

American Government and Politics Today

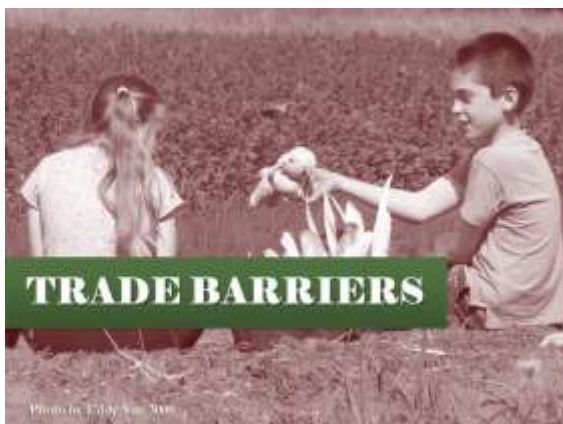
Chapter 2 The Constitution Part II



Elite Consensus:


The Articles aren't working.

Photo by Newton




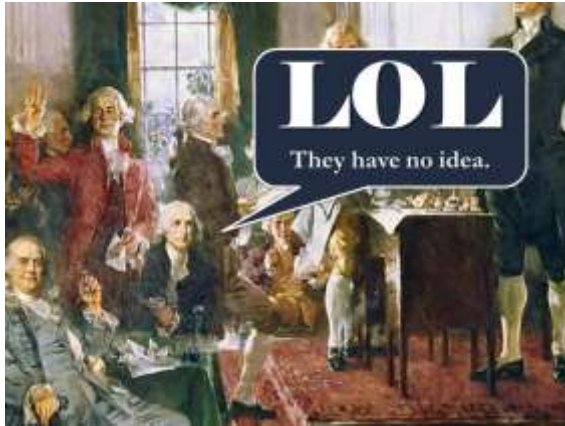


CONSTITUTIONAL CONVENTION



- The **Constitutional Convention** was a large meeting held in **Philadelphia**, Pennsylvania at **Independence Hall** from May of 1787 to Sept. to 1787 where **55** delegates representing their states.
- They came to revise, change or throw out the AOC and write a new Constitution.





CONSTITUTIONAL CONVENTION

GOAL

of the Constitutional Convention was how to create a government that did not resemble King George but create a govt. that was powerful enough

- to tax
- regulate trade
- protect private property
- enforce its laws

without taking away the rights that were fought for in the American Revolution?

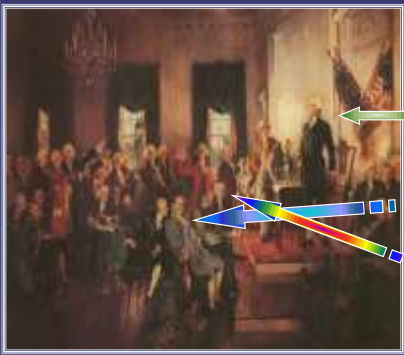
CONSTITUTIONAL CONVENTION



- Many Representatives (delegates) believed the AOC was too weak to solve the problems of the US and "mobocracy".
- The decision was scrap the AOC and start over.



FOUNDING FATHERS



- "Framers" Representatives who wrote the Constitution.
- President of Convention George Washington
- Father Figure Ben Franklin
- Father of Constitution James Madison

Framers of the Constitution

- Republicans opposed any centralization of power.
- Federalists favored a stronger government. However, there was no agreement among the Federalists concerning the structure and division of power for this new government.

Father of the U.S. Constitution



"The writing of the Constitution formed a task more difficult than can be well conceived by those who were not concerned in the execution of it. Adding to the difficulty the natural diversity of human opinions on all new and complicated subjects, it is impossible to consider the degree of concord which ultimately prevailed as less than a miracle."

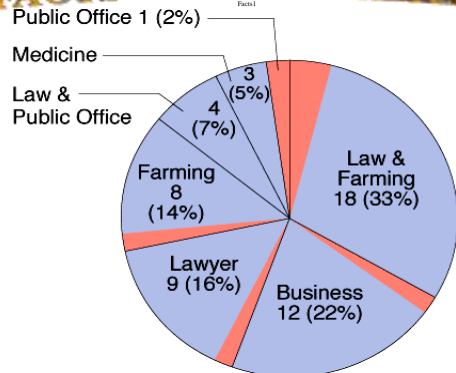
•Father of the Constitution and the Bill of Rights

•Believed in a strong central government

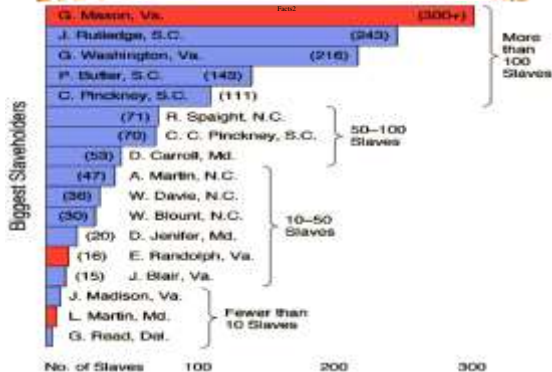
•Wrote part of The Federalist

•Would become our 4th president

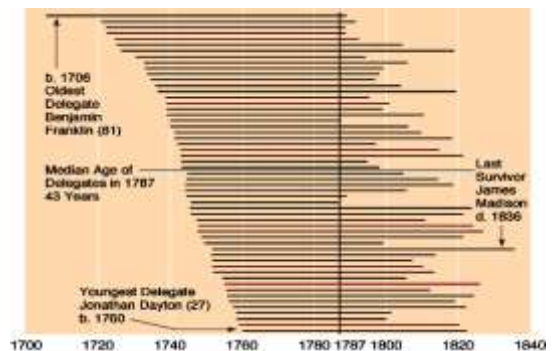
FACTS ON THE FRAMERS



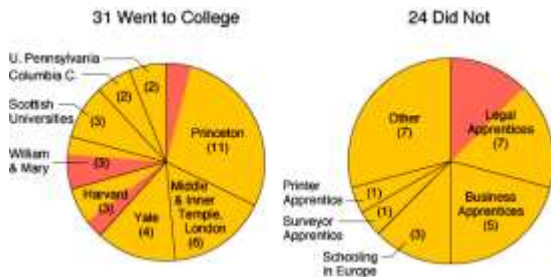
FACTS ON THE FRAMERS



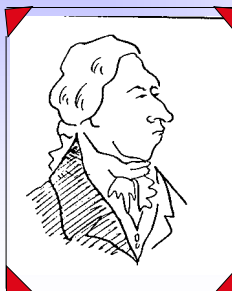
FACTS ON THE FRAMERS



FACTS ON THE FRAMERS



"Snapshot of a 'Framer'"



- ♣ White Male Adults
- ♣ Landowners
- ♣ Some education
- ♣ Some were slave owners
- ♣ Lawyers
- ♣ Merchants



Who wasn't invited to the Convention

Class Discussion

Who was not in the room?

How might that have changed things?

What influence did the Declaration of Independence and Articles have on the discussion?



CONSTITUTIONAL CONVENTION



•First major argument between the delegates was over how many **representatives** each state would have in Congress.


•What type of **Congress** should we have?

•**Large states** (Massachusetts and Virginia) believed the more population, the more representatives in Congress.

•**Small states** (New Jersey and Connecticut) believed each state should have equal representation.



State	Population	Percentage of Total	Slaves	Percentage of Slaves
New Hampshire	341,065	4%	158	0%
Massachusetts	378,787	10%	0	0%
Connecticut	237,040	7%	2,729	1%
Rhode Island	68,825	2%	122	0%
NEW ENGLAND		23%	827,443	
New Jersey	184,139	5%	11,423	6%
New York	340,120	9%	23,324	7%
Pennsylvania	414,373	12%	3,737	1%
MIDDLE STATES			958,632	
NORTH OF MASON/DIXON		49%	1,786,075	Slaves (North)
Delaware	59,096	2%	8,801	15%
Maryland	316,128	8%	503,036	23%
Virginia	747,610	20%	283,427	38%
North Carolina	383,791	11%	386,372	29%
South Carolina	249,073	7%	107,094	43%
Georgia	82,548	2%	29,254	35%
SOUTHERN STATES		51%	1,851,806	Slaves (South)
TOTAL POPULATION			3,637,281	Slaves (Total)
			681,633	19%

VIRGINIA PLAN	new jersey plan
 JAMES MADISON	William paterson 
BICAMERAL Legislature	unicameral legislature
Based on POPULATION	one vote per state
View Census Data	

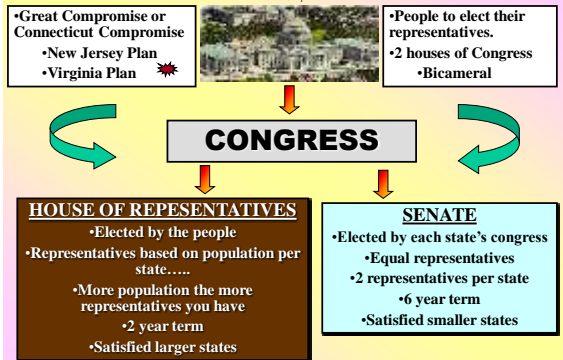
VIRGINIA PLAN VS. NEW JERSEY PLAN

Issues of representative government would be argued at Constitutional Convention

- **Virginia Plan** proposed by the larger states
 - Establish a national government with 3 branches.
 - Establish a bicameral Congress.
 - People elect 1 house
 - That house elects 2nd house
 - Representation in both houses based on state population
- **New Jersey plan** proposed by small states
 - Establish a unicameral Congress
 - Each state to have 1 vote
 - Equal representation
 - States equally represented similar to the Articles of Confederation

Vir vs NJ

GREAT COMPROMISE CREATES CONGRESS



CONSTITUTIONAL CONVENTION



- 2nd major argument between the delegates was how to create an executive (president) which didn't resemble King George III
- How would he/she be chosen?

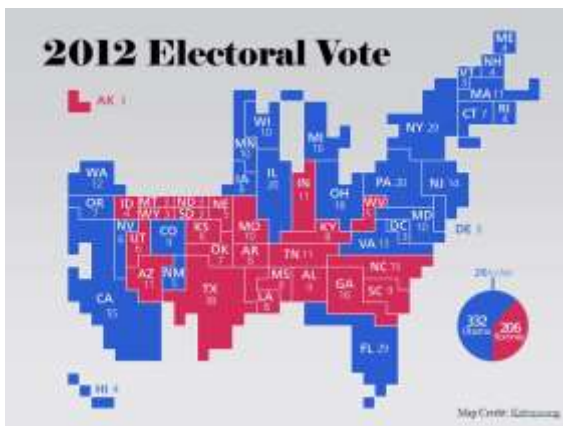
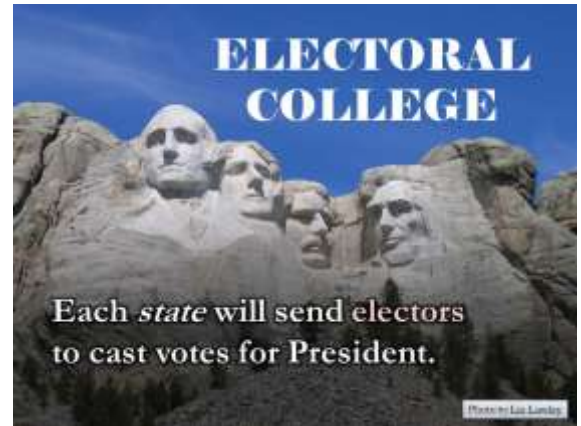
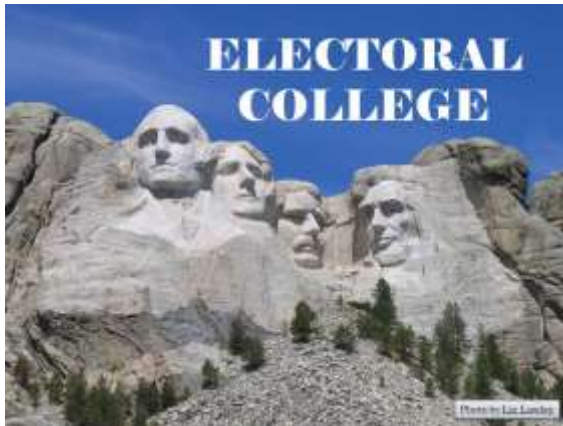
Created an Electoral College

- Placed a "**check and balance**" on the people's vote but tried to keep "**representative democracy**" in principle.

EXECUTIVE BRANCH



ELECTORAL




ELECTORAL COLLEGE Historical Background

- Why was the Electoral College created by the Framers?
 - Created as an alternative to either popular election or Congress electing the President.
 - Each state chose electors---based on the number of representatives each states has in Congress.
- Electoral vote was state to state---each elector voted for two candidates.... One vote per candidate.
 - Electors vote with the "will" of the people from the state they represented.....but not required.
 - Candidate with the most votes became President; runner-up became Vice President.
- In case of a tie, the House of Representatives elected the President.

FREE RESPONSE ESSAY

To what extent was the United States Constitution a total departure from the Articles of Confederation.

CONSTITUTIONAL CONVENTION



- 3rd major argument between the delegates was how to limit the power of government.
- But, give it enough power to be effective.

Created a system of government




- Separated the powers of government into 3 branches that are co-equal but independent from one another.
- To make sure one branch didn't become too powerful they created a system of checks and balances.

Working Toward the Final Agreement

- The Madisonian Model
 - **Separation of Powers.** The legislative, executive, and judicial powers to be independent of each other
 - **Checks and Balances.** Government had considerably more power than under the Articles of Confederation. However, these men were distrustful of those who would hold this power and of the people who would select the governmental officials.

3 BRANCHES OF GOVERNMENT SEPARATION OF POWERS




3 branches

Legislative Branch	Executive Branch	Judicial Branch
 <ul style="list-style-type: none"> •Congress (Art. 1) •Makes the law 	 <ul style="list-style-type: none"> •President (Art. 2) •Carries out the law 	 <ul style="list-style-type: none"> •Supreme Court (Art. 3) •Interprets the law

3 Branches are separate, have different powers, co-equal and checks and balances on one another to make sure one branch does not get too powerful

3 BRANCHES OF GOVERNMENT SEPARATION OF POWERS

3 branches


Legislative Branch	Executive Branch	Judicial Branch
		

3 Branches are separate, have different powers, co-equal and checks and balances on one another to make sure one branch does not get too powerful

Legislative Checks	Executive Checks	Judicial Checks
On Executive <ul style="list-style-type: none"> •Override a veto •Declare war •impeachment 	On Legislative <ul style="list-style-type: none"> •Veto a law •Ask for war 	On Executive and Legislative <ul style="list-style-type: none"> •Declare an act of President or law of Congress unconstitutional •Appointed for life
On Judicial <ul style="list-style-type: none"> •Approve judges •Impeachment 	On Judicial <ul style="list-style-type: none"> •Propose laws •Appoint judges 	

FIGURE 2-3 | CHECKS AND BALANCES

The major checks and balances among the three branches are illustrated here. The U.S. Constitution does not mention some of these checks, such as judicial review—the power of the courts to declare federal or state acts unconstitutional—and the president's ability to release or pardon political prisoners or to grant clemency. Checks and balances can be thought of as a circular system of powers or responsibilities. Each branch checks the actions of another; two branches in conflict have powers that can result in stalemate or stalemate, requiring one branch to give in or both to reach a compromise.



THE PRESIDENT → **THE CONGRESS** → **THE COURTS** → **THE PRESIDENT**



QUESTION:

Should *slaves* be counted for purposes of representation in the lower house of Congress?



Consider the interests of your assigned state when answering.

[View Census Data](#)

CONSTITUTIONAL CONVENTION



•4th major argument between the delegates was over slavery.
 •Southern states wanted their slaves to be counted as part of their population because it would give them more representation in Congress.

- Northern states wanted to abolish slavery..
- Southern States would left the Constitutional Convention if there was an attempt to abolish slavery.
- North and South worked out 2 compromises.

3/5'S COMPROMISE



•Southern states wanted their slaves to be counted as part of the total population of their state.

Why?

- This would give them more representatives in Congress.
- Thus giving them more voting power in Congress and protecting their self-interest of slavery.

3/5'S COMPROMISE



- Northern states objected to the South's proposal and would only agree to compromise.
- 3 of every 5 slaves would be counted as part of a state's total population.
- It was supported by both North and South

The "Three-Fifths" Compromise

FOR THE SOUTH

FOR THE NORTH

For representation in Congress, slaves counted as 3/5 of a person.

3/5

The "Three-Fifths" Compromise

FOR THE SOUTH

FOR THE NORTH

3/5

After 20 years, Congress has the power to regulate (or outlaw) the international slave trade.

3/5'S COMPROMISE

Georgia's Population

White = 300,000

Slaves = 100,000 3/5's of 100,000

3/5's of 100,000 = 60,000

300,000 + 60,000 =

**Total Population = 360,000
which would be counted
towards representation in
Congress.**



3/5'S COMPROMISE

- Northern states agreed to the 3/5's Compromise only if the South abolished the Slave Trade by 1807.....
- Agreement was made....North was hoping slavery would eventually fade away and die out .
- This was their step towards abolishing slavery.



FUGITIVE SLAVE LAW



- Law created at the Constitutional Convention in 1787.

- Escaped slaves captured had to be returned to their plantation owner.

- Not enforced in North and led to the creation of the Underground Railroad.

- Southerners would become bitter and ultimately left the US.

CONSTITUTIONAL CONVENTION



- Fifth major argument between the delegates was how to solve the problem over the states having more power than the national government.

Framers created a Federal Government

- Divided the powers of government on a geographic basis.
- They created 3 levels of government.
- National, state and local

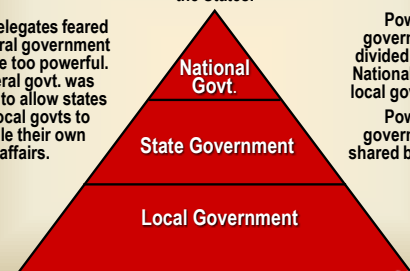
Federal Government



=

- Supreme law of the land....
- US Constitution is over all levels of government.
- National Government is over the States.

Some delegates feared the central government would be too powerful. A federal govt. was created to allow states and local govts to handle their own affairs.



Powers of government are divided between a National, state and local governments. Powers of government are shared by all levels.

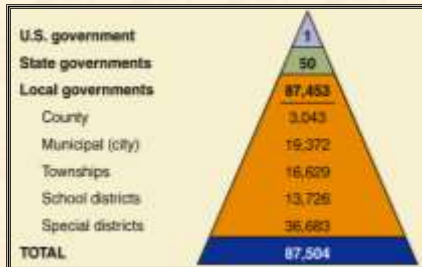
FEDERAL GOVERNMENT



•Supreme law of the land....

= It is above all levels of government and no act, law or public policy can be in conflict with it.

National Government is over the States.



DIVISION OF POWERS IN A FEDERAL SYSTEM

Delegated	Concurrent	Reserved
Powers given to national govt <i>Expressed</i> <i>Implied</i> <ul style="list-style-type: none"> Power to tax Make treaties Coin money Establish Post Offices Raise a military Declare war Admit new states Build dams Interstate highways Fund NASA Regulate naturalization Establish courts Recognize new countries Copyright/Patents Weights/measurements Prohibit racism Regulate commerce 	Powers shared by all 3 levels <ul style="list-style-type: none"> Make/enforce laws Maintain courts Collect taxes Borrow money Charter banks Protect welfare of people Call out the militia 	Powers given only to the states <ul style="list-style-type: none"> Provide for education Establish local govts Conduct elections Protect public safety Build state highways Raise a state militia Issue licenses Incorporate businesses Regulate trade in state Regulate drinking age Set speed limit Create counties/cities Decide death penalty Marriage definition Medicinal marijuana

US GOVERNMENT IN 1789

US Govt 1789



With the new constitution, the National Government was given the power to tax, regulate trade, enforce its laws and over the states. National Govt. law would always be over the states.

	Articles	Constitution
Federalism	A Firm League of Friendship	A More Perfect UNION
Sovereignty	States	Shared
Representation of States	EQUAL	Proportional (House) Equal (Senate)
Taxation	States ONLY	State & Federal
Powers of Congress	Foreign Relations Army and Navy Declare War Ambassadors Treaties	In Addition: Taxation Interstate Commerce Currency Crush Rebellions
Legislation	2/3	Senate + House + President
Amendments	UNANIMOUS	2/3 Congress + 3/4 States

US Government in 1789 and 1789

How the Weaknesses of the Articles of Confederation Were Corrected by the Constitution

Articles of Confederation

- States have most of the power and national govt. has little.
- No executive to carry out the laws of Congress
- No national courts—only state courts
- 9/13 states have to approve a law before it goes into effect
- Congress has no power to tax
- Congress can not regulate trade among the states.
- Each state coined its own money. No national currency.
- Unicameral Congress
- Articles only a "firm league of friendship"

US Constitution

- States have some power, but most power is given to the national govt.
 - Federal Government
- Electoral College
- 3 branches of govt.
 - Executive—enforces law
 - Legislative—makes law
 - Judicial—interprets law
- Checks and balances
- Congress given the power to tax, regulate trade and enforce laws.
- Only national govt. has the power to coin money
- Bicameral (2 house) Congress
- Equal Representation by States and a State's population
- Constitution established a strong National Govt. over the States and to form a more "perfect union"

Weaknesses of the Articles of Confederation

- One vote for each State, regardless of size.
- Congress powerless to lay and collect taxes or duties.
- Congress powerless to regulate foreign and interstate commerce.
- No executive to enforce acts of Congress.
- No national court system.
- Amendment only with consent of all States.
- A 9/13 majority required to pass laws.
- Articles only a "Firm league of Friendship."

New Constitution Ratified in 1789

- 2 houses of Congress
- Power to tax
- Regulate trade
- President
- Supreme court
- 3/4's of states needed
- Congress makes law
- A more perfect Union

Corrections: The New Constitution corrected the weaknesses of the AOC by giving the **national** government more power than the **states** with the ability to **tax**, regulate **trade** and **enforce** its laws..

N.H.	Langdon	Griswold			
M.A.	Gorton	King	Strong	Clary	
R.I.					
Conn.	Johnson	Sherman	Ellsworth		
N.Y.	Hamilton	Laming	Tyler		
N.J.	Stearley	Dayton	Langston	Peterson	Howland
Penn.	Clymer	Fitzsimmons	Franklin	Ingersoll	Milten
Del.	Bassett	Seaford	Broom	Dickinson	Reed
Md.	Carroll	Jenifer	McHenry	L. Martin	Morser
Va.	Bair	Madison	Washington	McClurg	Wynne
N.C.	Bount	Saight	Williamson	Davis	A. Martin
S.C.	Butler	C. Pinckney	G. Pinckney	Hulledge	
Ge.	Baden	Few	Pierce	Houston	

	Voted for Constitution	33
	Absent and	7
	opposed	2
	Voted Against	3
		55

The beliefs of the delegates ranged from the near-monarchism of Hamilton to definite decentralized republicanism. Some of these last people left when they saw the federalist tenor of the proceedings.

- A strong national govt over the states was needed to protect “life, liberty, property and the pursuit of happiness”
- Constitution was a “sound” document which “limited” the power of the national govt.
- Gave it power to settle problems within the country.
- Representative democracy is what the constitution was built on and stated in the Preamble, We the People.
- Appealed to more the wealthy, business owners and educated.

- **George Washington**
- **Ben Franklin,**
- **John Adams,**
- **James Madison**
- **Alexander Hamilton**



• **The Federalist Papers** were a series of 85 essays written by Alexander Hamilton, James Madison and John Jay which supported the Constitution and convinced Americans that a stronger national government was needed.

- Supported the Constitution and a strong central government

- The national govt was too powerful and it would take away your right to "life, liberty, property and the pursuit of happiness"
- The constitution was a threat to the "rights" we fought for in the Revolution
- States" should have more authority than the national govt.
- Feared representative democracy was threatened because our rights were not protected.
- Appealed to the common man, farmers and less educated

- Patrick Henry
- Thomas Jefferson
- Sam Adams

- **The Federalist Papers**
 - An attempt to persuade the public to support the new form of government.
 - *Federalist #10* and *Federalist #51* provide an excellent view of James Madison's political theory concerning human nature.



In order for the new Constitution to become the "law of the land", 9 of 13 states had to ratify the Constitution.

1. Delaware 30 – 0
2. Pennsylvania 46 – 23
3. New Jersey 38 – 0
4. Georgia 26 – 0
5. Connecticut 128 – 40
6. Massachusetts 187 – 168
7. Maryland 63 – 11
8. South Carolina 149 – 73
9. **New Hampshire 57 – 47**
10. Virginia 89 – 79
11. New York 30 – 27
12. North Carolina 194 – 77
13. Rhode Island 34 – 22

Support for the New Constitution

- ▣ **Beard's Thesis.** Historian Charles Beard argued that the Constitution was put through by an undemocratic elite intent on the protection of property.
- ▣ **State Ratifying Conventions.** These conventions were elected by a strikingly small part of the total population.
- ▣ **Support Was Probably Widespread.** Still, the defense of property was a value that was by no means limited to the elite. The belief that the government under the Articles was dangerously weak was widespread.

UNITED STATES CONSTITUTION SUPREME LAW OF THE LAND

It represents our belief in

- Power of govt. comes from the people
- Government power is limited
- Ordered, organized and structured govt.
- Representative democracy
- Written, May 1787 to Sept. 1787
- 7,000 words
- Longest lasting constitution in history
- Greatest symbol of democracy in the world

PREAMBLE

WE THE PEOPLE

of the United States,

- in order to form a more perfect Union
- establish Justice
- ensure domestic Tranquility
- provide for the common defense
- promote the general welfare
- and secure the Blessings of Liberty to ourselves and our Posterity

do ordain and establish this Constitution for the United States of America.

Article 1

Legislative Branch

Makes the law

- Section 1---House of Representatives and Senate
- Section 2 & 3---Qualifications for Congress
- Section 4---Elections and Meetings
- Section 5---Rules of Order
- Section 6---Pay Privileges
- Section 7---How Bills Become Laws**
- Section 8---Powers of Congress
- Section 9---Powers Denied to Congress
- Section 10---Powers Denied to States

POWERS OF CONGRESS

Article 1 Section 8

- Makes the law
- Power to tax
- To coin money
- Regulate foreign and interstate trade
- Raise and maintain armed forces
- Declare war
- Grant patents and copyrights
- Building hydroelectric dams
- Interstate highway system
- Prohibit racial discrimination



Article 2

Executive Branch

Signs, carries out or executes the law into action

- Section 1---Qualifications of President & Vice President
- Section 2---Presidential Powers
- Section 3---Presidential Duties
- Section 4---Impeachment

CONSTITUTIONAL POWERS OF THE PRESIDENT

Article 2

Executive Power

- Signs or enforces the law →
- Veto power
- Commander in Chief
- Ask for a declaration of war
- Enter into a treaty
- Grants pardons and reprieves
- Appoints ambassadors, judges and cabinet
- Call a special session of Congress



President Bush signing a proposed bill of Congress into law

Powers of pres

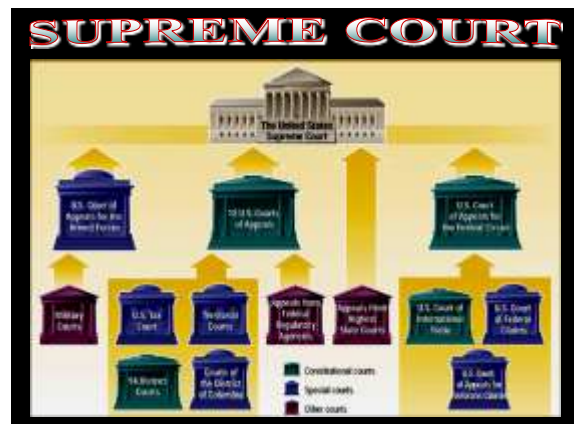
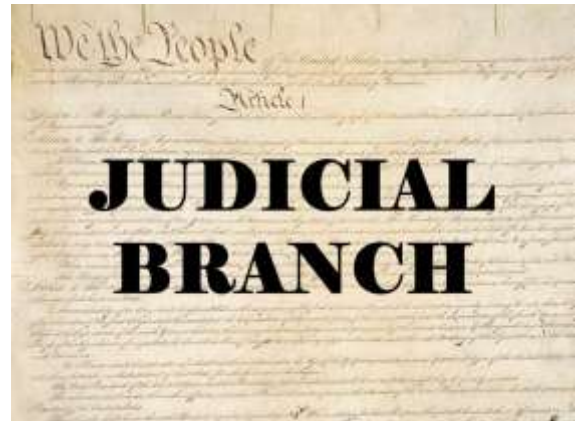


Article 3

Judicial Branch

Interprets the law (constitution)

- Section 1---Qualifications of Judges
- Section 2---Jurisdiction of Courts
- Section 3---Treason





Art 4

Article 4

Concerning the States

- Section 1---rights and duties of states
- Section 2---rights and liabilities of citizens
- Section 3---admitting new states
- Section 4---guarantee to states

Article 5

Amending the Constitution---adding on or changing the Constitution---**27 Amendments**

Article 6

Constitution, law of the land.....Supremacy Clause

Article 7

Ratification of Constitution by 9 states

Art. 5, 6, 7



The Bill of Rights

- A "Bill of Limits." The package was assembled by Madison, who culled through almost two hundred state suggestions.
- No explicit limits on state government powers.
- Did not apply to state governments. The restrictions only were applicable to the national government until the 14th amendment incorporated some of these rights.

"BILL OF RIGHTS"

First **10 Amendments** to the Constitution in 1791
Rights and freedoms won in the Revolution are preserved and protected...

1. **FREEDOM** of Religion, Press, Speech, Assembly, Petition
2. **RIGHT TO KEEP AND BEAR ARMS**
3. No **QUARTERING** of soldiers in peacetime
4. **NO UNREASONABLE SEARCH** and SEIZURE
5. **PROTECTION** of ACCUSED
6. **RIGHT TO A SPEEDY, PUBLIC TRIAL BY JURY**
7. **TRIAL BY JURY** IN CIVIL SUITS
8. **NO EXCESSIVE FINES** or CRUEL PUNISHMENT
9. **POWERS RESERVED TO THE PEOPLE**
10. **POWERS RESERVED TO THE STATES**



The Formal Amendment Process

- Every government needs to be able to cope with any new and unforeseen problem. Any Constitutional change should, however, be taken on with extreme caution. If the process to amend the Constitution is rigorous, there should be ample time to consider the merits of such a change.

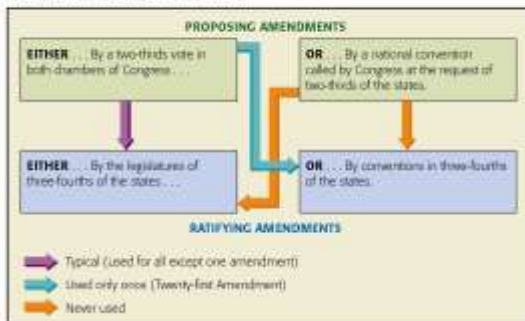
AMENDING THE CONSTITUTION



$$2/3 + 3/4$$



FIGURE 2-3 | THE FORMAL CONSTITUTIONAL AMENDING PROCEDURE
There are two ways of proposing amendments to the U.S. Constitution and two ways of ratifying proposed amendments. Among the four possibilities, the usual route has been proposal by Congress and ratification by state legislatures.



Amending the Constitution

- Although 11,000 amendments have been considered by Congress, only 33 have been submitted to the states after being approved, and only 27 have been ratified since 1789.
 - Recent amendments have usually been accompanied by time limits for ratification.
 - The National Convention Provision.* Such a convention could be called and could rewrite the entire Constitution. The product of such a convention, however, would have to be ratified by the states in the same way as any amendment.

AMENDMENTS

Amendment	Subject	Year	Time Required for Ratification
1st-10th	Bill of Rights	1791	2 years, 2 months, 20 days
11th	Immunity of States from certain lawsuits	1795	11 months, 3 days
12th	Changes in electoral college procedures	1804	6 months, 6 days
13th	Abolition of slavery	1865	10 months, 6 days
14th	Citizenship, due process, equal protection	1868	2 years, 26 days
15th	No denial of vote because of race, color, or previous enslavement	1870	11 months, 8 days
16th	Power of Congress to tax incomes	1913	3 years, 6 months, 22 days
17th	Popular election of U.S. Senators	1913	10 months, 26 days
18th	Prohibition of alcohol	1919	1 year, 29 days

AMENDMENTS

Amendment	Subject	Year	Time Required for Ratification
19th	Woman suffrage	1920	1 year, 2 months, 14 days
20th	Change of dates for start of presidential and Congressional terms	1933	10 months, 21 days
21st	Repeal of Prohibition (18th Amendment)	1933	9 months, 15 days
22nd	Limit on presidential terms	1951	3 years, 11 months, 6 days
23rd	District of Columbia vote in presidential elections	1961	9 months, 13 days
24th	Ban of tax payment as voter qualification	1964	1 year, 4 months, 27 days
25th	Presidential succession, vice presidential vacancy, and presidential disability	1967	1 year, 7 months, 4 days
26th	Voting age of 18	1971	3 months, 8 days
27th	Congressional pay	1992	202 years, 7 months, 12 days

Informal Methods of Constitutional Change

- Congressional Legislation
- Presidential Action
- Judicial Review
- Interpretation, Custom, and Usage



Articles	A COMPARISON	Constitution
States	Sovereignty?	SHARED
Federal	Foreign Relations?	Federal
States	Taxation?	Federal & State
States	Commerce & Trade?	Federal (<i>Interstate</i>) State (<i>Intrastate</i>)
1 Vote Per State	Representation?	Proportional (<i>House</i>) Two Each (<i>Senate</i>)
2/3	To Legislate?	Concurrent Majority + President's Signature
UNANIMOUS	To Amend?	2/3 + 3/4

Questions for Critical Thinking

- Why did the British place restrictions on the colonies?
- How was the term "people," as used in the Declaration of Independence, defined? Did the members of the Second Continental Congress mean all people? What about the rights of women? Native Americans? Slaves?

Questions for Critical Thinking

- What would have occurred if one or more of the states had rejected the Constitution? Could a single state have managed to survive outside the union of states?
- What do you believe Madison would think about interest groups in modern society?