

6.2

United States and Massachusetts Constitutions

A Constitution establishes a framework of democratic governance. The activities in this section examine the constitutional powers of state and national government in the U.S. as well as the restrictions that exist on those powers. There is the history of efforts to abolish slavery in Massachusetts, including court cases involving Mum Bett, the first enslaved African to be freed under the Massachusetts Constitution. The question of whether governments should pay reparations for slavery is discussed.

Standard 6.2: United States and Massachusetts Constitutions

Describe the provisions of the United States Constitution and the Massachusetts Constitution that define and distribute powers and authority of the federal and state government. (Massachusetts Curriculum Framework for History and Social Studies) [8.T6.2]



[Massachusetts Quarter, 2000](#), United States Mint, Public Domain)

FOCUS QUESTION: How Does a Constitution Organize Government for People?

A **constitution** sets forth “the basic principles of the state, the structures and processes of government and the fundamental rights of citizens” ([What is a Constitution? Principles and Concepts](#), International Institute for Democracy and Electoral Assistance, August 2014, p.1). Standard 6.2 explores the nature and structure of the United States (1788) and Massachusetts constitutions (1780), two of the oldest governing documents in the world.

[Topic 2.5 of this book](#) provides background on the writing of the United States Constitution and the Bill of Rights.

[Topic 6.6](#) offers a comparison between the federal and Massachusetts state constitution.

Modules for this Standard Include:

1. [INVESTIGATE: Powers and Restrictions on Powers of the Government](#)
 - MEDIA LITERACY CONNECTIONS: A Constitution for the Internet
2. [UNCOVER: Elizabeth Freeman \(Mum Bett\) and the Abolition of Slavery in Massachusetts](#)
3. [ENGAGE: Should the Government Pay Slavery Reparations for African Americans?](#)

1. INVESTIGATE: Powers and Restrictions on Powers of the Government

For a government to act, it must have the power to do so. A **power** is a legal right to take an action.

Under the United States Constitution, certain powers are reserved for the federal government while others belong to state governments alone, while still other powers are shared by both. For example, the federal government has the power to mint (make) money. No other government (state or local) or private individual has the power to make its own money.



[2019 Native American Dollar](#), United States Mint, Public Domain.

Description: The coin depicts [Mary G. Ross](#), a Native American engineering pioneer, writing one of the mathematical formulas she helped discover

By contrast, state and local governments have the power to provide education for its citizens.

Amendment X of the Constitution: Rights of the States under the Constitution (Part of Bill of Rights):

- "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the States respectively, or to the people"

The powers and restrictions on powers of federal and state governments are listed below.

Federal Government Powers and Restrictions on Powers

- **Powers Reserved for the Federal Government**
 - Regulate foreign commerce
 - Regulate interstate commerce
 - Regulate naturalization and immigration
 - Grant copyrights and patents
 - Mint money
 - Create and establish post offices
 - Admit new states
 - Declare and wage war, declare peace
 - Fix standards for weights and measures
 - Raise and maintain an army and a navy
 - Govern the federal city (Washington D.C.)
 - Conduct relations with foreign powers
 - Universalize bankruptcy laws
- **Restrictions on Federal Government Powers**
 - No ex post facto
 - No bills of attainder
 - Two-year limit on appropriation for the military
 - One port may not be favored over another
 - All guarantees as stated in the [Bill of Rights](#)
 - No suspension of habeas corpus, unless it is a time of crisis

State Government Powers and Restrictions on Powers

- **Powers Reserved for State Governments**
 - Establish voter qualifications
 - Provide for local governments
 - Regulate intrastate commerce
 - Provide education for its citizens
 - Maintain police power over public health and safety
 - Conduct and monitor elections
 - Maintain integrity of state borders
 - Regulate contracts and wills
- **Restrictions on State Government Powers**
 - Treaties, alliances, or confederations may not be entered into
 - Letters of marque and reprisal may not be granted
 - Contracts not impaired
 - Money may not be printed or bills of credit given out
 - No import or export taxes
 - May not wage war, unless a state is invaded

Media Literacy Connections: A Constitution for the Internet

In addition to the federal constitution, **every U.S. state and territory has its own constitution** that serves as its governing document. Massachusetts has the oldest state constitution (1780); Rhode Island is the newest (revised in 1986). Adopted by the people, a **constitution** is the supreme law that defines the rights of individuals and the powers of the government. You can read the [constitutions of every state and territory here](#).

The Internet has no constitution and the laws about its use and rights of people using it are still being debated and defined, country by country, state by state.

In these activities, you have the opportunity to create a constitution and bill of rights for the Internet:

- [Activity 1: Envision a Bill of Rights for the Internet](#)
- [Activity 2: Design a Constitution for the Internet](#)
- [Activity 3: Evaluate Whether the Internet Needs a Constitution](#)



[Watch on YouTube](#)

Suggested Learning Activities

- **Explore & Design**
 - Create an infographic depicting the similarities and differences in powers in the U.S. Constitution and [Massachusetts Constitution](#).
- **State Your View of Government Power**
 - If you could introduce an addition or a restriction on a state or government power in the Constitution, what would it be? Why?

Online Resources for the Powers of Governments

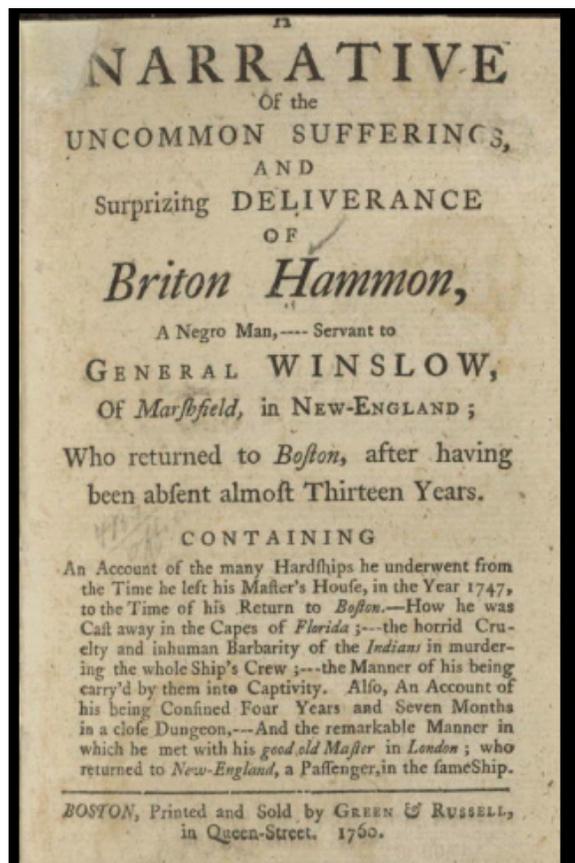
- Learning Plans:
 - [Federalism and Lawmaking: Claim Your Powers State v. Federal Government](#)
 - [The Supreme Court | Define and Classify the Powers Associated with Federalism: Lesson Plan](#)
- [John Adams and the Massachusetts Constitution](#) - The 1780 Constitution of the Commonwealth of Massachusetts, drafted by John Adams, is the world's oldest functioning written constitution
- [Ben's Guide to the U.S. Government](#)
- [TED-Ed: A 3-minute guide to the Bill of Rights - Belinda Stutzman](#)

2. UNCOVER: Elizabeth Freeman (Mum Bett) and The Abolition of Slavery in Massachusetts

In 1641, Massachusetts became the first slave-holding colony in New England when Governor John Winthrop—himself an owner of American Indian slaves—helped write the [Massachusetts Body of Liberties](#), a document that included the statement: “There shall never be any bond slaverie, villinage or Captivitie amongst us unles it be lawfull Captives taken in just warres, and such strangers as willingly selle themselves or are sold to us.” Winthrop is often hailed in history textbooks for his “[City on a Hill Sermon](#)” (1630), a statement of American exceptionalism and how America would be different and better than previous civilizations.

The first slaves arrived in Massachusetts on [February 26, 1638](#) and slavery continued to exist in New England throughout the colonial period. Slaves accounted for as much as 30% of the population in South Kingston, Rhode Island, and were a significant presence in Boston (10%), New London (9%), and New York (7.2%). It is estimated that there was one African for every white family in Rhode Island, Connecticut, and Massachusetts.

Many New England merchants, including Peter Faneuil (who gave Faneuil Hall to Boston) made their fortunes through the slave trade ([Slaves in New England](#), Medford Historical Society & Museum, 2019 and [Peter Faneuil and Slavery](#), National Park Service, 2017).



[Briton Hammon](#) was an enslaved African from Massachusetts who wrote about his adventures and struggles following a shipwreck in 1748

Image on [Wikimedia Commons/Public Domain](#)

Most slaves in Massachusetts were house servants of wealthy families, although some did work as field hands. Despite citizens' growing opposition, slavery continued in Massachusetts until the 1780s when a series of court cases led to its end. The **Massachusetts state constitution** was used in a 1781 Berkshire County court case, [Brom and Bett v. Ashley](#). That case was brought forth by a woman called Mum Bett (Elizabeth Freeman) who became the first enslaved African to be freed under the Massachusetts Constitution that included the phrase "all men are born free and equal."

Historians suggest that Mum Bett may have been inspired to pursue freedom from slavery after overhearing a group of men (including her owner John Ashley and her future attorney Theodore Sedgwick) writing the [Sheffield Resolves](#), a precursor to the Declaration of Independence's claim that all people are free. [W.E.B. Du Bois](#) was one of Mum Bett's great-grandchildren, born in Great Barrington, the town where Mum Bett's court case was heard.

The outlawing of slavery statewide followed from the [Quock Walker Case](#) - a series of three cases in which the chief justice of the state's Supreme Court declared slavery was unconstitutional under the Massachusetts State Constitution. Learn more: [Massachusetts Constitution and the Abolition of Slavery](#).

Suggested Learning Activities

- **Listen & Discuss**

- Listen to the NPR podcast [How an Enslaved Woman Sued for Freedom in 18th Century Massachusetts](#)
- Then discuss, what do you think were the most important factors leading to the abolition of slavery in Massachusetts?
 - Changing public attitudes
 - Court cases
 - Ideals expressed in the Declaration of Independence
 - The U.S. Constitution
 - The Massachusetts State Constitution
 - Shifting economic needs
 - Other factors

- **Analyze a Primary Source**

- Explore the [Petition for Freedom to Massachusetts Governor Thomas Gage](#), His Majesty's Council, and the House of Representatives, submitted by a group of black slaves from Massachusetts, asserting that they share a common and natural right to be free with white citizens (May 25 1774).

3. ENGAGE: Should the Government Pay Slavery Reparations for African Americans?

Reparations for slavery is the idea that African Americans are **owed compensation** for the more than three centuries (1619 to 2019) of enslavement, discrimination, and prejudice they have had to face in the United States. This legacy of slavery and second-class citizenship explains in part why African Americans today have higher infant mortality rates, lower life expectancies, higher rates of unemployment, lower incomes, and higher rates of imprisonment ([Reparations for Slavery?](#) Constitutional Rights Foundation).

Suggested Learning Activity

- **Debate** (in-class or on [Flipgrid](#))

- First, explore the online resources for reparations for African Americans listed below.
- Then, discuss and debate: Should the government pay reparations to African Americans? If so, is it the responsibility of the state government or national government to pay the reparations?

Online Resources for Reparations for African Americans

- Lesson Plan: [How to Make Amends: A Lesson on Reparations](#), Zinn Education Project
- [Should the U.S. Pay Reparations to Black Americans](#), PBS Point Taken
- [Americans Have Tried Reparations Before. Here is How It Went](#), *The New York Times* (June 19, 2019)
- [For eugenic sterilization victims, belated justice](#)
- [Commission to Study and Develop Reparation Proposals for African Americans Act](#)
- [Japanese American Evacuation Claims Act of 1948](#)
- [As Redress for Slavery, Americans Oppose Cash Reparations](#)
 - Gallup Poll says of all Americans, 67% oppose reparations
 - 73% of African Americans support reparations

Standard 6.2 Conclusion

A constitution is the law of a state or a nation. Throughout American history, the Massachusetts state constitution has led change in the laws of other states and the nation itself. **INVESTIGATE** identified constitutional powers and restrictions on powers - what state and national government can and cannot do. **UNCOVER** detailed the case of Elizabeth Freeman (Mum Bett) and the abolition of slavery in Massachusetts. **ENGAGE** asked whether state or national government should pay slavery reparations to Black Americans.



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