

## Foundational Concepts and Documents 基础概念和文件

### I. 我。 FUNDAMENTAL CONCEPTS OF AMERICAN GOVERNMENT

#### 美国政府的基本概念

##### A. LIMITED GOVERNMENT

###### A. 有限政府

The theory that the power of the government and political leaders would be restricted in order to protect natural rights was built into the Constitution by specifically listing the powers of government, the powers denied to the government, and the rights of the people. The following ideas represent various aspects of the concept of limited government:

为了保护自然权利，限制政府和政治领导人权力的理论被写入宪法，宪法明确列出了政府的权力、政府被禁止的权力以及人民的权利。以下观点体现了有限政府概念的各个方面：

###### 1. Natural Rights

###### 1. 自然权利

According to the Enlightenment-era philosophers such as John Locke, certain freedoms are guaranteed to all citizens. The authors of the Constitution believed that governments existed not only to provide order, but also to protect the natural rights of citizens. Natural rights are referred to as “unalienable Rights” in the Declaration of Independence.

根据约翰·洛克等启蒙时代哲学家的观点，某些自由是所有公民都应享有的。宪法的制定者认为，政府存在的目的不仅在于维护秩序，还在于保护公民的自然权利。在《独立宣言》中，这些自然权利被称为“不可剥夺的权利”。

###### 2. Popular Sovereignty

###### 2. 人民主权

The power and authority of government belong to the people.

政府的权力和权威属于人民。

- a. Popular sovereignty is evident in the Declaration of Independence with the phrase, "Governments are instituted among men, deriving their just powers from the consent of the governed."
  - a. 人民主权在《独立宣言》中得到了体现，其中写道：“政府的建立，是人民之间的事，其正当权力，来自被统治者的同意。”
- b. Popular sovereignty is found in the Constitution, specifically in the well-known opening phrase, "We the people."
  - b. 人民主权体现在宪法中，具体体现在著名的开篇语“我们人民”中。



**A helpful way to remember the meaning of the term popular sovereignty:**

记住“人民主权”一词含义的一个有用方法：

*Popular = people* 受欢迎的人

*Sovereign = ruler* 君主

*Popular sovereignty = the people rule*

人民主权 = 人民统治

### 3. Social Contract

#### 3. 社会契约

The Enlightenment philosopher John Locke indicated that power and authority belonged to the people (popular sovereignty). As a result, Locke proposed, government existed because the people voluntarily gave up some power to the government in exchange for security in what he called a social contract. However, the government was required to protect the natural rights of the people. If the government failed to uphold the agreement, the people had the right to rebel. Locke's social contract represented a shift from the accepted theory of the time—the divine right of kings to rule. The social contract became the foundation of the argument presented in the Declaration of Independence.

启蒙运动哲学家约翰·洛克指出，权力和权威属于人民（人民主权）。因此，洛克提出，政府的存在是因为人民自愿将部分权力让渡给政府，以换取他所谓的社会契约中的安全保障。然而，政府有义务保护人民的自然权利。如果政府未能履行契约，人民有权反抗。洛克的社会契约标志着对当时普遍接受的君权神授理论的转变。社会契约成为《独立宣言》论证的基础。

### 4. Republicanism

#### 4. 共和主义

A system of government in which citizens vote for individuals to represent their interests and make decisions about policy. The term *republicanism* is essentially

synonymous with representative or indirect democracy.

共和制是一种政府体制，公民投票选举代表其利益并制定政策的个人。共和制一词本质上与代议制民主或间接民主同义。

## 5. Separation of Powers

### 5. 三权分立

The Constitution implements the concept of separation of powers by granting each branch specific areas of authority (power). This idea is based on the work of Enlightenment philosopher Baron de Montesquieu.

宪法通过赋予每个分支机构特定的权力范围来落实三权分立的理念。这一理念源于启蒙运动哲学家孟德斯鸠的著作。

## 6. Checks and Balances

### 6. 权力制衡

The Constitution grants specific mechanisms to each branch of government for limiting the actions of the other branches. This is called checks and balances. The idea behind checks and balances is that when a written constitution gives each branch of government the authority to block actions by the other branches, no one branch or individual accumulates too much power. Checks and balances is another democratic ideal that originated with Baron de Montesquieu and is related to the separation of powers.

宪法赋予政府各部门特定的机制来限制其他部门的权力，这被称为权力制衡。权力制衡的核心理念在于，当一部成文宪法赋予政府各部门阻止其他部门行动的权力时，任何一个部门或个人都不可能积累过多的权力。权力制衡是孟德斯鸠提出的另一项民主理念，与权力分立密切相关。

## 7. Federalism (Division of Powers)

### 7. 联邦制（权力划分）

A system of government in which a constitution assigns different types of authority and responsibility to national and state governments. The Constitution created a government based on federalism, replacing the confederate style of government that existed under the Articles of Confederation.

联邦制是一种政府体制，其宪法赋予联邦政府和州政府不同的权力和责任。宪法建立了一个基于联邦制的政府，取代了邦联条例下的邦联式政府。

## 8. Rule of Law

### 8. 法治

A system that holds all individuals, including leaders, accountable to the same laws, and which applies all laws to everyone regardless of their position. The foundation of the law is a document, the Constitution, as opposed to an individual, the king. Under such a system, every person, including government officials, is accountable to the law,

and the process of justice is fair, equitable, and available to all citizens.

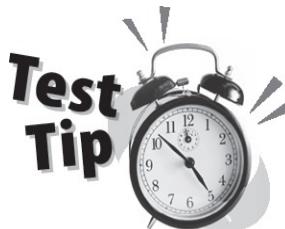
这套体系要求所有人，包括领导人，都必须遵守同样的法律，并且所有法律都适用于所有人，无论其地位如何。法律的根基是宪法，而非个人，例如国王。在这样的体系下，每个人，包括政府官员，都必须对法律负责，司法程序公平公正，所有公民都能获得公正的司法救济。

## 9. Majority Rule and Minority Rights

### 9. 多数统治与少数权利

This concept addresses the possibility of tyranny by the majority—a situation in which a majority may oppress the minority. The Constitution protects minority rights from being violated, even when such violation is broadly supported by voters. The Bill of Rights, advocated by the Anti-Federalist movement and adopted shortly after the Constitution itself, establishes individual rights, or “liberties,” as part of fundamental law. The Framers relied upon an independent judiciary (the courts) to enforce these protections.

这一概念旨在应对多数人暴政的可能性——即多数人压迫少数人的情况。宪法保护少数群体的权利免受侵犯，即便这种侵犯得到了选民的广泛支持。《权利法案》由反联邦主义运动倡导，并在宪法颁布后不久获得通过，它将个人权利或“自由”确立为基本法的一部分。制宪者依靠独立的司法机构（法院）来执行这些保护措施。



***The distinction between the terms separation of powers and division of powers is frequently confusing for students. Separation of powers refers to the allocation of powers among the three branches of government (horizontally). Division of powers refers to the fact that powers are divided vertically, between federal and state (and local) governments. Pay attention to these terms in multiple-choice questions and use them correctly in the FRQs.***

“权力分立”和“权力划分”这两个术语之间的区别常常令学生感到困惑。“权力分立”指的是政府三个部门（联邦、州和地方）之间的权力分配（横向）。“权力划分”指的是联邦政府与州（以及地方）政府之间的权力划分（纵向）。在选择题中要注意这些术语，并在简答题中正确使用它们。

## B. FOUNDING DOCUMENTS

### B. 创始文件

#### 1. Declaration of Independence

##### 1. 《独立宣言》

Signed by the Second Continental Congress, the Declaration of Independence announces the political separation of the colonies from Great Britain. Primarily authored by Thomas Jefferson, it is based significantly on the philosophy of John Locke and his ideas relating to natural rights and the social contract.

由第二届大陆会议签署的《独立宣言》宣布各殖民地在政治上脱离英国。该宣言主要由托马斯·杰斐逊起草，其思想很大程度上基于约翰·洛克的哲学及其关于自然权利和社会契约的理念。

- a. Natural rights and the social contract are evident in the statement in the Declaration of Independence that
- a. 《独立宣言》中的声明清楚地表明了自然权利和社会契约：

all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty, and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.

所有人生而平等，造物主赋予他们若干不可剥夺的权利，其中包括生命权、自由权和追求幸福的权利。为了保障这些权利，人们才在他们之间建立政府，而政府的正当权力，则来自被统治者的同意。
- b. The Declaration goes on to proclaim a right to rebel against and replace an unjust government. It provides an extensive list of grievances, or “repeated injuries and usurpations” to justify the separation. For this reason, the Declaration is often referred to as a “breakup letter.”
- b. 该宣言进一步宣告了人民有权反抗并推翻不公正的政府。它列举了一系列冤屈，或称“屡次伤害和篡夺”，以此来证明分离的正当性。因此，该宣言常被称为“分手信”。
- c. The Declaration has served as the inspiration for numerous similar documents, including the Seneca Falls Declaration of Sentiments (1848) and the United Nations Universal Declaration of Human Rights (1948). It is regarded as the inspiration for many modern countries’ founding statements.
- c. 该宣言启发了许多类似的文献，包括《塞内卡福尔斯情感宣言》（1848年）和《联合国世界人权宣言》（1948年）。它被认为 是许多现代国家建国宣言的灵感来源。

## 2. U.S. Constitution

### 2. 美国宪法

The Constitution is a relatively brief document that sets out the structure and functions of this new republican form of government. It is frequently vague and lacking in detail. The Framers anticipated that future adaptation would be necessary to adjust this radical experiment in government to real-world conditions. Its simple provisions have been expanded and interpreted since its adoption. For this reason, the Constitution is often referred to as a “living document.”

宪法是一份相对简短的文件，它阐述了这种新型共和政体的结构和职能。宪法条文常常含糊不清，缺乏细节。制宪者们预料到，为了使这项激进的政府实验适应现实世界，未来需要对其进行调整。自宪法颁布以来，其简单的条款已被不断扩展和解释。因此，宪法常被称为“活的宪法”。

#### Preamble 前言

This introduction to the Constitution states the six legitimate purposes of the government created in the document.

宪法导言阐述了宪法所建立的政府的六项合法宗旨。

#### Article I: The Legislative Branch

##### 第一条：立法部门

This article creates a bicameral legislature, lays out electoral requirements and legislative procedures, and specifies the powers of Congress.

本文设立了两院制立法机构，规定了选举要求和立法程序，并明确了国会的权力。

## **Article II: The Executive Branch**

### **第二条：行政部门**

This article defines the qualifications for office and describes powers and duties of the president. It describes the process for choosing the president through the Electoral College, the presidential oath of office, and the Office of the Vice President.

本文界定了总统的任职资格，并描述了总统的权力和职责。文章还介绍了通过选举团选举总统的程序、总统就职宣誓以及副总统办公室的运作方式。

## **Article III: The Judicial Branch**

### **第三条：司法部门**

This article creates the Supreme Court of the United States and defines its jurisdiction. It grants Congress broad powers with regard to creating and structuring lower federal courts.

本文设立了美国最高法院，并界定了其管辖范围。它赋予国会在设立和构建下级联邦法院方面广泛的权力。

## **Article IV: Relations Among States**

### **第四条：国家间关系**

This article includes several key clauses that regulate relationships among the states, and between the states and the national government.

本文包含若干关键条款，用于规范各州之间的关系以及各州与中央政府之间的关系。

## **Article V: Amendment Process**

### **第五条：修正程序**

This article reflects federalism by describing how the U.S. Constitution may be changed through proposal at the national level and ratification by the states.

本文体现了联邦制，描述了美国宪法如何通过国家层面的提案和各州的批准进行修改。

## **Article VI: National Supremacy**

### **第六条：国家至上**

This article states that federal laws and treaties are the highest law of the land and are binding on states. It requires that certain government officials swear an oath to support the Constitution and prohibits a religious test for holding office.

本文指出，联邦法律和条约是国家最高法律，对各州具有约束力。它要求某些政府官员宣誓拥护宪法，并禁止以宗教信仰作为担任公职的条件。

## **Article VII: Ratification Process**

### **第七条：批准程序**

This article required nine states to initially ratify the Constitution in order for it to become effective as to those states.

该条款规定，宪法必须先经九个州批准才能对这些州生效。

### 3. Amendments to the Constitution

#### 3. 宪法修正案

##### Amendments 1–10: The Bill of Rights

###### 修正案1-10：权利法案

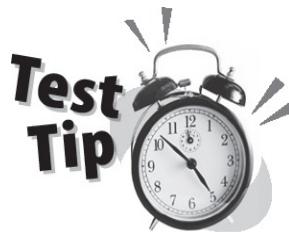
The first ten amendments were added to the document as a compromise to address the concerns of the Anti-Federalists. The Federalists, on the other hand, felt that individual rights were already protected by the state constitutions.

前十条修正案是作为一项妥协方案添加到宪法中的，旨在回应反联邦主义者的诉求。而联邦主义者则认为，各州宪法已经对个人权利提供了保障。

##### Amendments 11–27 第 11 至 27 号修正案

These amendments were added after the Bill of Rights and address the needs of a changing nation, procedural concerns, civil rights, and the expansion of suffrage.

这些修正案是在《权利法案》之后添加的，旨在满足不断变化的国家的需求、程序问题、公民权利以及扩大选举权。



*A common mistake students make is confusing the Declaration of Independence with the Preamble to the U.S. Constitution. The Declaration describes unalienable (natural) rights: life, liberty, and the pursuit of happiness; and provides justification for the colonies to politically separate themselves from England. The Constitution creates and defines our government. The Preamble is the first paragraph of the Constitution, which lays out the purposes of the new government.*

学生们常犯的一个错误是将《独立宣言》与美国宪法序言混淆。《独立宣言》阐述了不可剥夺的（自然）权利：生命、自由和追求幸福的权利；并为殖民地在政治上脱离英国提供了正当理由。《宪法》则创建并定义了我们的政府。序言是宪法的第一段，阐述了新政府的宗旨。

## II. 二、 MODELS OF REPRESENTATIVE DEMOCRACY

### 代表制民主模式

The writers of the Constitution sought a compromise among the three main competing models of representative democracy: participatory democracy, pluralist democracy, and elite democracy. Democracy in the United States today includes elements of each of these theories.

宪法的制定者们力求在三种主要的、相互竞争的代议制民主模式——参与式民主、多元民主和精英民主——之间找到一种折衷方案。如今美国的民主制度融合了这三种理论的要素。

## **A. PARTICIPATORY DEMOCRACY**

### **A. 参与式民主**

1. This is a type of democracy that focuses on popular sovereignty and that governmental authority should be in the hands of individuals selected by the people. Authority in a representative democracy is based on the will of the numerical majority in what is called majoritarianism. This type of democracy emphasizes the wide-ranging participation of citizens as individuals, rather than as group members or powerful elites.
1. 这是一种强调人民主权的民主制度，认为政府权力应掌握在人民选举产生的个人手中。在代议制民主中，权力基于多数派的意志，即所谓的多数主义。这种民主制度强调公民作为个体而非群体成员或权势精英的广泛参与。
2. The clearest example of participation in democracy is voting for public officials.
2. 参与民主的最明显例子就是投票选举公职人员。
3. Citizens in democracies, however, have numerous options for participation in government, including engaging in political discussions, signing petitions, attending town hall meetings, contacting officials, and participating in various forms of political protest, such as demonstrations and walkouts.
3. 然而，民主国家的公民有很多参与政府的选择，包括参与政治讨论、签署请愿书、参加市政厅会议、联系官员以及参与各种形式的政治抗议，如示威游行和罢工。

## **B. PLURALIST DEMOCRACY**

### **B. 多元民主**

1. Pluralism is the idea that democracy should incorporate the influence of various groups of individuals with shared beliefs, without allowing any one group to dominate. Various groups compete for power and influence, but no one group is able to establish long-term control.
1. 多元主义是指民主制度应当吸纳拥有共同信仰的不同群体的影响力，同时不允许任何一个群体占据主导地位。各个群体竞相争取权力和影响力，但没有任何一个群体能够建立长期的控制权。
2. Pluralism today is evidenced by the large number of interest groups active in influencing policy because they are concerned about a particular issue or issues.
2. 当今多元化的体现是，大量利益集团积极参与政策制定，因为他们关注某个或某些特定问题。
3. Interest groups today impact policy by donating to campaigns, lobbying, testifying at hearings, providing research, and helping to write laws.
3. 如今，利益集团通过向竞选活动捐款、游说、在听证会上作证、提供研究和帮助制定法律来影响政策。

## **C. ELITE DEMOCRACY**

### **C. 精英民主**

1. Elite democracy embodies the idea that government authority in a democracy tends to migrate to the hands of a small group of educated and wealthy individuals and reduce popular participation.
1. 精英民主体现了这样一种理念：民主制度下的政府权力往往转移到一小群受过良好教育且富有的个人手中，从而减少民众的参与。
2. It can be argued that the influence of elites is reflected in the membership of our governmental institutions. Many members of Congress, for example, have a net worth of \$1 million or more, and very few members come from a working-class background. Supreme Court justices are usually graduates of prestigious law schools.
2. 可以说，精英阶层的影响力体现在政府机构的成员构成中。例如，许多国会议员的净资产都达到或超过 100 万美元，而出身工人阶级的议员寥寥无几。最高法院大法官通常毕业于著名的法学院。

## D. THE CONSTITUTION AND MODELS OF DEMOCRACY

### D. 宪法与民主模式

#### 1. Participatory Democracy

##### 1. 参与式民主

- a. The Constitution's method for selecting members of the House of Representatives, which has always been by popular vote, is a clear example of participatory democracy.
  - a. 宪法规定的众议院议员选举方式，一直都是全民投票，这是参与式民主的一个明显例子。
  - b. The First Amendment enables participation by citizens because it protects freedom of speech, religion, assembly, press, and petition.
    - b. 第一修正案保障公民的参与权，因为它保护言论自由、宗教自由、集会自由、新闻自由和请愿自由。

#### 2. Pluralist Democracy

##### 2. 多元民主

- a. The Constitution advances pluralism through a complex system of power-sharing. By spreading power among states and the three federal branches, the Framers intentionally created an environment in which competing groups could influence policy through different access points.
  - a. 宪法通过一套复杂的权力分享体系推进了多元化。通过将权力分散到各州和联邦三大分支机构，制宪者有意创造了一种环境，使不同的群体能够通过不同的途径影响政策。
  - b. For example, advocacy groups for farmworkers, commercial farming interests, and consumers of agricultural products may advance their interests through different branches of state and federal governments. This ensures a process of give-and-take resulting in compromise, with no single group dominating.
    - b. 例如，农场工人权益组织、商业农业利益集团和农产品消费者可以通过州政府和联邦政府的不同部门来维护自身利益。这确保了各方相互协商、达成妥协的过程，避免任何单一群体占据主导地位。

### 3. Elite Democracy

#### 3. 精英民主

- a. The method for selecting the president through the Electoral College, first established in Article II of the Constitution, provided originally for the selection by states of independent electors, who would take the citizens' wishes into consideration but vote conscientiously for the best choice of leaders. (This system has evolved so that electors are now determined by the popular vote in each state.)
  - a. 通过选举团选举总统的方法，最初由宪法第二条规定，各州选出独立的选举人，这些选举人会考虑公民的意愿，但会认真投票选出最合适的领导人。（这一制度已经演变为现在由各州的普选结果决定选举人。）
- b. Senators were originally chosen by state legislatures, not by popular vote. These legislatures were likely controlled by members of the elite class.
  - b. 参议员最初是由州议会选举产生，而不是由普选产生。这些州议会很可能由精英阶层成员控制。

## E. "BRUTUS NO. 1" AND MODELS OF DEMOCRACY

### E. 《布鲁图斯一号》与民主模式

#### 1. Participatory Democracy

##### 1. 参与式民主

Anti-Federalists favored participatory democracy. Their views were well-expressed in "Brutus No. 1," an essay written by the prominent Anti-Federalist Robert Yates of New York under the pen name "Brutus" in 1787. In the essay he argued that creating a powerful central government would be a danger to personal liberty.

反联邦主义者支持参与式民主。他们的观点在1787年由纽约著名反联邦主义者罗伯特·耶茨以笔名“布鲁图斯”撰写的文章《布鲁图斯第一号》中得到了充分阐述。在文章中，他论证了建立一个强大的中央政府会对个人自由构成威胁。

#### 2. Pluralist Democracy

##### 2. 多元民主

The essay argued that democracy is most effective if there are few competing factions. It warned that the large republic contemplated by the Constitution would involve far too many different interests (pluralism), which posed a threat to the interests of individual citizens.

这篇文章认为，如果派系竞争较少，民主制度才能发挥最大效力。文章警告说，宪法设想的庞大共和国将涉及过多不同的利益（多元主义），这将对公民个人的利益构成威胁。

In a republic, the manners, sentiments, and interests of the people should be similar. If this be not the case, there will be a constant clashing of opinions. . . . This will retard the operations of government, and prevent such conclusions as will promote the public good. [excerpted from "Brutus No. 1"]

在一个共和国里，人民的习俗、情感和利益应当趋于一致。否则，就会不断出现意见冲突……这将阻碍政府运作，并妨碍那些有利于公共利益的决策的制定。[摘自《布鲁图斯》第一章]

### 3. Elite Democracy

#### 3. 精英民主

Brutus argued that the large size of the republic would make the rulers under the proposed Constitution too distant from the interests of the people they represented, presenting an elitist threat to participatory democracy. The Anti-Federalists feared that the leaders would become elites who were not accountable to the people.

布鲁图斯认为，共和国幅员辽阔，根据拟议的宪法，统治者将与他们所代表的人民的利益过于疏远，从而对参与式民主构成精英主义威胁。反联邦主义者担心，领导人会变成无需对人民负责的精英阶层。

In so extensive a republic, the great officers of government would soon become above the control of the people, and abuse their power to the purpose of aggrandizing themselves, and oppressing them. The trust committed to the executive offices, in a country of the extent of the United States, must be various and of magnitude. [excerpted from “Brutus No. 1” ]

在如此幅员辽阔的共和国中，政府高官很快就会凌驾于人民之上，滥用权力以谋取私利、压迫人民。在像美国这样幅员辽阔的国家，行政部门肩负的重任必然是多种多样的。[摘自《布鲁图斯》第一章]

## F. “FEDERALIST NO. 10” AND MODELS OF DEMOCRACY

### F. 《联邦党人文集》第十篇与民主模式

#### 1. Participatory Democracy

##### 1. 参与式民主

“Federalist No. 10” is an essay written by James Madison in *The Federalist Papers*, a collection of 85 essays and articles written by Madison, Alexander Hamilton, and John Jay to promote the ratification of the Constitution. In the essay, Madison pointed out that the principle of popular vote would prevent any group (faction) from dominating if it held less than majority support. “If a faction consists of less than a majority, relief is supplied by the republican principle, which enables the majority to defeat its sinister views by regular vote,” he wrote in the essay. (It is noteworthy that only white, male property owners were permitted to vote under state laws at the time the Constitution was adopted.)

《联邦党人文集》第十篇是詹姆斯·麦迪逊撰写的一篇文章，收录于《联邦党人文集》中。

《联邦党人文集》是一部包含 85 篇文章的文集，由麦迪逊、亚历山大·汉密尔顿和约翰·杰伊共同撰写，旨在推动宪法的批准。在文章中，麦迪逊指出，普选原则可以防止任何支持率不足的团体（派系）占据主导地位。他在文章中写道：“如果一个派系的人数不足半数，共和原则就能弥补这一缺陷，它使多数派能够通过常规投票否决其险恶的计划。”（值得注意的是，在宪法通过之时，根据州法律，只有白人男性财产所有者才被允许投票。）

#### 2. Pluralist Democracy

##### 2. 多元民主

Madison was extremely concerned with the problem of factions, associations of people with common interests, which he realized were a threat to democracy. In these groups, he saw the possibility that fundamental rights and liberties could be violated.

Madison found the solution to the problem of factions in two places.

麦迪逊极其关注派系问题，即那些因共同利益而结成的团体，他意识到这些团体对民主构成威胁。他认为，在这些团体中，基本权利和自由可能会遭到侵犯。麦迪逊从两个方面找到了解决派系问题的方案。

- a. Madison found the first solution to the factions problem in the effect of representative government by which highly qualified leaders make policy decisions (see item C, "Elite Democracy," in the "Models of Representative Democracy" section above).
  - a. 麦迪逊通过代表制政府的效果找到了解决派系问题的第一个办法，在代表制政府中，高素质的领导人做出政策决定（参见上文“代表制民主模式”部分中的 C 项“精英民主”）。
  - b. Second, Madison argued that the problem of factions could be overcome through the creation of a large republic in which many groups compete for influence. Under such a system, no single group would be able to dominate the others.
    - b. 其次，麦迪逊认为，通过建立一个众多派系竞争影响力的庞大共和国，可以克服派系问题。在这种体制下，任何一个派系都无法凌驾于其他派系之上。

Extend the sphere, and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens. . . . [James Madison in "Federalist No. 10"]

扩大范围，就能涵盖更多不同的政党和利益集团；就能降低大多数成员出于共同动机侵犯其他公民权利的可能性……[詹姆斯·麦迪逊，《联邦党人文集》第十篇]

Furthermore, the federalist framework allowed for concerns to be addressed at a local or national level, depending upon the issue involved.

此外，联邦制框架允许根据所涉问题的不同，在地方或国家层面解决问题。

### 3. Elite Democracy

#### 3. 精英民主

Whereas elite democracy is often viewed negatively today, Madison believed that elites should have weighted influence in making public policy. This idea is reflected in his assertion that a republic (representative democracy) was superior to a democracy (direct or pure democracy) because educated and thoughtful people would be elected to make policy. He argued that a republic would

尽管精英民主在今天常被负面看待，但麦迪逊认为精英在公共政策制定中应拥有举足轻重的影响力。这一观点体现在他认为共和制（代议制民主）优于民主制（直接民主或纯粹民主）的论断中，因为共和制下，受过良好教育、有思想的人将被选举出来制定政策。他认为，共和制会……

refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation, it may well happen that the public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves.

[James Madison, in "Federalist No. 10" ]

通过由公民选举产生的代表机构来表达和完善公众意见，这些公民的智慧最能洞察国家的真正利益，他们的爱国情怀和对正义的追求也最不可能为了暂时的或片面的考量而牺牲国家利益。在这种制度下，由人民代表表达的公众声音，很可能比人民自己表达的声音更符合公共利益。[詹姆斯·麦迪逊，《联邦党人文集》第十篇]

### III. 三、EVOLUTION OF CONSTITUTIONAL PRINCIPLES

#### 宪法原则的演变

##### A. THE ARTICLES OF CONFEDERATION

###### A. 邦联条例

1. The Articles of Confederation was the newly independent colonies' first attempt at creating a central government. It established the government of the former colonies as a sovereign country by distributing power mainly among the 13 independent states with a weak central government. This government allowed the states to cooperate on some issues but remain independent.
1. 《邦联条例》是新独立的殖民地首次尝试建立中央政府。它通过将权力主要分配给 13 个独立州，并设立一个权力较弱的中央政府，确立了前殖民地作为一个主权国家的政府。该政府允许各州在某些问题上合作，但保持独立性。

Each state retains its sovereignty, freedom, and independence, and every Power, Jurisdiction and right, which is not by this Confederation expressly delegated to the United States, in Congress assembled.

各州保留其主权、自由和独立，以及除本邦联明确授予美国国会的权力、管辖权和权利之外的一切权力、管辖权和权利。

The said States hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever. [Article II, The Articles of Confederation, 1781]

上述各州特此缔结牢固的友好联盟，以共同防御、保障自由、增进彼此福祉，并承诺相互援助，抵御任何以宗教、主权、贸易或其他任何借口对本州或其中任何一州施加的武力或攻击。[《邦联条例》第二条，1781年]

##### B. SHAYS' REBELLION

###### B• 谢伊斯叛乱

1. Following the Revolutionary War, many farmers in Massachusetts found themselves burdened with crushing debt and facing the foreclosure of their property.
1. 美国独立战争结束后，马萨诸塞州的许多农民发现自己背负着沉重的债务，面临着财产被取消赎回权的困境。

2. The government, under the Articles of Confederation, did not have the power to tax and, as a result, could not pay the veterans the money they were owed for their military service.
2. 根据邦联条例，政府没有征税权，因此无法向退伍军人支付他们应得的服役津贴。
3. Daniel Shays led an uprising of farmers who were facing the loss of their land. The rebellion proved difficult for the government to control due to the lack of a standing military force.
3. 丹尼尔·谢伊斯领导了一场农民起义，他们面临失去土地的困境。由于缺乏常备军，政府难以控制这场叛乱。
4. Shays' Rebellion convinced leaders that a stronger national government was needed to maintain order and protect property.
4. 谢斯叛乱使领导人确信，需要一个更强大的国家政府来维护秩序和保护财产。

### C. HOW THE CONSTITUTION ADDRESSED THE WEAKNESSES OF THE ARTICLES OF CONFEDERATION

#### C. 宪法如何解决邦联条例的缺陷

Weaknesses of the Articles of Confederation 邦联条例的缺陷	How Addressed in the Constitution 宪法是如何规定的
Single-branch national government; no national executive to enforce laws or judiciary to settle disputes between the states.  实行一权分立的中央政府；没有中央行政机构来执行法律，也没有司法机构来解决各州之间的争端。	Created a three-branch national government consisting of a legislative branch with power to make laws, an executive branch to enforce laws, and a judicial branch to interpret and apply laws.  建立了由立法部门（负责制定法律）、行政部门（负责执行法律）和司法部门（负责解释和适用法律）组成的三权分立的国家政府。
Congress lacked power to tax and raise money to run the national government.  国会缺乏征税和筹集资金来维持国家政府运转的权力。	Congress was given the authority to tax and borrow.  国会被赋予了征税和借贷的权力。
Congress lacked the power to regulate interstate commerce, which led to an unstable and ineffective economy.  国会缺乏监管州际贸易的权力，导致经济不稳定且效率低下。	Congress was given the authority to regulate interstate and international trade.  国会被赋予了监管州际和国际贸易的权力。
Congress did not have the power to maintain an army and navy.  国会没有权力维持陆军和海军。	Congress was given the authority to raise and maintain military forces.  国会被赋予了征召和维持军队的权力。
Unicameral Congress gave each state one vote regardless of population.  一院制国会赋予每个州一票，无论其人口多少。	A bicameral Congress gave each state representation proportional to its population in the House of Representatives and equal representation (two seats per state) in the Senate.  两院制国会赋予各州在众议院与其人口成比例的代表权，以及在参议院的平等代表权（每州两个席位）。

A supermajority (two-thirds, or 9 of 13 states) was required in order to pass laws. 法律的通过需要获得绝对多数（三分之二，即 13 个州中的 9 个）。	A simple majority of both houses was required in order to pass laws. 法律的通过需要两院均获得简单多数票。
The Articles could not be amended without the unanimous support of the states. 没有各州的一致支持，宪法条款不得修改。	Proposed amendments to the Constitution required a two-thirds affirmative vote in each chamber of Congress. Ratification of amendments needs affirmative votes from three-quarters of the states. 对宪法的修正案提案需要国会两院各三分之二的赞成票才能通过。修正案的批准则需要四分之三的州投赞成票。

## IV. 四、 WRITING THE CONSTITUTION: A BUNDLE OF COMPROMISES 宪法的撰写：一系列妥协

### A. THE GREAT (CONNECTICUT) COMPROMISE

#### A. 大妥协（康涅狄格妥协）

1. Balancing Large and Small States' Needs
1. 平衡大国和小国的需求

A fundamental issue in drafting the Constitution was resolving the question of how states should be represented in Congress. More populous states, led by Virginia, favored a scheme in which representation would be based on population. Smaller states, led by New Jersey, favored a plan that guaranteed equal representation for all states regardless of size. The Great Compromise incorporated both positions.

宪法起草过程中的一个根本问题是解决各州在国会的代表权问题。以弗吉尼亚州为首的人口较多的州倾向于按人口比例分配代表权，而以新泽西州为首的人口较少的州则倾向于保障所有州无论大小都享有平等代表权的方案。最终达成的“大妥协”兼顾了双方的立场。

#### 2. A Bicameral Congress

##### 2. 两院制国会

- a. In the Senate, power is distributed equally among the states, with each state holding two seats for a total of 100 senators.
  - a. 在参议院，权力在各州之间平均分配，每个州拥有两个席位，总共有 100 名参议员。
- b. In the House of Representatives, representation is based on population.
  - b. 在众议院，代表人数是根据人口比例分配的。
    - The total number of House seats is fixed at 435 today, and each state is allocated a proportion of seats according to its proportion of the population.
    - 目前众议院席位总数固定为 435 个，每个州根据其人口比例分配相应比例的席位。
    - The minimum number of seats a state may hold is one; there is no maximum.
    - 一个州至少可以拥有一个席位；没有上限。

## B. THE ELECTORAL COLLEGE

### B. 选举团

1. The debate over the method for selecting the executive required a compromise among many competing interests and ideas.
  1. 关于选择行政长官的方法的辩论需要在许多相互竞争的利益和想法之间做出妥协。
    - a. Some delegates feared that voters choosing the executive through popular election would lack information about candidates in the largely rural nation and could be misled.
      - a. 一些代表担心，在一个以农村为主的国家，通过普选选出行政长官的选民可能缺乏对候选人的信息，并可能受到误导。
    - b. Selection of the executive by Congress was rejected due to concerns about separation of powers because the executive could be controlled by the legislative branch.
      - b. 由于担心行政部门可能受到立法部门的控制，国会选举行政部门的做法被否决，因为这会影响权力分立。
    - c. Selection of the executive by state legislatures was also a concern for delegates from small states, who feared that large states would dominate the process.
      - c. 各州立法机构选举行政长官也是小州代表们所关心的问题，他们担心大州会主导这一过程。
    - d. Concerns about slavery were also at play. Many southern states, which had small, rural populations and large populations of slaves, saw a disadvantage in many of the proposals.
      - d. 对奴隶制的担忧也是造成这种担忧的原因之一。许多南方州人口少、多为农村人口，但奴隶人口众多，因此认为许多提议对它们不利。
  2. The compromise for choosing the executive was the creation of the Electoral College (a term not used in the Constitution), in which each state is entitled to a number of electors equal to its total number of seats in Congress (House seats + Senate seats). The electors chosen in each state would vote for the president and vice president.
    2. 为了选出行政长官，双方达成了妥协，设立了选举团（宪法中未使用“选举团”一词）。每个州拥有的选举人人数与其在国会中的席位总数（众议院席位+参议院席位）相等。各州选出的选举人将投票选举总统和副总统。
    3. The procedure for choosing electors would be left to the states.
      3. 选择选举人的程序将由各州自行决定。
  4. The design of the Electoral College allowed the Three-Fifths Compromise to operate to the advantage of slaveholding states by amplifying their influence in selecting the president based on their slave populations.
    4. 选举团制度的设计使得五分之三妥协有利于蓄奴州，因为它根据蓄奴人口扩大了蓄奴州在总统选举中的影响力。

## C. SLAVERY AND THE CONSTITUTION

### C. 奴隶制与宪法

1. The existence of slavery was a formidable problem in negotiating a document acceptable to both free and slave states. Many citizens and leaders firmly opposed the toleration of slavery under the new Constitution, but it was widely agreed that achieving a union of all or most states was critical to the success of the young nation. Although the word "slave" appears nowhere in the document, the conflicting interests of slaveholding states and free states required significant compromise in order to make the Constitution acceptable to all 13 states.
1. 奴隶制的存在是谈判达成一份自由州和蓄奴州都能接受的文件时面临的一大难题。许多公民和领袖坚决反对在新宪法中容忍奴隶制，但人们普遍认为，实现所有或大多数州的联合对于这个年轻国家的成功至关重要。尽管“奴隶”一词在宪法中并未出现，但蓄奴州和自由州之间利益的冲突，使得各方必须做出重大妥协，才能使宪法为所有 13 个州所接受。
2. **The Slave Trade Compromise:** Slaveholding states feared that a strong new federal government would prohibit the slave trade. As a result, the Constitution included a provision denying Congress the power to act on the slave trade for 20 years.
2. **奴隶贸易妥协案：**蓄奴州担心一个强大的新联邦政府会禁止奴隶贸易。因此，宪法中有一项条款，禁止国会在 20 年内就奴隶贸易采取行动。
3. **The Three-Fifths Compromise:** Because many states had significant numbers of slaves, the Great Compromise required the Framers to address the question of whether slaves would be counted as part of a state's population in determining representation in the House. The result was the Three-Fifths Clause, under which 60% of a state's slave population ("three-fifths of all other Persons") was calculated into its allocation of House seats.
3. **五分之三妥协：**由于许多州拥有大量奴隶，大妥协要求制宪者们解决奴隶是否应计入各州人口以确定众议院席位分配的问题。最终形成了五分之三条款，根据该条款，各州 60% 的奴隶人口（“其他所有人口的五分之三”）被计入其众议院席位分配中。

## D. AMENDMENT PROCEDURE

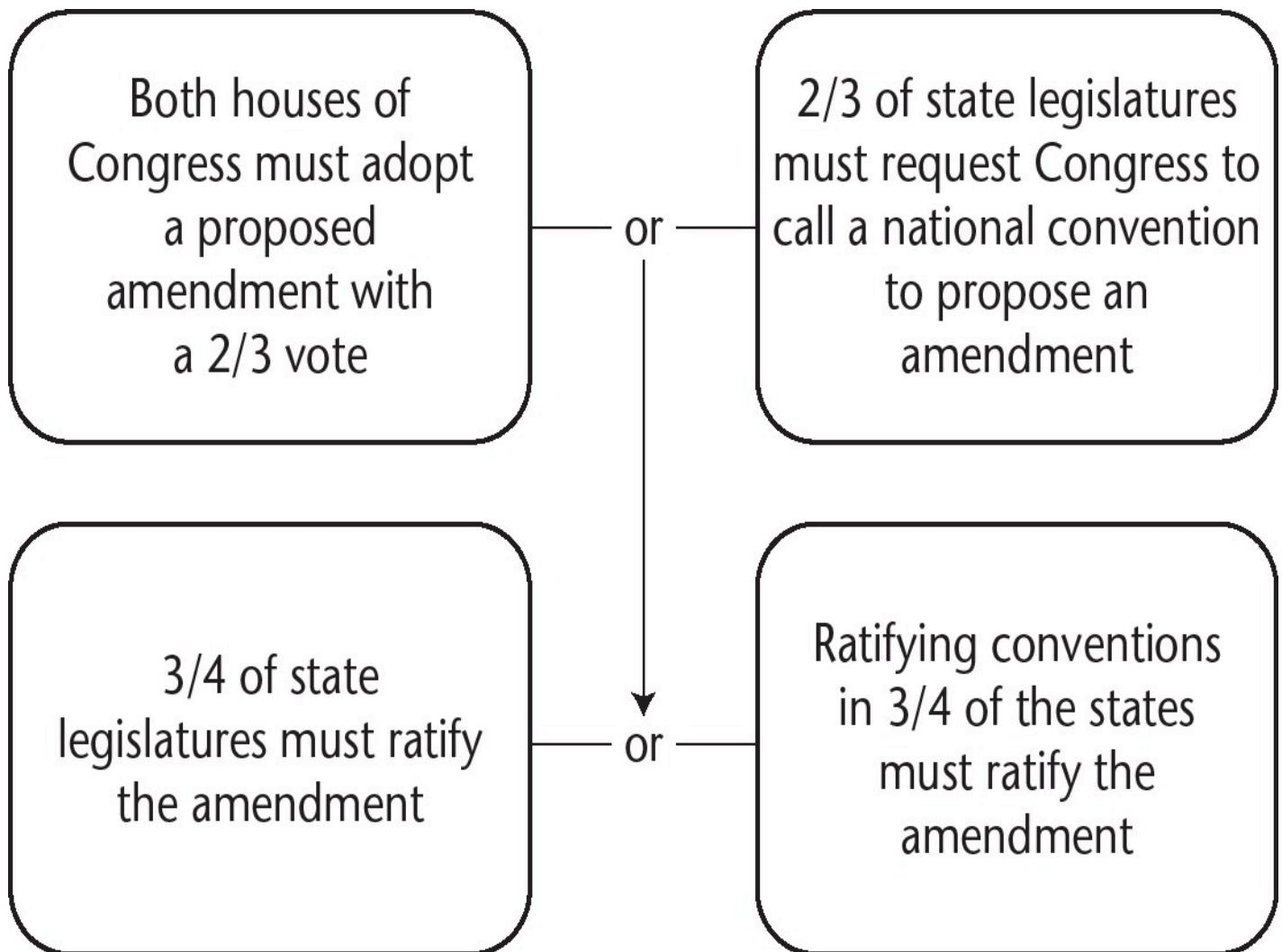
### D. 修改程序

1. The Framers recognized that a major flaw in the Articles of Confederation was the inability of the document to be amended, or changed, without the unanimous approval of the states. At the same time, they recognized that the nation's foundational document should provide stability and should not be easily modified.
1. 制宪者们认识到，《邦联条例》的一个主要缺陷在于，未经各州一致同意，该文件无法进行任何修改。与此同时，他们也认识到，国家的奠基性文件应当确保国家的稳定性，不应轻易更改。
2. They settled on a system that would allow for amendment with supermajority approval at both the state and national levels.
2. 他们最终确定了一项制度，允许在州和国家层面以绝对多数票通过修正案。
  - a. The Constitution established an amendment process in two stages: a proposal stage and a ratification stage.

- a. 宪法规定了两个阶段的修正程序：提案阶段和批准阶段。
- b. An amendment may be proposed by either:
  - b. 修正案可由以下任何一方提出：
    - a two-thirds vote of both houses of Congress; or
    - 国会两院三分之二的投票；或
    - a national convention called by Congress at the request of two-thirds of state legislatures. (The second method has never been used.)
    - 由国会应三分之二州议会的要求召开的全国制宪会议。（第二种方法从未被使用过。）
- c. A proposed amendment may then be ratified by either:
  - c. 拟议的修正案可由以下任一方式批准：
    - approval by three-quarters of state legislatures; or
    - 获得四分之三州立法机构的批准；或
    - approval by three-quarters of special conventions called by Congress in each of the states (The second method has been successfully used only once, in the adoption of the Twenty-First Amendment, which repealed the Eighteenth Amendment prohibiting liquor distribution.)
    - 获得国会在各州召开的特别会议四分之三的批准（第二种方法仅成功使用过一次，即通过了第二十一条修正案，该修正案废除了禁止酒类分销的第十八条修正案。）
- d. The Constitution has been amended 27 times.
  - d. 宪法已被修改了 27 次。
- e. Neither the president nor the federal courts have any constitutional powers or duties with regard to amendments.
  - e. 总统和联邦法院在宪法修正案方面没有任何宪法权力或职责。

# AMENDING THE U.S. CONSTITUTION

修改美国宪法



## E. PRESENT-DAY CONSTITUTIONAL CONTROVERSIES

### E. 当代宪法争议

1. **Electoral College problems.** Presidents are not chosen by direct popular vote, but rather through the Electoral College system, under which states are allocated a number of votes not directly proportional to their populations. For this reason, it is possible for a candidate to win the popular vote but lose the Electoral College vote, a problem that occurs with increasing frequency as the population shifts within the United States. The Framers failed to foresee how population growth coupled with migration patterns would lead to states with increasingly different populations.
1. **选举人团制度的问题。** 总统并非由普选产生，而是通过选举人团制度选出。根据该制度，各州的选举人票数与其人口数量并非直接成正比。因此，候选人有可能赢得普选票却输掉选举人团的投票。随着美国人口结构的变化，这种情况发生的频率越来越高。制宪者们未能预见到人口增长和迁移模式会导致各州人口构成日益分化。
2. **Representation in the Senate.** In 1790, two years after the Constitution was ratified, there were substantial differences in state populations, with Virginia, the most populous state, having almost 10 times the population of Delaware, the least populous state. These differences meant that, under the Great Compromise, less populous states received power in the Senate that was vastly disproportionate to their

shares of the population. As of 2019, Wyoming is the least populous state. California has the largest population, nearly 70 times that of Wyoming. As our population grows and moves, control of the Senate can be achieved with an increasingly small minority of the population, resulting in counter-majoritarian policies.

2. **参议院代表权。** 1790 年，即宪法批准两年后，各州人口数量差异显著。人口最多的弗吉尼亚州的人口几乎是人口最少的特拉华州的十倍。这种差异意味着，根据“大妥协”，人口较少的州在参议院获得的权力与其人口比例严重不成比例。截至 2019 年，怀俄明州是人口最少的州。加利福尼亚州人口最多，几乎是怀俄明州的 70 倍。随着人口的增长和迁移，控制参议院只需少数人即可实现，从而导致反多数主义政策的出台。
3. **Reserved powers.** Because the Constitution required striking a balance between states' rights and a powerful national government, tension exists today regarding the appropriate role of the federal government in shaping policies not directly related to enumerated powers. Debate continues over how much influence the federal government should have regarding public education, civil rights, and environmental protections.
3. **保留权力。** 由于宪法要求在州权和强大的联邦政府之间取得平衡，如今对于联邦政府在制定与列举权力不直接相关的政策方面应扮演何种角色，仍然存在争议。关于联邦政府在公共教育、公民权利和环境保护方面应拥有多大影响力的争论仍在继续。
4. **Individual rights.** The Constitution creates compromises between the responsibility of the government to provide security (“provide for the common defense and ensure domestic tranquility”) and the protection of natural rights, which are guaranteed in the Bill of Rights. This tension between liberty and order is present in the modern debate about the limits of government power to intrude into the privacy of individual citizens. The increased scrutiny of communications following the 9/11 attacks intensified this debate.
4. **个人权利。** 《宪法》在政府提供安全保障的责任（“提供共同防御并确保国内安宁”）与《权利法案》所保障的自然权利的保护之间寻求平衡。这种自由与秩序之间的张力体现在当今关于政府权力是否应侵犯公民个人隐私的辩论中。9·11 事件后，通信审查力度的加大加剧了这场辩论。

## V. 五、 ALLOCATION OF POWER IN THE CONSTITUTION

### 宪法中的权力分配

#### A. SEPARATION OF POWERS

##### A. 三权分立

1. Separation of powers is the concept of creating independent branches of government and assigning to each a specific set of duties and powers. The reasoning is that, since each branch of government is limited in which powers it may exercise, no single branch can become too powerful. Separation of powers is intended to prevent authoritarianism.
1. 三权分立是指设立独立的政府部门，并赋予每个部门特定的职责和权力。其逻辑在于，由于每个政府部门的权力都受到限制，因此任何一个部门都不可能权力过大。三权分立旨在防止专制主义。

2. The Framers created three branches of government: a legislative branch with the power to make laws; an executive branch charged with enforcing laws; and a judicial branch to interpret and apply laws.
2. 制宪者们创建了政府的三个分支：立法分支，负责制定法律；行政分支，负责执行法律；以及司法分支，负责解释和适用法律。

## B. CHECKS AND BALANCES

### B. 制衡机制

1. Separation of power created a problem: how to ensure one branch did not overpower the other two?
1. 权力分立带来了一个问题：如何确保一个部门不会凌驾于其他两个部门之上？
2. This solution was devised to allow each branch specific powers, or “checks,” by which it could limit the actions of the other branches.
2. 该方案旨在赋予每个分支机构特定的权力或“制衡”，以便限制其他分支机构的行动。

### SOME IMPORTANT CHECKS AND BALANCES

#### 一些重要的制衡机制

Congress 国会	
Checks Over President 对总统的制衡	Checks Over Court 法院审查
passes laws which president is charged with enforcing 总统负责通过并执行法律。	may change number and jurisdiction of federal courts 可能会改变联邦法院的数量和管辖范围
authorizes funding for agencies & programs (power of the purse) 授权向各机构和项目提供资金（拨款权）	sets lower federal court jurisdiction 设定下级联邦法院管辖权
veto override with 2/3 vote of both houses 需经两院三分之二多数票才能推翻否决权	may change number of justices on Supreme Court 可能会改变最高法院大法官的人数
Senate approval of presidential appointments (judicial & executive branch) 参议院批准总统任命（司法和行政部门）	approval of judicial appointments 司法任命的批准
Senate approval of treaties (negotiated by president) 参议院批准条约（由总统谈判达成）	removal of judges through impeachment 通过弹劾罢免法官
removal of president by impeachment 通过弹劾罢免总统	initiating constitutional amendments 发起宪法修正案
oversight of executive agencies 对行政机构的监督	

### President 总统

Checks Over Congress 对国会的制衡	Checks Over Court 法院审查

legislative veto 立法否决权	appointment of federal judges 联邦法官的任命
discretion with regard to enforcing legislation 在执行法律方面拥有自由裁量权	discretion with regard to enforcing court decisions 在执行法院判决方面拥有自由裁量权
executive orders 行政命令	pardon power 赦免权
executive agreements 执行协议	
appealing to the people (bully pulpit) 诉诸民众 (利用讲坛)	

Supreme Court 最高法院	
Checks Over Congress 对国会的制衡	Checks Over President 对总统的制衡
may declare laws unconstitutional (judicial review) 可以宣布法律违宪 (司法审查)	power to declare executive branch actions unconstitutional (judicial review) 宣布行政部门行为违宪的权力 (司法审查)

\*This does not represent an exhaustive list of checks and balances.

\*这并不代表所有制衡机制的完整列表。

### C. “FEDERALIST NO. 51”

#### C. 《联邦党人文集》第 51 篇

1. Madison recognized that the success of the new government could not rest on the character or morals of individuals who might come to hold positions of power. He believed that controls on government power must be built into the system.
1. 麦迪逊认识到，新政府的成功不能依赖于那些可能掌握权力的人的品格或道德。他认为，必须在体制内建立对政府权力的制约机制。

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. [James Madison, “Federalist No. 51” ]

如果人都是天使，就不需要政府。如果由天使来统治人，那么对政府的外部和内部制约都不需要。在构建一个由人统治人的政府时，最大的困难在于：首先，你必须使政府能够控制被统治者；其次，你必须迫使政府约束自身。[詹姆斯·麦迪逊，《联邦党人文集》第51篇]

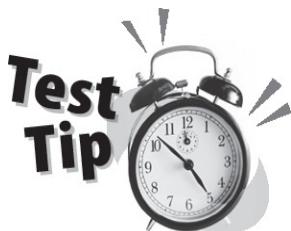
2. Madison argued that separation of powers, along with checks and balances, would provide a way for “ambition to counteract ambition” by granting each branch of government weapons to effectively prevent self-interested abuses of power by the other branches.
2. 麦迪逊认为，权力分立以及制衡将为“野心制衡野心”提供途径，通过赋予政府的每个部门武器来有效防止其他部门出于自身利益滥用权力。
3. Furthermore, Madison assumed that the legislative branch, with its lawmaking power, would be the most powerful of the branches, and therefore more problematic to control through external checks alone. He considered the bicameral structure of

Congress to be an internal check, since each house would have distinct interests and legislative action would require agreement of both houses.

3. 此外，麦迪逊认为，立法部门凭借其立法权，将是各部门中最强大的，因此仅靠外部制衡难以有效控制。他认为国会的两院制结构本身就是一种内部制衡，因为两院的利益各不相同，立法行动需要两院一致同意。

But it is not possible to give each department an equal power of self-defense. In republican government, the legislative authority, necessarily, predominates. The remedy for this inconvenience is, to divide the legislative into different branches; and to render them by different modes of election and different principles of action, as little connected with each other, as the nature of their common functions, and their common dependence on the society, will admit. [James Madison, "Federalist No. 51" ]

但不可能赋予每个部门同等的自卫权。在共和政体中，立法权必然占据主导地位。解决这一不便的办法是将立法机构划分为不同的分支；并通过不同的选举方式和不同的行动原则，使它们彼此之间的联系尽可能地减少，以适应它们共同职能的性质以及它们对社会的共同依赖。[詹姆斯·麦迪逊，《联邦党人文集》第51篇]



***You do not need to memorize quotes or passages from the required documents.***

您无需记住所需文件中的引文或段落。

***Instead, focus on being able to recognize key themes.***

相反，应该专注于识别关键主题。

- “Brutus No. 1” is an Anti-Federalist argument; it criticizes the Constitution because it creates a national government that has too much power, which is a threat to liberty.
- “布鲁图斯一号”是一篇反联邦主义文章；它批评宪法，因为它建立了一个权力过大的国家政府，这对自由构成了威胁。
- “Federalist No. 10” is a Federalist argument that the large republic created by the Constitution is the best defense against the problems created by factions.
- 《联邦党人文集》第 10 篇是联邦党人的一种论点，认为宪法所建立的大共和国是抵御派系斗争所造成问题的最佳防御措施。
- “Federalist No. 51” is a Federalist argument that the Constitution protects liberty by utilizing a system of checks and balances.
- 《联邦党人文集》第 51 篇是联邦党人论证宪法通过运用权力制衡制度来保护自由的论点。