

# 2001-2002 First Place Essay

by  
**NATIONAL WINNER**  
**Ms. Stephanie Condon**

## Withstanding the Test of Time

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### Withstanding the Test of Time.

According to legend, as the exulted Benjamin Franklin stepped out of the last session of the Constitutional Convention in Philadelphia in September of 1787, a curious woman queried, "What kind of government have you given us, Dr. Franklin?" Franklin answered, "A Republic, Madam, if you can keep it."<sup>1</sup> Remarkably, over 200 years later, the United States has kept its constitution, and the republic for which it was created has flourished. While fledgling democracies across the continents have modeled the frameworks of their governments after the U.S. Constitution, America's system of democracy remains spectacularly unique and successful, largely due to its constitution. The framers of the Constitution created an adaptable instrument of government which withstands the test of time through a system of checks and balances and separation of powers.

At the Constitutional Convention, the framers set out to develop a form of government stronger than a confederation; it could not be unitary though, otherwise the states would not ratify it. They borrowed ideas from both of these forms of government to form a federal republic. Once federalism was decided upon to unify the states without constraining them, the next step in developing a lasting constitution was creating a separation of powers. James Madison wrote in *The Federalist*, No. 47, "No political truth is certainly of greater intrinsic value, or is stamped with the authority of more enlightened patrons of liberty, than that ... the accumulation of all powers, legislative, executive, and judiciary, in the same hands ... may justly be pronounced the very definition of tyranny."<sup>2</sup> The framers ingeniously wove into the Constitution three ways to ensure a clear separation of powers among the three branches of government. First, the leaders in the different branches come to power in different ways; the president is elected through a national election, the congressmen are elected on a state level, and the federal judges are appointed to their positions. Next, the bureaucracy is appointed by the president but only by the consent of the Senate. Also, each power serves for a different amount of time. This keeps the powers separate by ensuring that a majority party can only take control over part of the government at one time.<sup>3</sup> For instance, the Republicans controlled the House of Representatives after the election in 1994, but President Clinton would represent the Democrats in the executive branch for at least two more years. By separating powers between the states and the federal government, and by separating the federal powers among three equal and independent branches of government, the framers of the Constitution laid the foundations of a durable democracy.

The framers further developed this foundation of democracy through a system of checks and balances. They were aware that "the great security against a gradual concentration of the several powers in the same department consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others ... Ambition must be made to counteract ambition."<sup>4</sup> Though the legislative branch creates laws, it is up to the executive branch to enforce them and the judicial branch to interpret them.

The judicial branch's ability to interpret the law is essential to the adaptable nature of the Constitution. The Supreme Court case of *Marbury vs. Madison* (1803), which took place during the influential Marshall Court, established the constitutional principle of judicial review.<sup>5</sup> It was asserted that the Court may strike down state as well as federal laws and that the Constitution is the supreme law of the land. This case was significant because judicial review gives

the right to interpret the Constitution to the branch of government which is the most unaffected by political parties or public opinion. The Court also is most fit for this job because they have the best knowledge of the law. Judicial review is still an important part of the way the United States democracy works, as demonstrated by the 2000 presidential elections. Though the correct course of action regarding the slate of electoral voters to be chosen for the state of Florida was widely disputed, the final outcome depended on a ruling by the Supreme Court. Many people believe that the "...epoch of the election of the President of the United States may be considered as a crisis in the affairs of the nation"<sup>6</sup> yet even this year's election was far from a crisis because of the stability of the Constitution. The Constitution also remains adaptable to society because of the option of adding an amendment. During the Revolutionary period, not all were fans of the proposed Constitution. The Antifederalists' most telling criticism of the Constitution was its failure to include a bill of rights.<sup>7</sup> The Bill of Rights was eventually added to the Constitution and are the first ten amendments. As proof of the constant relevance of the Constitution in American society, seventeen amendments have since been added.

Thomas Paine declared that "...government even in its best state is but a necessary evil; in its worst state an intolerable one..."<sup>8</sup> By these standards, the United States government is far from the worst possible state, as the Constitution has lasted throughout the federal government's entire existence. The United States Constitution is assuredly vital to the success of this country and will always remain so.

<sup>1</sup> James MacGregor Burns, Thomas E. Cronin, David B. Magleby, J.W. Peltason, *Government by the People* (Upper Saddle River, 1998)

<sup>2</sup> James Madison, *The Federalist, No. 47*

<sup>3</sup> James MacGregor Burns, Thomas E. Cronin, David B. Magleby, J.W. Peltason, *Government by the People* (Upper Saddle River, 1998)

<sup>4</sup> James Madison, *The Federalist, No. 51*

<sup>5</sup> James MacGregor Burns, Thomas E. Cronin, David B. Magleby, J.W. Peltason, *Government by the People* (Upper Saddle River, 1998)

<sup>6</sup> Alexis de Tocqueville, *Democracy in America* (New York, 1972)

<sup>7</sup> Herbert J. Storing, ed. *The Anti-Federalist writing by the Opponents of the Constitution* (Chicago, 1985)

<sup>8</sup> Thomas Paine, *Common Sense* (London, 1976)

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6. Thomas Paine, *Common Sense* (London, 1976)