**Section 1: Limited government and natural rights**

 The founding fathers were deeply concerned about government abusing its power. It was reasoned that when a government abused its power, it deprived the citizens of their liberty. As liberty was a fundamental God given right, assurances had to be put in place to protect the people from government abusing its power.

 The founding fathers consulted the works of many political philosophers, including John Locke (1632-1704), when they developed government structures that protected the people from government abusing its powers. According to Locke, men lived in a “state of nature” which meant that one is allowed to conduct one’s life as one best sees fit, free from the interference of others. There is no government in a state of nature, and people are assumed to be equally responsible for protecting each other’s “life, health, liberty and possessions”. The laws by which people lived were derived from God, and these laws included the notion that people were forbidden from harming one another. Thus, the state of nature is a state of liberty where persons are free to pursue their own interests provided that in doing so they do not harm one another.

 Still, it is not uncommon for property disputes to arise. Under the state of nature there is no government to appeal one’s grievances against one person who has stolen property or liberty (i.e. making a person a slave). Under the law of nature, men are allowed to defend their lives and their property, which include the right to kill others who threaten their property or liberty. This meant that there was no civil authority to settle disputes, and put the community at risk for an outbreak of war due to the lack of a civil government.

 According to Locke, civil governments were established for the sake of protecting property. Property is the basis for Locke’s argument for both a social contract and civil government because it is the protection of that property (property protection extends to a person so that one has dominion over their own bodies) that compels men to choose a civil government and abandon the notion of living in a state of nature. The social contract is a voluntary agreement between the people and the government.

 These ideas show that people are born with God given (natural) rights that are protected by civil governments. Governments are created to protect that which belongs to the people. However, governments are limited in their regulation of human behavior to the extent to which the people themselves believe does not infringe on their God given freedoms. The people enter into a social contract voluntarily provided that the government is formed in a way that respects natural rights and is derived from the consent of the governed.

**Section 2: Separation of Powers and Checks and Balances**

 The U.S. Constitution is organized around a separation of powers system that utilizes checks and balances. The powers to legislate, enforce and adjudicate are separated into three different branches of government. These branches may not function with complete independence. The founding fathers feared that branches functioning independently might still abuse their power. Thus, while there are separate branches of government and each is vested with specific powers, this does not mean that each branch operates without some level of oversight from one or both other branches.

 Charles de Secondat, Baron de Montesquieu’s (1689-1755) 1748 work, *The Spirit of the Laws* (French: *L’Esprit des Lois*), on the theory of separation of powers and checks and balances had a strong influence on the founding fathers. Montesquieu argued that “government should be set up so that no man need be afraid of another”, which was well received by the founding fathers, particularly James Madison, who believed that a clearly defined and balanced separation of powers system that utilized checks and balances would provide a stable foundation for the new government.

 Montesquieu argued that government should be created to accommodate separate branches of government with equal but different powers. This way, power would not be concentrated with one individual or group of individuals. Liberty was threatened if power became concentrated in one place; thus, no branch of government could threaten the freedom of the people.

|  |  |  |
| --- | --- | --- |
| **Word/Term** | **Part of Speech**  | **Definition** |
| **checks and balances** | noun | a principle of the federal government, according to the U.S. Constitution, that allows each branch of government to limit the power of the other branches |
| **constitutional government** | noun | a form of government based on a written set of laws that all citizens agree to; in this form of government, the constitution is the highest law of the land |
| **judicial review** | noun | the power of the U.S. courts to examine the laws or actions of the legislative and executive branches of the government and to determine whether such actions are consistent with the U.S. Constitution |
| **limited government** | noun | a government that has been limited in power by a constitution, or written agreement |
| ***Marbury v. Madison*** | proper noun | U.S. Supreme Court case that established judicial review |
| **separation of powers** | noun | the structure of the federal government, according to the U.S. Constitution, that sets up three branches with their own distinct powers and responsibilities |

**Section 3: Excerpts of Articles I, II, III and V of the U.S. Constitution**

**Excerpts from Article I – The Legislative Branch**

SECTION. 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION. 2. The House of Representatives shall chose their Speaker and other Officers; and shall have the sole Power of Impeachment.

SECTION. 3. The Senate shall have the sole Power to try all Impeachments

SECTION. 7. All Bills for raising Revenue shall originate in the House of Representatives;…

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, … If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

SECTION. 8. The Congress shall have Power To lay and collect Taxes, … to pay the Debts and provide for the common Defence and general Welfare of the United States;…

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the Supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy; to make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards and other needful Buildings;-And

To 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.

**Excerpts from Article II – The Executive Branch**

SECTION. 1. The executive Power shall be vested in a President of the United States of America…

Oath or Affirmation:--"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

SECTION. 2. The President shall be Commander in Chief of the Army and Navy of the United States … and he shall have Power to grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States,

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

SECTION. 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

**Excerpts from Article III – The Judicial Branch**

SECTION. 1. The judicial Power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.

SECTION. 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;--to all Cases affecting Ambassadors, other public Ministers and Consuls;--to all Cases of admiralty and maritime Jurisdiction;--to Controversies to which the United States shall be a Party;--to Controversies between two or more States;--between a State and Citizens of another State;--between Citizens of different States;--between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the Supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

**Excerpts from Article V – The Amendment Process**

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution

**Section 4: You Be The President!**

**As president, or the head of the executive branch, you have the power to:**

* Propose laws to the Congress (the legislative branch);
* Sign bills into law;
* Veto bills from becoming laws;
* Negotiate treaties with foreign countries;
* Make executive appointments (to the Cabinet; to the Supreme Court; to federal agencies like the F.B.I.; etc.); and
* Grant pardons to federal offenders.

**You can check the powers of the Congress by:**

* Proposing new legislation; and
* Vetoing bills from becoming laws.

**You can check the powers of the Supreme Court by:**

* Appointing judges who share your political viewpoints; and
* Enforcing the Court’s decisions.

**Section 5: You Be The Congress!**

**As a member of the Congress, or the legislative branch, you have the power to:**

* Introduce new laws;
* Override a presidential veto;
* Coin money;
* Borrow money on behalf of the United States;
* Appropriate money to the executive branch;
* Declare war; and
* Impeach or remove the president.

**You can check the powers of the president by:**

* Overriding a presidential veto on a bill;
* Impeaching or removing the president; and
* Approving presidential appointments to the Supreme Court, the Cabinet, and federal agencies (like the F.B.I.).

**You can check the powers of the Supreme Court by:**

* Confirming judiciary appointments to the Court;
* Impeaching or removing justices; and
* Proposing new amendments to the Constitution.

**Section 6: You Be The Supreme Court!**

**As a member of the Supreme Court, or the highest court in the judicial branch, you have the power to:**

* Declare laws unconstitutional through the power of judicial review; and
* Interpret meaning of laws.

**You can check the powers of the president by:**

* Declaring executive actions unconstitutional.

**You can check the powers of the Congress by:**

* Declaring laws unconstitutional.