1784 was written primarily by John Pickering of Portsmouth. Modeled loosely on Massachusetts' state constitution, it made several significant improvements over the 1776 state constitution. The 1784 state constitution begins with a single sentence that lays out the basis of its authority and its purpose: "All men are born equally free and independent; therefore, all government of right originates from the people, is founded in consent, and instituted for the general good."

Then it was divided into two parts: a Bill of Rights and the Form of Government.

The N.H. Bill of Rights explicitly listed 38 rights guaranteed to the people (which still generally meant only white men). Most of the listed rights foreshadowed those rights that all Americans now will recognize from the federal Bill of Rights, enacted in 1791. These include the rights of those accused of a crime; freedom of speech, beliefs, and assembly; the importance of a free press; and limits on military power. A few of the listed rights merit special mention here.

Religion: New Hampshire recognized freedom of religion for Christians but no other religious groups. This limitation wasn't entirely turned over until 1876, when the requirement was lifted that all state officials be Protestants. The constitution also specified that each town had the right to tax its citizens to pay for a Protestant minister. This provision was changed in 1819, after which time public funds could no longer be used to support a town's church.

Rebellion: New Hampshire's 1784 constitution explicitly recognizes the people's right to rebel against a government that was no longer responsive to their needs or that exercised power arbitrarily. Most state governments implicitly recognized this right at the time, but others did not explicitly state the right as New Hampshire's did.

In the years that followed, this list was modified and expanded to include 87 rights, to date.

The second part of the 1784 state constitution concerned the Form of Government. (For more on the structure of state government, refer to Unit 18: Civics and Government Today.) It divided state government into three branches—executive, legislative, and judicial. Although each branch was considered separate from the others and had powers to check the others, the legislature, called the General Court, was clearly intended to be the dominant force in the state government. It was split into the House of Representatives and the Senate, both of which were to be elected directly by the people. (In most other states, the state senators were elected by the House of Representatives rather than by direct election by the people.)

The executive power was to reside in a president of New Hampshire, who was to be called "Your Excellency." (In 1793, this term was changed to governor.) The constitution laid out several requirements for the president, including ones based on age, property holdings, and length of residency in New Hampshire. He was to be elected directly by the people. He also sat as a member of the state senate. The state constitution also called for the president's power to be limited by the executive council, comprised of five people elected by the General Court. The president was constitutionally required to hear the advice of the council and get the council's assent to conduct a number of important functions, including spending money or appointing state officials. This expansive role for the executive council remains one of the unique features of New Hampshire state government. There was no provision in the state constitution for a lieutenant governor.



The powers of the judiciary were not well defined, and New Hampshire would reconfigure its judicial system numerous times in the decades to come.

The 1784 state constitution also made provisions for a handful of other state offices and for the selection of delegates to the national congress, which had been convened under the Articles of Confederation (see below for more on the Articles of Confederation).

Interestingly, the state constitution also included a provision concerning the importance of education in a free society and the cultivation of certain morals, such as benevolence, honesty, charity, industry, and “all social affections,” necessary for a people living under a democratic form of government.

In addition, the 1784 state constitution addressed some of the problems with the 1776 state constitution, many of which had been raised specifically by the western towns seeking to secede and join Vermont.

- It got rid of the property requirement for voting, although it still required voters to be taxpayers. This provision meant that a larger percentage of white men voted in New Hampshire than in many other states. But note that poor white men, African-Americans, indigenous people, and women were all excluded from the vote.
- It made town government the basis of representation in the House of Representatives instead of population. This provision shifted some of the power away from the seacoast region, where the population was dense, and redistributed it a bit more across the state, although the seacoast still had more political power than other regions. By basing representation on towns, the constitution also elevated the importance of the town as a unit of government in New Hampshire, a role that towns continue to play even today.
- It mandated that another constitutional convention be held in 1791 to make any necessary changes, thus ensuring that the document would be updated and amended as needed. (Since 1784, the New Hampshire state constitution has been modified and amended more than 200 times.)

By the time the people of New Hampshire ratified the 1784 state constitution, the situation in the western towns had been resolved. In 1781, no one knew which state those 38 towns were in, with both Vermont and New Hampshire claiming them. This confusing situation led to a breakdown of law and order in the region, which prompted the New Hampshire government to send Revolutionary War hero John Sullivan and 1,000 militia to the western towns to reassert New Hampshire’s authority. At the same time, the U.S. government encouraged Vermont to drop its claim to the New Hampshire towns, which Vermont eventually did. By 1784, the towns were part of New Hampshire again, which was made more palatable to them because of the provisions of the 1784 state constitution. Furthermore, the state government agreed to hold its meetings in different locations around the state, rather than using Exeter as a de facto state capital. In the early 1800s, Concord, which was centrally located, would emerge as the state capital of New Hampshire.

New Hampshire and the U.S. Constitution

How would the 13 states come together to form a national government?

In the 1780s, all 13 states ratified constitutions and established working governments. But Americans recognized that they also required some kind of national government for issues where the states needed to act together, particularly in areas of national defense and interstate and international trade and commerce. During the war, leadership in these areas



had been provided by the Second Continental Congress, which included delegates from every state. But as it became clear that the United States was going to beat Great Britain and win its independence, political leaders began to contemplate a more permanent form of national government.

The Founding Fathers' first attempt to create a national government was created by the Articles of Confederation, but it operated more like a treaty between the various states than a road map for national government. There was only one branch of government—the legislative branch—in which each state could cast a single vote regardless of its population. Congress was comprised of a single chamber that contained all elected officials, and its powers were severely limited. A three-fourths majority was needed to pass major legislation. In addition, the Articles required the unanimous consent of every state before it could be adopted. Although the Articles of Confederation was sent to the states in 1778, it took three years before all the states ratified it. Once it was ratified, it proved ineffectual as a system of governance.

By 1786, a convention had been called to fix the problems with the Articles of Confederation. Once convened, the delegates to the convention decided to scrap it altogether and called a second convention to devise a new form of government. During the summer of 1787, 55 representatives from 12 of the 13 states (Rhode Island did not attend) hammered out a new constitution, one that provided for three branches of government, which divided power between them. A series of checks and balances compelled the branches to work together to govern. But many had reservations about creating a stronger federal government. Several delegates were also concerned that the new Constitution did not include a listing of people's rights. Nevertheless, the convention adopted the Constitution on September 17, 1787, and sent it to the states for ratification. Nine of the 13 states needed to ratify it in order for the document to go into effect.

New Hampshire's delegates to the Constitutional Convention were John Langdon and Nicholas Gilman. They were both enthusiastic supporters of the U.S. Constitution. When they returned home from the convention, they were shocked that the people of New Hampshire were, at best, tepid about the document. Almost all of the state's leading political and economic figures were in favor of the Constitution, as were the state's newspapers. But the farmers in the state were opposed to it, convinced that too much power had been granted to the national government and that the country's manufacturing and commercial factions would ride roughshod over their interests.

Part of the farmers' hesitation came from their belief that national government—any national government—could not be responsive to the people. It was simply too big and too far away. Instead, people would have more control over their government if governance occurred on the state or local level, displaying once again New Hampshire's commitment to the idea of local control. In addition, opponents of the U.S. Constitution were particularly concerned that it did not include a statement of people's rights.

When New Hampshire's ratifying convention met in Concord in February 1788, it quickly became apparent that the delegates would not ratify the Constitution if a vote were called. The supporters of the Constitution managed to postpone the vote and adjourn the convention until June. New Hampshire's failure to ratify in February prompted alarm among the Constitution's supporters nationally, as New Hampshire was expected to support the document with little fuss. If New Hampshire balked, what would happen in other states—where the vote was expected to be closer?



After the ratifying convention was adjourned in February, the Constitution's supporters committed themselves to winning over convention delegates to their cause. John Sullivan, Meshech Weare, Josiah Bartlett, William Whipple, and the rest of New Hampshire's political elite threw their weight publicly behind the Constitution, arguing that it was essential for preserving American democracy. When the ratifying convention reconvened in June, eight other states had already ratified it, with Virginia expected to ratify in the near future. The convention leaders rushed the vote to ensure that New Hampshire had the honor of being the ninth state to ratify, which allowed the Constitution to go into effect. The vote in New Hampshire, held on June 21, 1788, was 57 to 47. Virginia ratified four days later.

What was the form of government established by the U.S. Constitution?

The U.S. Constitution embodied many of the same ideas found in the state constitutions. After a short preamble that laid out the government's general principles, the document outlined the three branches of the government in its first articles. (For more about the structure of the federal government, see Unit 18: Civics and Government Today.)

- ✓ The legislature was divided into two parts: the House of Representatives and the Senate. This article is the longest of the document, and it lays out in general terms what powers Congress has. This list includes a wide variety of actions, including the right to draft and approve all laws, the ability to levy taxes, and the charge to manage foreign trade, borrow money, and create currency. Because all laws must originate in Congress, including the laws that determine how the federal government will raise and spend money, Congress holds substantial power over the other two branches.
- ✓ The executive power resided in a president, who was responsible for enacting the rules and laws of government and serving as commander-in-chief of the U.S. military. The president's signature is necessary on all laws passed by Congress if they are to be enacted without overriding a veto, which is one of the executive's chief means of checking the power of the legislature.
- ✓ The judiciary was established in very broad strokes, with its powers left rather vague. Justices held lifetime appointments, and they were the only federal officers to do so. It was not until the early 1800s that the Supreme Court made the argument that the Court was empowered to declare laws to be unconstitutional, which effectively checked the other two branches of government.

The document included provisions for amending it and spelled out the ratification procedure. It also included an explicit statement that federal law took precedence over state law, which has since become known as the supremacy clause.

On the whole, the U.S. Constitution established a much stronger and more complex federal government than the one that existed under the Articles of Confederation. The three branches divided federal power, with each branch playing an important role in the process of governance. Each branch also had the ability to check the other two, which would prevent any one branch from dominating the others. Although it was clearly based on democratic ideas, it also offered several mechanisms to check the passions of the people, most specifically through the use of indirect elections. At the time the Constitution was enacted, voters only chose their representatives to the House of Representatives. All other federal officers, including the members of the Senate, the president, vice president, and the justices of the Supreme Court, were selected through indirect elections. Senators were chosen by state legislatures. The president and vice president were selected by the electoral



college (until 1804, the vice president was the second-place winner rather than the president's chosen running mate). Supreme Court justices were appointed by the president. Through these means, the Founding Fathers hoped to prevent the people from making rash and emotional decisions. The Founders feared mob rule as much as they feared tyrannical government.

The U.S. Constitution also represents several compromises among the delegates, the three most important of which concerned representation, slavery, and rights.

From the Constitutional Convention's opening days there was controversy about how states (and by extension the people) would be represented in this new government. Would every state get the same number of votes in the legislature regardless of the state's size, or would the number of votes each state had reflect its population? Those supporting the former idea rallied around what was called the New Jersey Plan, which unsurprisingly attracted smaller states. Those supporting the idea that representation should be based on population threw their support to the Virginia Plan. Delegates from Connecticut proposed the solution that resolved the matter in what became known as the Great Compromise. One house of Congress, the House of Representatives, would be based on population, while the other house, the Senate, would give each state an equal number of votes (2) regardless of the state's size.

Another great issue of the convention was not so neatly solved. Although slavery had once been common throughout all of the original 13 colonies, by the time of the American Revolution, many of the northern states were taking steps to end it for both economic and moral reasons. In the South, though, it remained the foundation of both the social and economic systems. Some individual southerners may have had qualms about the institution, but the South as a whole remained committed to slavery and the plantation system of agriculture that it supported. Led by the delegates from South Carolina, the southern states pushed hard at the Constitutional Convention to garner federal recognition and support for slavery. When South Carolina threatened to walk out of the convention, the other states gave in, and the South emerged from the Constitutional Convention with far more political power than the size of its free population merited. Three-fifths of the population of enslaved persons was counted in determining representation for each state in the House of Representatives, which increased the number of southern representatives. Congress was prohibited from abolishing the overseas slave trade for 20 years. And all states—even those in the North—were required to return escaped slaves from other states to the enslavers. Only by agreeing to this compromise did the federal union move forward.

The lack of a bill of rights was the other major point of contention. All of the state constitutions included a bill of rights, which shows that people believed listing their rights was important. Some of the Founding Fathers believed a bill of rights to be redundant. They claimed that all the rights that would be listed were already protected at the state level and didn't need to be reiterated at the federal level. Nevertheless, in the great debate surrounding ratification, those supporting the U.S. Constitution realized that the promise of a bill of rights would make the document more acceptable to the people. In 1791, the Bill of Rights, containing the first 10 amendments to the U.S. Constitution, was ratified.

Ironically, the provisions of the Bill of Rights are now the parts of the Constitution most familiar to people and most likely to generate controversy. They are very different from the rest of the document, though. The Constitution states what the federal government can do. The Bill of Rights lists what it cannot do.



Which functions would be in the domain of the state governments, and which ones would be overseen by the national government?

At the time the U.S. Constitution was adopted, nearly everyone believed that the states would play the most prominent role in governing the people. In fact, Article 10 of the Bill of Rights explicitly says that any powers not designated to the federal government in the U.S. Constitution are reserved for the states, a provision also known as the reserved powers clause. Initially, the states did exercise great control over matters within their borders, with little reference to the federal government. For example, under the Constitution, states were originally responsible for deciding who could become an American citizen. (Now, the requirements for citizenship are decided on the federal level.) They also determined who could vote and how voting was to be conducted. Although states continue to have some control over voting rights issues, the federal government now exerts some influence in this area as well.

Gradually the extent of the federal government has grown over the decades, expanding into areas of American life that the Founding Fathers could not have foreseen. The states continue to manage the day-to-day operations of government, though.

Conclusion

Constitutions are, by their very nature, general statements of a society's principles, beliefs, and aspirations. In laying out frameworks for governments or in enumerating the protected rights of its citizens, constitutions can only create a scaffolding for the structure of government. How that scaffolding is filled in has been the source of centuries of debate, litigation, and sometimes even violence. But ultimately, Americans have relied on compromises, based on respect for the beliefs and values of others, to work toward consensus. For a more in-depth look at modern-day civics, including the rights and responsibilities of citizenship, the complexity of media literacy, and the importance of civic engagement, see Unit 18: Civics and Government Today.

Course Essential Questions

Essential questions are designed to be answered repeatedly throughout the entire curriculum. This unit particularly addresses the following essential questions:

- How has New Hampshire come to be the way it is?
- How has New Hampshire been shaped by many voices?
- How have New Hampshire's people shaped its government?
- How has New Hampshire impacted the nation?

Unit Focus Questions

Lessons in this unit are geared towards students answering the unit focus questions comprehensively through a variety of methods. This unit's focus questions are:

1. What is a constitution?
 2. What are the foundational principles of our government?
 3. Why is compromise necessary for effective government?
 4. What are the protected rights of the people?
-



Lesson Plans

The unit “Establishing Government” examines the foundational principles of the U.S. and state governments, including the creation of the U.S. and N.H. constitutions. In the first two lessons, students define a constitution and investigate the foundational principles of the United States. Students then study the preamble to the U.S. Constitution and why compromise is essential to good governance in the next two lessons. The final two lessons consider the debate around ratification of the U.S. Constitution and the protections of the Bill of Rights.

Lesson Plan 1: Our Constitutions

Students create a class constitution and read literature about writing the U.S. Constitution before examining the structure of the Constitution and creating a timeline comparing the U.S. and N.H. constitutions.

Lesson Plan 2: Foundational Principles

In five stations about foundational principles, students consider the purposes of government before processing knowledge through a thinking routine and applying their learning to historic and modern-day scenarios.

Lesson Plan 3: Understanding the Preamble

Students review the parts of an introduction before breaking down the purposes of the preamble and illustrating examples of them in groups.

Lesson Plan 4: Constitutional Compromise

To consider why compromise is necessary in good government, students learn about two historic scenarios that helped shape the U.S. and N.H. constitutions.

Lesson Plan 5: Should We Ratify?

Students analyze secondary sources to decide whether New Hampshire should support ratification of the U.S. Constitution, then write a C-E-R paragraph to convince classmates before considering the historical outcome of the New Hampshire ratifying convention.

Lesson Plan 6: Protected Rights

After discussing what rights all humans are entitled to, students examine why we protect certain rights before creating a Venn diagram comparing the protections of the U.S. Bill of Rights and the N.H. Bill of Rights.

Unit Vocabulary

adopt	(verb) To choose to take for one’s own, to follow, or to use
amend	(verb) To revise or change
amendment	(noun) An addition to an existing document; in the U.S. Constitution, the amendments come after the original document
article	(noun) A part or piece of something
Articles of Confederation	(noun) The constitution establishing the first government of the United States that had weaknesses, which led to its failure; it was in place from 1781 to 1789
bicameral	(adjective) A legislature that has two parts; the U.S. Congress is bicameral because it has the House of Representatives and the Senate



bill of rights	(noun) A document that contains a list of freedoms to protect; in the U.S. Constitution, the Bill of Rights is the first 10 amendments
Bill of Rights	(noun) The first 10 amendments to the U.S. Constitution that list the freedoms of the people and states; the Bill of Rights was adopted in 1791
branch of government	(noun) A section of government with its own purpose; the U.S. government has three sections of the government with different responsibilities that support each other to create, examine, and enforce laws
central government	(noun) The center or federal government of a group of states; the U.S. central government is in Washington, D.C.
check	(verb) In government, when one part of the government legally stops another part from taking its desired actions
checks and balances	(noun) The idea where separate parts of the government are given powers to stop each other's actions and are made to share power
civic virtue	(noun) Actions citizens do and qualities citizens have that benefit their community
common defense	(noun) A phrase in the preamble of the Constitution; protection for the community
common good	(noun) A phrase in the preamble of the Constitution; what is best for the community
compromise	(verb) The process of coming to a solution that works for everyone
consensus	(noun) When a group of people come to agreement about an issue
consent	(verb) To agree
constitution	(noun) A document laying out the rules for how a government will work
Constitution	(noun) The document that lays out the framework for how the federal government works; written in 1787 and ratified in 1789
constitutional convention	(noun) A gathering of representatives whose purpose is to write a constitution or revise an existing constitution
delegate	(noun) A representative who speaks for their people or organization
democracy	(noun) A government ruled by majority vote of the people
dictator	(noun) The ruler of a nation or people who has absolute power
domestic	(adjective) In our country or at home
elected	(adjective) Describing when someone has been chosen for a position through the vote of the people



election	(noun) When people vote for a person for office or other position
executive	(adjective) Describing the person or branch of government who puts plans and laws into effect
executive branch	(noun) The section of government that puts plans and laws into effect
federal	(adjective) The central government of a group of states; the U.S. federal government is in Washington, D.C.
federalism	(adjective) When local towns, states, and the federal government share power together
foundational principle	(noun) An idea on which something stands; one foundational principle of the United States is the rule of law
Founding Fathers	(noun) The people who led the colonies in the American Revolution, then designed and set up the government of the United States; also called the framers
framers	(noun) The people who led the colonies in the American Revolution, then designed and set up the government of the United States; also called the Founding Fathers
fundamental	(adjective) Describing something that is central in importance
government	(noun) A group of people that have the power to make and carry out laws for a community
infringe	(verb) To actively break a law or agreement
insure	(verb) To protect
judicial	(adjective) Describing the people or branch of government that decides if laws are fair
judicial branch	(noun) The section of government that decides if laws are fair
justice	(noun) Fairness for everyone
legislative	(adjective) Describing the people or branch of government that makes laws
legislative branch	(noun) The section of government that makes laws
legislature	(noun) A group of people chosen or elected to make the laws for a colony or state
liberty	(noun) The freedom to exercise your rights in a community
limited government	(noun) When the power of the people who rule a community is controlled so that no person or group gets too much power



majority	(noun) More than half of a group
minority	(noun) Less than half of a group
more perfect union	(noun) A phrase in the preamble of the Constitution; a joining of the states in the best way possible
necessary and proper clause	(noun) A phrase in the United States Constitution that says that the central government can make all laws it thinks are necessary and good in order to run the nation
ordain	(verb) To declare
persuade	(verb) To cause something to happen through asking, giving reasons, or arguing
posterity	(noun) Future generations
preamble	(noun) Introduction
promote	(verb) To help
proportional representation	(noun) Representation in government based on the population; a larger population has more representation than a small population
ratification	(noun) The action of making something legal by signing or giving permission
ratify	(verb) To make legal by signing or giving permission
representative democracy	(noun) When a group of people select someone to communicate their views and make laws for them
right	(noun) 1 That which is morally correct 2 Something a person should legally or morally be able to do or get to have
rule of law	(noun) The idea that everyone in a community agrees to a set of written rules and then everyone follows the same rules
secede	(verb) To separate from a political organization, like from a state or country
social contract	(noun) An agreement between people and their government to give up some rights in exchange for security and law and order
society	(noun) What comes when people live together in a community
supremacy clause	(noun) A phrase in the United States Constitution that says that the Constitution and any law made in the central government is more powerful than state laws
tranquility	(adjective) Peacefulness



welfare

(noun) Safety and happiness

Using the Student Content Readings

The student content for this curriculum is designed to be used in many ways. Here are suggestions for reading activities and strategies that support independent and guided reading at different stages of each unit. Please note that some lessons in this unit use the student content in their learning activities.

- **Introducing Units:** Preview the student content before diving into lesson plans and activities. Ask students to skim the text by looking for key design elements. What are the headings? What do they tell us about the big ideas of the unit? Look for words in bold. What are the important vocabulary words used in this unit? Which are familiar? Which are not? What kinds of graphics or images are used in this content? Which important ideas do they illustrate?
- **Developing Understanding:** Some lesson plans direct you to specific sections of the student content, but the student content should be revisited throughout completion of a unit. Students can create visual representations of specific sections, summarize paragraphs, or complete jigsaw chunking and present their section summaries to other students.
- **Reviewing Concepts:** After lessons, return to the student content to look for evidence of the concept explored in the lesson. Students can create timelines, cause and effect charts, mind maps, and Venn diagrams using the information provided in each section.
- **Extending Comprehension:** Students can develop a review quiz for fellow students by writing their own questions about the information in each section. Translating the content into data that can be displayed on a map or graph is another way to extend comprehension of the text.

Additional Resources

Format: Book

Title: *The Bill of Rights: Protecting Our Freedom Then and Now*

Author/Creator: Syl Sobel

Audience: For Students.

Description: A look at each of the 10 amendments in the Bill of Rights, suitable for grades 4–7

Format: Website

Title: Center for Civics Education: Teaching Resources

Author/Creator: Center for Civics Education

Audience: For Educators.

Description: Age-appropriate lesson plans on the fundamentals of American government.

Website: www.civiced.org/teaching-resources

Format: Podcast

Title: Civics 101

Author/Creator: New Hampshire Public Radio

Audience: For Educators.

Description: Fun and irreverent series that explores how American government works, with some politics and history thrown in, includes lesson plans, activities, and graphic organizers

Website: www.civics101podcast.org/



Format: Website

Title: Constitution in the Classroom

Author/Creator: National Constitution Center

Audience: For Educators.

Description: Projects, lesson plans, educational resources, and virtual classroom presentations centered around the U.S. Constitution

Website: constitutioncenter.org/learn

Format: Videos

Title: "Crash Course: The Constitution"

Author/Creator: John Green

Audience: For Educators.

Description: Fast-paced and irreverent video covering the Articles of Confederation and the creation and ratification of the Constitution

Website: www.youtube.com/watch?v=bO7FQsCcbD8

Format: Book

Title: *How the U.S. Government Works*

Author/Creator: Syl Sobel

Audience: For Students.

Description: Geared toward upper elementary and middle school students, it explores the three branches of the federal government

Format: Website

Title: iCivics

Author/Creator: iCivics

Audience: For Students and Educators.

Description: A wide variety of teaching resources, including games, activities, DBQs, and lesson plans, that cover all of U.S. civics

Website: www.icivics.org/

Format: Book

Title: *The Liberty Key*

Author/Creator: Lorenca Consuelo Rosal

Audience: For Students and Educators.

Description: Cartoons, documents, and stories explore the creation of the NH Constitution

Format: Book

Title: *The Ninth State: New Hampshire's Formative Years*

Author/Creator: Lynn Warren Turner

Audience: For Educators.

Description: Traces the formation of NH's state constitution and NH's role in creating and ratifying the U.S. Constitution

Format: Book

Title: *Revolutionary New Hampshire: An Account of the Social and Political Forces Underlying the Transition from Royal Province to American Commonwealth*

Author/Creator: Richard Francis Upton

Audience: For Educators.

Description: Detailed history of New Hampshire during the American Revolution, including the creation of a state government



Format: Book

Title: *We the Kids: The Preamble to the Constitution of the United States*

Author/Creator: David Catrow

Audience: For Students.

Description: Appropriate for kids ages 4–9, this picture book uses illustrations to explain the Constitution’s preamble

Format: Website

Title: We the People

Author/Creator: Scholastic Kids

Audience: For Students and Educators.

Description: Online book with a few videos and graphic organizers explaining how American government works

Website: <https://wethepeople.scholastic.com/grade-4-6.html>

Format: Book

Title: *We the People: The Story of Our Constitution*

Author/Creator: Lynne Cheney

Audience: For Students.

Description: Illustrated story of the creation of the Constitution, suited for grades 5–8.