Lawrence Ludtke, *Tribute to Texas Children*, Texas State Capitol
Where liberty dwells there is my country.

Inscription on the Lone Star flag, ca. 1835
Before You Read

Have you ever thought about what your life would be like if we did not have a constitution? Perhaps you have experienced a situation where one person took over and made all the decisions without listening to anyone else’s opinion. A constitution is a written agreement that guarantees that no single person or group makes all the decisions. Because a constitution is difficult to change, government stays consistent over time.

Think about

• ways that you make your voice heard
• the rights that you expect
• whether rules should change over time
• who should have the power to change them

As You Read

Two documents outline how the Texas government should run and the rights and responsibilities of Texas citizens: the U.S. Constitution and the Texas Constitution. They work together to provide a set of rules for the governor, state legislators, and judges to follow when making decisions affecting Texas citizens. Completing this graphic organizer for Chapter 27 will help you to understand the similarities and differences between the two constitutions.

• Copy the Venn diagram in your Texas Notebook.
• On a separate sheet of paper, take notes on the U.S. Constitution and the Texas Constitution.
• Write similarities of the two documents in the overlapping area of the circles.
• Write differences between the documents in the areas where the circles do not overlap.
The History of the Texas Constitution

TERMS & NAMES
constitution, community property, bicameral, three branches of government, legislative branch, executive branch, judicial branch, checks and balances, federalism, homestead, Constitutional Convention of 1875

OBJECTIVES
1. Identify how the Texas Constitution reflects the principle of federalism.
2. Identify how the Texas Constitution reflects the principle of separation of powers.
3. Identify how the Texas Constitution reflects the principle of checks and balances.

INTERACT WITH HISTORY

Imagine that you are one of the delegates who has been asked to write a constitution for the state of Texas. Your document will be used to set up a system of state government, create state laws, and establish the rights and responsibilities of Texas citizens. What might you want to include in your constitution?

Texas’s First Constitution

Because of its history, Texas has had several constitutions. The first was the Mexican Constitution, adopted in 1824 while Texas was still part of Mexico. That document combined the two Spanish provinces of Texas and Coahuila into a single state, Coahuila y Tejas.
In 1827 the state constitution for Coahuila y Tejas was approved. Like the national constitution of 1824, it was written in Spanish, which not many Anglo Texans understood. Also, because there were so few Anglo Texans, they played only a small role in writing the document. Nevertheless, Anglo Texans did receive some benefits under this constitution. They did not have to serve in the Mexican army, and they did not have to pay taxes or customs duties.

The Constitution of 1836

When Texas won its independence from Mexico in 1836, the Constitution of Coahuila y Tejas was no longer Texas’s constitution. However, parts of that constitution have been passed down through the generations. They are reflected in current laws that address personal property, land ownership, water rights, and community property. For many years, married Texan women benefited from the state’s community property laws, which provided them fairer treatment than married women received in many other states.

In 1836 the Constitution of the Republic of Texas was adopted. This document remained in effect for the nine years that Texas was a republic. The framework of the 1836 constitution was very similar to that of the Constitution of the United States. Most of the writers of the Constitution of the Republic of Texas were from the southern part of the United States. Therefore, the Texas Constitution was also very much like the constitutions of several other southern states.

The 1836 constitution had some important features. It called for a bicameral legislature. It required that the legislature and the president of the Republic be elected rather than appointed. The Texas president, like the president of the United States, was given the power to appoint a cabinet. This cabinet would be made up of a secretary of state, a secretary of the treasury, and an attorney general. The cabinet also would include a person who managed public accounts, called a comptroller, and a commissioner of the General Land Office. Even though they are no longer called cabinet positions, these state offices still exist today. The 1836 constitution also provided for a secretary of war and a secretary of the navy. These offices were discontinued when Texas joined the United States.
Three Branches of State Government

Texas’s Constitution of 1836 also created three separate branches of government: legislative, executive, and judicial. Each branch had its own responsibilities. This division of government was known as a separation of powers. Under this system the legislative branch made the laws and set the budget. The executive branch enforced the laws. It also recommended people for government posts, which the legislature could approve or deny. The president, as head of the executive branch, could veto laws passed by the legislature. The judicial branch interpreted the laws and ran the courts.

Today, Texas’s chief executive is a governor rather than a president. However, the separation of powers and system of checks and balances established in 1836 still exist in the Texas Constitution.

Constitutions of 1845, 1861, 1866, and 1869

Two things happened when Texas joined the United States. First, Texans became subject to the Constitution of the United States, which is based on federalism. Second, Texans had to write a state constitution before the state could be admitted to the Union. The result was the Constitution of 1845. It guaranteed property rights for married women and set up a permanent school fund. It also protected private homesteads from being taken in order to pay debts. These provisions are still in our constitution. Certain other provisions no longer remain, however, such as the right to own slaves.
When the Civil War broke out, Texas seceded from the Union. As a result, the state constitution had to be rewritten. The Constitution of 1861 was very similar to the Constitution of 1845. However, it further protected slavery and made setting slaves free against the law.

The end of the Civil War required Texans to write still another constitution so that Texas could rejoin the United States. The Constitution of 1866 was in effect for less than three years before the Reconstruction government rewrote it.

The Constitution of 1869 gave the governor a great deal of power, including the power to appoint people to fill empty city, county, and district offices. The governor also could appoint judges, but they had to be approved by the state legislature. The Constitution of 1869 pleased the Reconstruction government. However, most Texans disliked it. By 1874 state government was back in the hands of Texans. They decided to write a new state constitution.

**Writing a New Constitution for Texas**

To draft their new constitution, Texans held the Constitutional Convention of 1875. Of the 90 members of the Convention, only four had been born in Texas, while 19 were from Tennessee. Several had served in the legislatures of their home states, and a few had served in the U.S. Congress or the Confederate Congress. Texas was a rural state, so most of the men who helped write the new constitution were farmers. No women participated in the Constitutional Convention because they were not yet allowed to vote. The constitution that was written and adopted by Texans in 1876 is still in effect today.
Since gaining independence from Mexico in 1836, Texas has been governed by six constitutions. Our current constitution is the Constitution of 1876, which was written during the Constitutional Convention of 1875 and adopted on February 15, 1876. Although many amendments have been added over the years, the Constitution of 1876 remains the basic law of Texas.

Humbly invoking the blessings of Almighty God, the people of the State of Texas, do ordain and establish this Constitution.

Article 1 Bill of Rights

Section 2 All political power is inherent in the people . . . . The faith of the people of Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform or abolish their government in such manner as they may think expedient.

Article 2 The Powers of Government

Section 1 The powers of the Government of the State of Texas shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to wit: Those which are Legislative to one; those which are Executive to another, and those which are Judicial to another; and no person, or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

Article 3 Legislative Department

Section 1 The Legislative power of this state shall be vested in a Senate and House of Representatives, which together shall be styled “The Legislature of the State of Texas.”

Section 2 The Senate shall consist of thirty-one members. The House of Representatives shall consist of 150 members. (Amended Nov. 2, 1999.)

Section 3 The Senators shall be chosen by the qualified voters for the term of four years; but a new Senate shall be chosen after every apportionment, and the Senators elected after each apportionment shall be divided by lot into two classes. . . . (Amended Nov. 8, 1966, and Nov. 2, 1999.)

Section 4 The Members of the House of Representatives shall be chosen by the qualified voters for the term of two years. . . . (Amended Nov. 8, 1966, and Nov. 2, 1999.)

Section 6 No person shall be a Senator, unless he be a citizen of the United States, and, at the time of his election a qualified voter of this State, and shall have been a resident of this State five years next preceding his election, and the last year thereof a resident of the district for which he shall be chosen, and shall have attained the age of twenty-six years. (Amended Nov. 2, 1999.)

Section 7 No person shall be a Representative, unless he be a citizen of the United States, and, at the time of his election, a qualified voter
The delegates to the Constitutional Convention of 1875 came from opposing political parties and different backgrounds. Seventy-five members were Democrats; 15 were Republicans. One member had helped write the Constitution of 1845, eight had been members of the Secession Convention of 1861, and one had attended the Constitutional Convention of 1866. About 40 were members of an agricultural organization called the Grange. Several had been officers in the Confederate army, and three had served in the U.S. Army.

### Learning

**About the Authors**
The delegates to the Constitutional Convention of 1875 came from opposing political parties and different backgrounds. Seventy-five members were Democrats; 15 were Republicans. One member had helped write the Constitution of 1845, eight had been members of the Secession Convention of 1861, and one had attended the Constitutional Convention of 1866. About 40 were members of an agricultural organization called the Grange. Several had been officers in the Confederate army, and three had served in the U.S. Army.

**About the Literature**

Before you begin reading, read the headings in the excerpt. Notice how the document is organized. Predict what you will read about. As you read, look for a pattern.

### Thinking

**About the Literature**

Why do you think it was important to include Article 2 in the constitution?

### Writing

**About the Literature**

In your Texas Notebook, create a chart to compare the requirements for the state offices of senator, representative, and governor. Then write a paragraph discussing what they have in common.
Comparing Information

**LEARNING the Skill**
Comparing information means looking for the similarities between two things or ideas. For example, you might read that the state of Texas covers a large area. However, you would have a better idea of the size of the state if you were to read that Texas is as large as New York, Pennsylvania, Ohio, Illinois, and all the New England states combined. By comparing the size of the state of Texas with the sizes of other states, you have a picture of just how much area Texas covers.

To understand why a historical event took place, it is helpful to compare it with other events. Historians often compare ideas, people, and places. However, not all comparisons are directly stated. In such cases, it is important for you to know how to compare information.

To compare information, use the following steps:
- Identify the purpose of your comparison. What question do you want to answer?
- Determine the characteristics that you want to compare.
- For each characteristic, note the similarities between the items you are comparing.
- On the basis of the similarities that you identified, draw conclusions about the two items that you are comparing.
- Use these conclusions to answer your initial question.

**PRACTICING the Skill**
Read the following excerpt from Section 2, Comparing Two Constitutions. Use the steps in Learning the Skill and the questions that follow to compare the functions of the U.S. and Texas Constitutions.

Two constitutions control the government of Texas. Under federalism, the Constitution of the United States tells what powers belong to the federal government and what powers are given to individual states. It sets out the structure of the federal government and details the limits of power for both the federal and state governments. The Texas Constitution defines the role of our state government and lays out the rights and responsibilities of Texas citizens. The Texas Constitution is the highest law of our state. It is subject only to the Constitution of the United States and federal laws.

1. What is the purpose of your comparison?
2. What similarities exist between the functions of the U.S. and Texas Constitutions?
3. Which document holds more authority over the Texas government?

**APPLYING the Skill**
Review Sections 1 and 2 of Chapter 27. Note the provisions of the Constitutions of 1836, 1845, and 1876 discussed in these sections. Create a chart that summarizes the similarities between these three Texas Constitutions. What conclusions can you draw from these similarities?
The Rights of Texas Citizens

Why It Matters Now
Learning more about the Texas Constitution helps you know what rights are guaranteed to you as a Texan.

TERMS & NAMES
- amendment
- Bill of Rights
- equal rights
- rule by the people

OBJECTIVES
1. Identify the influence of ideas from the U.S. Constitution on the Texas Constitution.
2. Identify how the Texas Constitution reflects the principle of individual rights.
3. Identify how the Texas Constitution reflects the principle of popular sovereignty.

MAIN IDEA
Texans enjoy the same rights and freedoms as other citizens of the United States. Our freedoms are spelled out in more detail in the Texas Constitution than in the U.S. Constitution.

INTERACT WITH HISTORY
Imagine that you have been chosen to help write a new bill of rights for Texas. Your goal is to include all rights that a government should guarantee to its citizens. In your bill of rights, what rights should be included? What types of guarantees should not be in the bill of rights? Why?

The Bill of Rights

The first ten amendments to the U.S. Constitution are called the Bill of Rights. Some of the rights in the Bill of Rights are freedom of speech, freedom of the press, freedom of religion, the right of assembly, and the right to bear arms. Other rights are freedom from unlawful search and seizure of property and the right to a quick and fair trial by jury.

The Constitutional Convention that wrote the U.S. Constitution in 1787 did not include a bill of rights. Some citizens feared that the government might take away the rights they had fought so hard to win. Congress changed the Constitution to include the Bill of Rights, protecting individual rights. Then the necessary three-quarters of the states ratified the amendments, making them law.

Our nation’s Bill of Rights contains a clause that reserves to the states any powers that the Constitution does not give to the federal government. Many of the powers claimed by the states are granted through this clause.

A Texas Bill of Rights

The authors of the Texas Constitution followed the U.S. Bill of Rights when they drafted their own Bill of Rights. The Texas Bill of Rights became Article 1 of the Texas Constitution. Like the rest of the Texas Constitution, the Bill of Rights is more specific than the U.S. document on which it was based.
In the early 1900s, lawyer Hortense Sparks Ward of Matagorda County became the first woman to practice law in Texas. She used her knowledge of the legal code to fight for women’s rights legislation. In 1918, as president of the Houston Equal Suffrage Association, Ward became the first woman in Harris County to register to vote. About 386,000 more women registered to vote in just over two weeks’ time.

The U.S. Constitution does not always clearly state the full extent of a citizen’s rights or freedoms. The Supreme Court has determined that these guarantees, though not stated, are implied. Often the wording of the U.S. Constitution is fairly general. This fact has created a lot of work for the Supreme Court, which has to decide what the framers of the Constitution really meant. The wording of the Texas Constitution, in contrast, is quite specific in many places. Because of this detailed language, Texans have had to make changes to their constitution hundreds of times.

A Question of Equal Rights

Sometimes the U.S. Constitution has to be changed as well. For example, the U.S. Bill of Rights does not guarantee equal rights for all people. The framers of the U.S. Constitution did not promise such rights because they would have been opposed by people in slave states in 1787.

Since that time, lawmakers have worked to ensure equal rights for all. The Thirteenth, Fourteenth, Fifteenth, and Nineteenth Amendments guaranteed freedom, voting rights, and equal protection under the law to women and minorities. No amendment, however, has outlawed bias on the basis of gender. An amendment that would have guaranteed equal rights for women was passed by Congress in 1972. However, it was not ratified by three-fourths of the states, as required by law.

Similarly, rights guaranteed in the Texas Constitution first applied only to “free men.” In 1971 the document was changed to give rights to all people. Now it states, “Equality under the law shall not be denied or abridged because of sex, race, color, creed, or national origin.”

### Texas Bill of Rights

<table>
<thead>
<tr>
<th>Amendment</th>
<th>Section of Article 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Freedom and independence</td>
<td>16. Bills of attainder; retroactive laws; contracts</td>
</tr>
<tr>
<td>2. Republican form of government</td>
<td>17. Property for public use; immunities; control of privileges and franchises</td>
</tr>
<tr>
<td>3. Equal rights</td>
<td>18. Imprisonment for debt</td>
</tr>
<tr>
<td>3a. Equality under the law</td>
<td>19. Depriving of basic rights; due course of law</td>
</tr>
<tr>
<td>4. Religious tests</td>
<td>20. Outlawry or transportation for offense</td>
</tr>
<tr>
<td>5. Witnesses and their religious beliefs</td>
<td>21. Corruption of blood; fortitude; suicides</td>
</tr>
<tr>
<td>7. Appropriations for religious purposes</td>
<td>23. Right to keep and bear arms</td>
</tr>
<tr>
<td>8. Freedom of speech and the press; libel</td>
<td>24. Military subordinate to civil authority</td>
</tr>
<tr>
<td>9. Searches and seizures</td>
<td>25. Quartering soldiers</td>
</tr>
<tr>
<td>11. Bail</td>
<td>27. Right of assembly; petitions</td>
</tr>
<tr>
<td>12. Habeas corpus (right to a court hearing)</td>
<td>28. Suspension of laws</td>
</tr>
<tr>
<td>13. Limits on bail, fines, and punishments</td>
<td>29. Bill of Rights forever inviolato</td>
</tr>
<tr>
<td>14. Double jeopardy (cannot be tried twice)</td>
<td>30. Rights of crime victims</td>
</tr>
<tr>
<td>15. Right of trial by jury</td>
<td>31. Compensation of crime victims</td>
</tr>
<tr>
<td>15a. Commitment of persons of unsound mind</td>
<td></td>
</tr>
</tbody>
</table>

Although the Texas Bill of Rights is based on the U.S. Bill of Rights, it is much more detailed in its descriptions of the rights of Texas’s citizens.
Changing the Constitution

The U.S. Constitution uses very general language to direct the operation of our government. It has been amended only 27 times in more than 200 years. In contrast, the Texas Constitution has been amended nearly 400 times since it was adopted in 1876.

A proposal to change our state constitution must first be presented to the state legislature. Then both houses of the legislature must approve the amendment by at least a two-thirds majority. Finally, the new amendment must be approved by a majority of Texas voters. Changing the constitution over and over again leads to many costly and time-consuming votes. Also, amendments have made the Texas Constitution very long and confusing, even to lawyers and state officials.

TEXAS VOICES

In my opinion, the Constitution is almost impossible to read and grasp a full and understandable meaning. Most attorneys can't follow it closely nor can members of the legislature. Laypersons are left generally without a clue.

John T. Montford, former Texas senator from Lubbock

Why was the Texas Constitution written this way? The men who wrote it wanted the people to decide how government was to be run. They wanted the people to be able to vote on new laws, tax increases, and nearly every other aspect of government. This is the principle of rule by the people. Almost 400 amendments later, Texans have proven that they will continue to use their power to change their government—and their constitution—to serve them better.

SECTION ASSESSMENT

Terms & Names
Identify:
- amendment
- Bill of Rights
- equal rights
- rule by the people

Organizing Information
Use a flowchart like the one shown to list the steps involved in adding an amendment to the Texas state constitution.

Person or group wants to change the Texas Constitution

Critical Thinking
1. How is the Bill of Rights of the Texas Constitution similar to and different from the Bill of Rights of the U.S. Constitution?
2. How do the Texas Constitution reflect individual rights?

Do you think the Texas legislature generally supports or opposes changing the state constitution? Explain.

Interact with History
At some point in the future, someone will attempt to change your constitution. Will you make it difficult or easy to change the constitution? Why?

ACTIVITY
Citizenship
In a brief essay, describe the importance of free speech and free press in a democratic society such as Texas and the United States.

The Texas Constitution 🌟 573
Chapter 27

Over time, Texas changed in many ways, making it necessary to write several new constitutions. Today, Texas operates under the Texas Constitution of 1876.

TERMS & NAMES

When Texas declared its independence from Mexico in 1836, it created its own constitution. This constitution was based on the U.S. Constitution and Bill of Rights.

TERM & NAMES

Explain the significance of each of the following:
1. three branches of government
2. checks and balances
3. Constitutional Convention of 1876
4. Congress
5. Texas Constitution of 1876
6. Bill of Rights
7. equal rights
8. rule by the people

REVIEW QUESTIONS

The History of the Texas Constitution (pages 560–563)
1. From which constitution did the 1836 Texas Constitution borrow its foundation?
2. On what three main principles is Texas’s current constitution based?

Comparing Two Constitutions (pages 566–569)
3. What two documents control the government of Texas?
4. Why is the Texas legislature limited to one session of 140 days every two years?

The Rights of Texas Citizens (pages 571–573)
5. Why do you think Texans wanted a bill of rights in their constitution?
6. How do you think a new amendment to the U.S. Constitution might affect our Texas Constitution?

U.S. Constitution Texas Constitution

READING SOCIAL STUDIES

After You Read

Review your completed Venn diagram. What similarities between the two constitutions did you note? Use the information in your completed diagram to summarize the similarities between the U.S. and Texas Constitutions. Why do you think that these similarities exist?

CRITICAL THINKING

Drawing Conclusions
1. Why do you think the Texas Constitution no longer provides for a secretary of war or a secretary of the navy?

Making Predictions
2. Should U.S. lawmakers be required to balance the federal budget each year? Describe one positive and one negative result that might come from such a requirement.

Summarizing

Drawing Conclusions
4. Which of the rights guaranteed to all Texans under the Bill of Rights of the Texas Constitution is the most important to you today? Which do you think will be most important to you in 10 years? Why?
MAP & GEOGRAPHY SKILLS
Applying Skills

Locate your county on the map below. Then answer the questions that follow, researching answers as needed.

1. Who are your state senators? What party or parties do they represent?
2. What are the names of your state representatives? What party or parties do they represent?
3. How far do your appointed state officials travel to work in our state capital? What issues does distance create in a state as large as ours?

SOCIAL STUDIES SKILLBUILDER
Comparing Information

Reread Section 3, The Rights of Texas Citizens. Next, copy the chart below. Then compare the U.S. and Texas Bills of Rights by placing a check mark in the appropriate column to indicate whether each document guarantees the rights listed. Then answer the questions that follow.

<table>
<thead>
<tr>
<th>BILL OF RIGHTS</th>
<th>RELIGIOUS FREEDOM</th>
<th>EQUAL RIGHTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Texas</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1. What is the purpose of your comparison? What question are you trying to answer?
2. What similarities exist between the U.S. and Texas Bills of Rights?
3. What conclusions can you draw about the similarities between the Bills of Rights?

CHAPTER PROJECT

U.S. Powers vs. Texas Powers

Texas is part of a federal system. This means that the U.S. government has certain powers and the state government has other powers. Some powers, such as the right to collect taxes, are shared by both levels of government. Draw a Venn diagram in your Texas Notebook. Label one circle U.S. Powers. Label the other circle Texas Powers. Then label the overlapping portion of the circles Shared Powers. Research and list political powers appropriate to all three sections of the diagram. Review your findings as a class and, on graph paper, make any necessary changes to a class Venn diagram. Display the class Venn diagram while studying this unit.

SCIENCE, TECHNOLOGY & SOCIETY ACTIVITY

Meeting of the Minds

Because Texas is such a large state, some state legislators must travel hundreds of miles to participate in legislative sessions. Teleconferencing might solve some of these problems, but it also might create others. As a class, meet in the center of the classroom and discuss a current events topic related to Texas. After five minutes, break up into four groups, one group located in each corner of the classroom and facing the wall. Simulate teleconferencing between groups by talking across the room. Which of the two practices do you think is more useful for the state legislature? Why? Create a list of rules that will make communication easier for each method.

CITIZENSHIP ACTIVITY

Simplifying the Bill of Rights

Many Texans find the language of the Texas Constitution complex and difficult to read. Rewrite a section of Article 1, the Bill of Rights, in your own words. As a class, compile all individual students’ sections into an “Easy-to-Read Texas Bill of Rights” and publish it using word processing or desktop publishing software. Put a copy of the document in your school library.