

*We the People*  
of the United States  
do hereby establish and confirm  
this Constitution for  
ourselves and our posterity  
in perpetuity.

# The U.S. Constitution

Construction, Ratification &  
Components

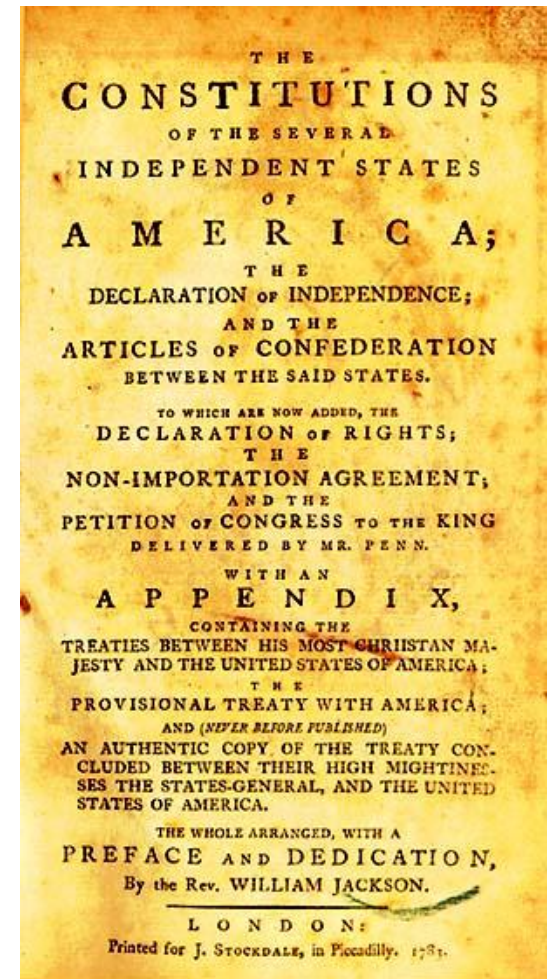


# Purposes of a Constitution

- Organize and empower the government
- Limit the powers of government.
- Many consider limited government to be the essence of constitutional government.

# Articles of Confederation

- **1777** – Continental Congress adopted the Articles of Confederation
- Created a type of government called a confederacy
- In a confederacy all national power is considered to be derived from the states.
- **1781** – Articles of Confederation were ratified by the 13 states.





# Key Elements of the Articles of Confederation

- Congress with limited powers.
- Each state retains its independence and sovereignty
- Each state gets one vote in Congress—regardless of size
- Support of 9 states required to pass any measure.
- Unanimous vote required to amend the constitution
- Selection and payment of delegates to Congress left to states.

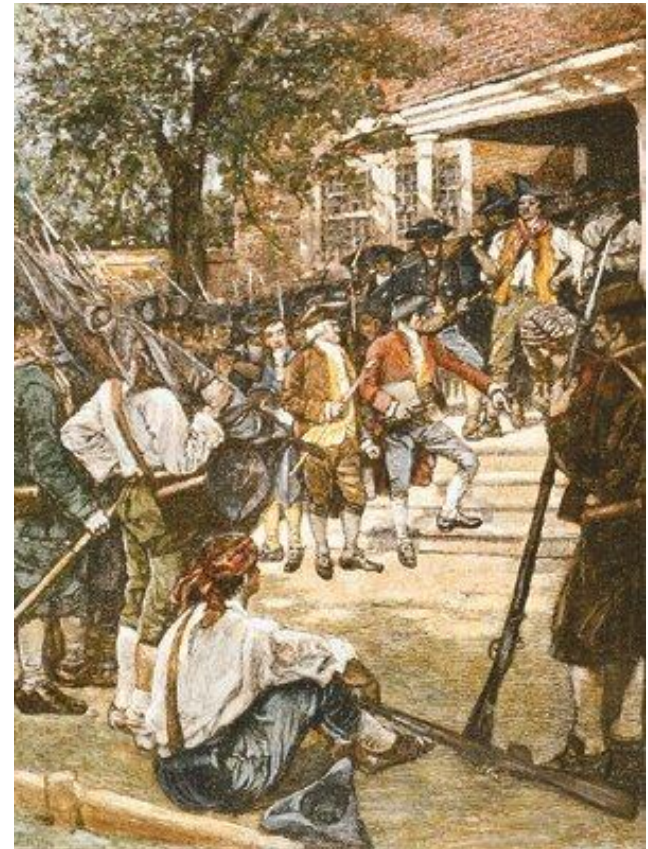


# Problems With the Articles of Confederation

- Problems with currency
- No national power to regulate interstate commerce
- No direct taxing power for national government
- No provision for an executive branch
- Weak and ineffective national government

# After the Revolution: How Do We Pay Our Debts?

- Small farmers and rural landholders being squeezed for \$\$ after the Revolutionary War
  - European war investors (among others) demanded payment in gold and silver;
  - there was not enough *specie* in the states to pay the debts;
  - In Massachusetts, wealthy urban businessmen were trying to squeeze whatever assets they could get out of rural smallholders.
  - Since the smallholders did not have the gold that the creditors demanded, everything they had was confiscated, including their houses.



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# Problems with War Debt Leads to Shay's Rebellion (1786)

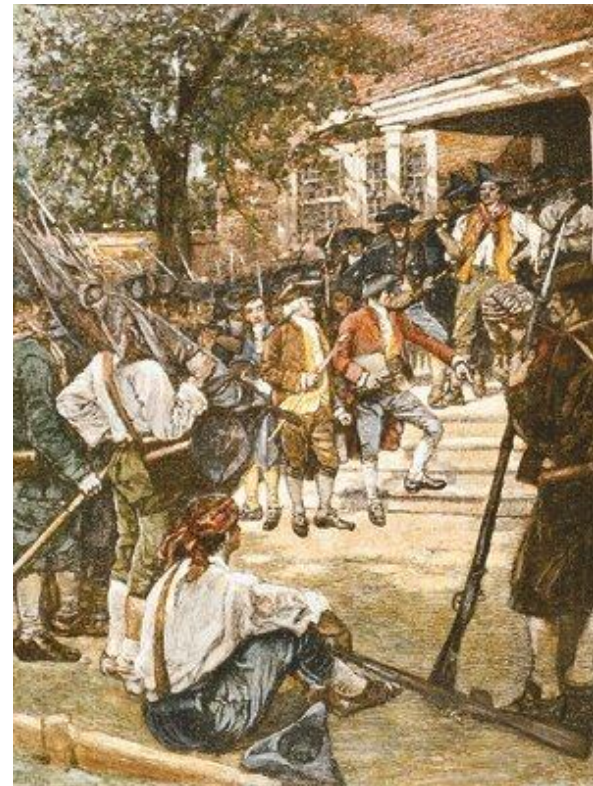
- Daniel Shay was a poor farm hand from Massachusetts
- Shay joined the Continental Army where he fought at Lexington, Bunker Hill, and Saratoga, and was eventually wounded in action.
- In 1780, he resigned from the army unpaid and went home to find himself in court for the nonpayment of debts.
- He soon found that he was not alone in being unable to pay his debts



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# Problems with War Debt Leads to Shay's Rebellion (1786)

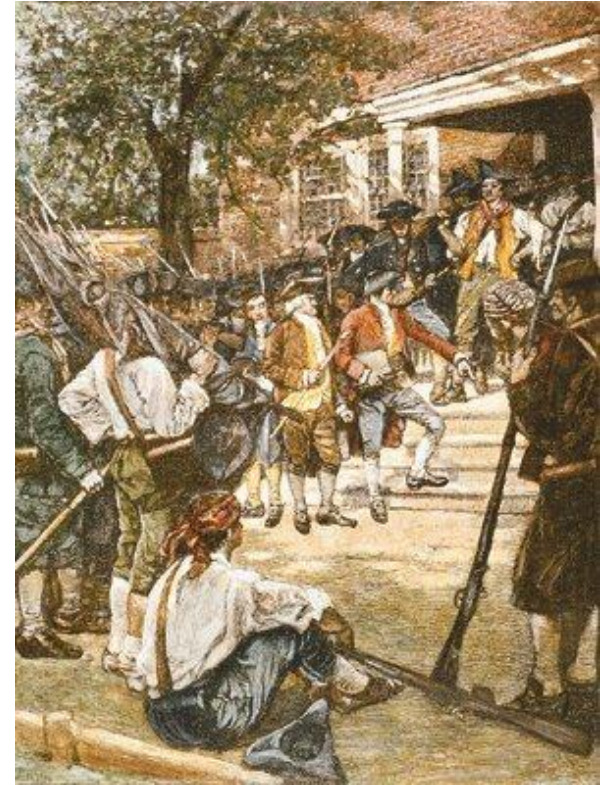
- Like Shay, many other veterans were angry because they had been drafted into the war, had to fight with no payment to help them pay for their living, and then were treated poorly upon discharge
- Some were locked up in debtors' prison
- Veterans, farmers and other besieged people organized into squads and companies in order to keep debt collectors from taking their farms and property.



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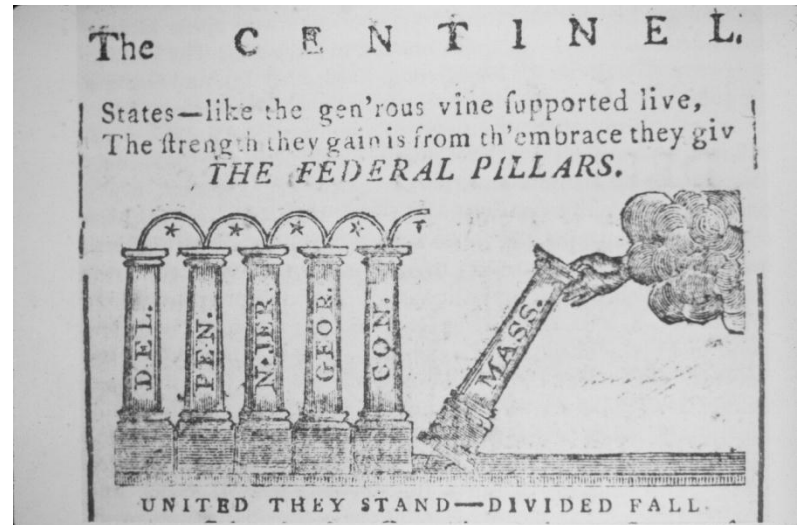
# Shay's Rebellion Leads to Revising the Articles of Confederation

- The national government under the Articles of Confederation could do little to solve the problems that led to Shay's Rebellion, nor could they put down the rebellion
- This caused George Washington to come out of retirement to urge a stronger national government.
- Other "founding fathers" also came forward to urge reform of the national government, which led to the Second Continental Congress in 1787.



# Steps Leading to a New Constitution

- **1787** Congress issued a call for a convention to meet in Philadelphia



- **Purpose #1:** Revise the Articles of Confederation and fix the issues in government
- **Purpose #2:** Preserve the Union of states

*The People of the*

- A true Gov<sup>t</sup> of y<sup>e</sup> whole  
 On the Question of vesting the execution  
 somewhere one or more persons  
 It was carried for the former  
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*Notes from the Convention by Massachusetts delegate Rufus King*

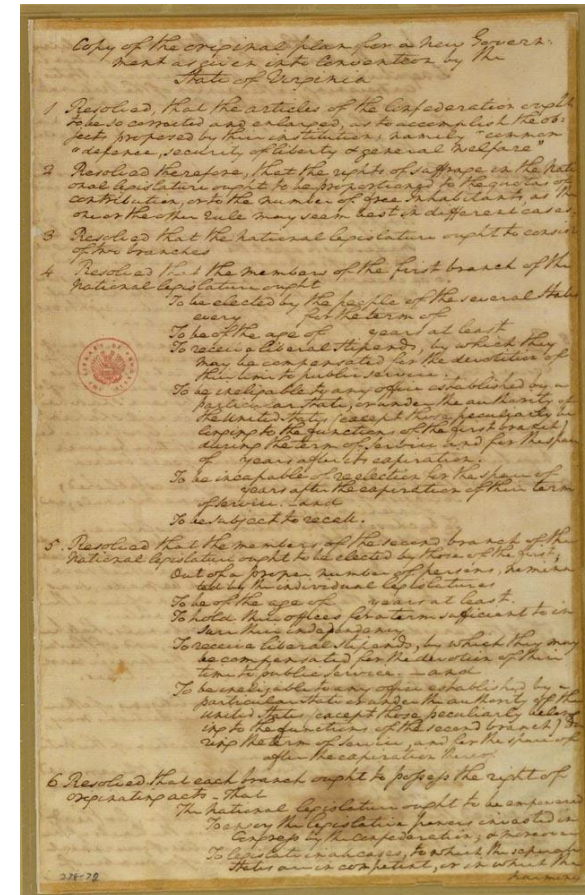


# Philadelphia Convention

- Official call was to amend the Articles of Confederation
- Virginia delegation, led by Madison and Randolph, presented the Virginia Plan on opening day
- Virginia plan proposed a completely new government
- Going back to the goal of amending the Articles of Confederation was difficult
- Result was the writing of a new constitution

# The Virginia Plan

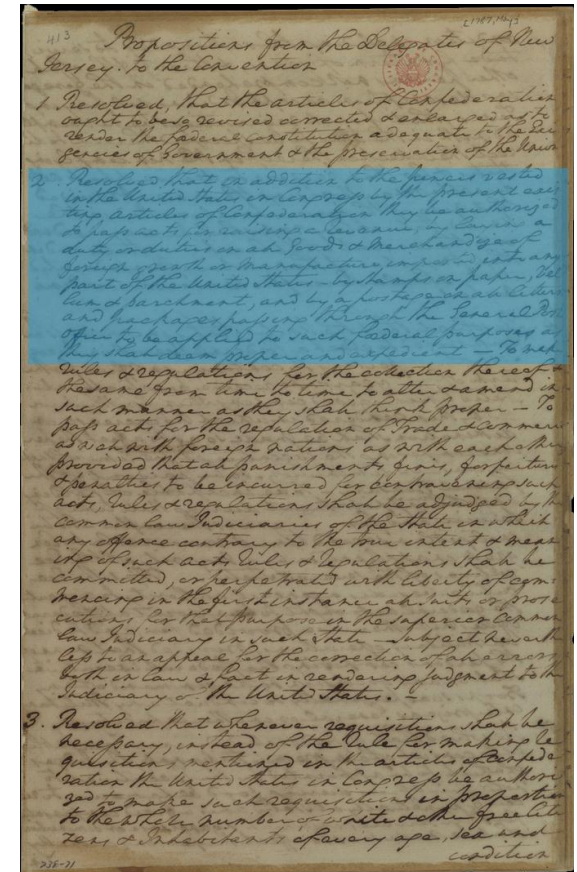
- Called for a powerful central government, with three branches of government: **legislative, executive, and judicial.**
- **Bicameral** legislature with one house elected directly by people
  - the other chosen by nomination by state legislatures
  - large states given more representation than smaller states
- Legislative branch to have power to choose executive and judiciary



The Virginia Plan

# The New Jersey Plan

- Offered by smaller states
- Strengthen Articles—not replace them
- One chamber in legislature, with each state having one vote
- Congress given power to raise revenue from duties and postal service
- Supreme Court with members appointed for life by the executive.



The New Jersey Plan

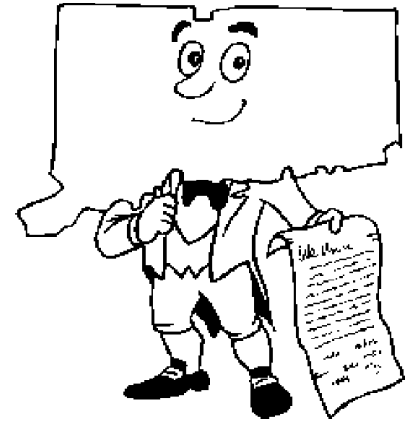


# Large State vs. Small States

- Representation in Congress was the issue
- Large states favored representation by population
- Small states preferred equal representation for all states

# Connecticut Compromise

- Combined elements of Virginia and New Jersey plans
- Representation in one house (lower chamber) to be based on population, with representatives elected directly by the people
- Lower chamber to have power to originate all bills for raising and spending money.
- All states equally Represented in upper chamber, and representatives chosen by state legislatures.



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# Slavery Conflict

## The Problem:

- Proposed ban on slave trade
- Will slaves be counted as part of a state's population when it comes time to determine how many reps to Congress each state gets?

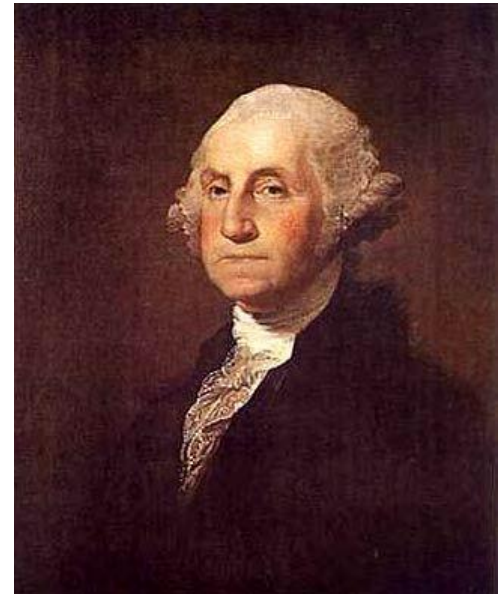
## The Solution:

- Importation of slaves could not be banned for twenty years
- Three-Fifths Compromise settled issue of counting slaves for representation and taxation.



# Executive Branch Compromises

- Term of office set at four years, with no limit on right to be re-elected
- Electoral College devised to elect president, which was intended to be an indirect election system
- Two-step process for removing a president from office:
  - impeachment by House,
  - conviction by Senate.



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# Key Principles in the Constitution

- **Federalism:** A system of government in which power is divided between the national government and the state governments
- **Separation of Powers:** Division of basic powers of government (legislative, executive, judicial) among three branches of government
- **Checks and Balances:** A system of government that gives each of the three branches of government some powers to influence the actions of other branches of government.

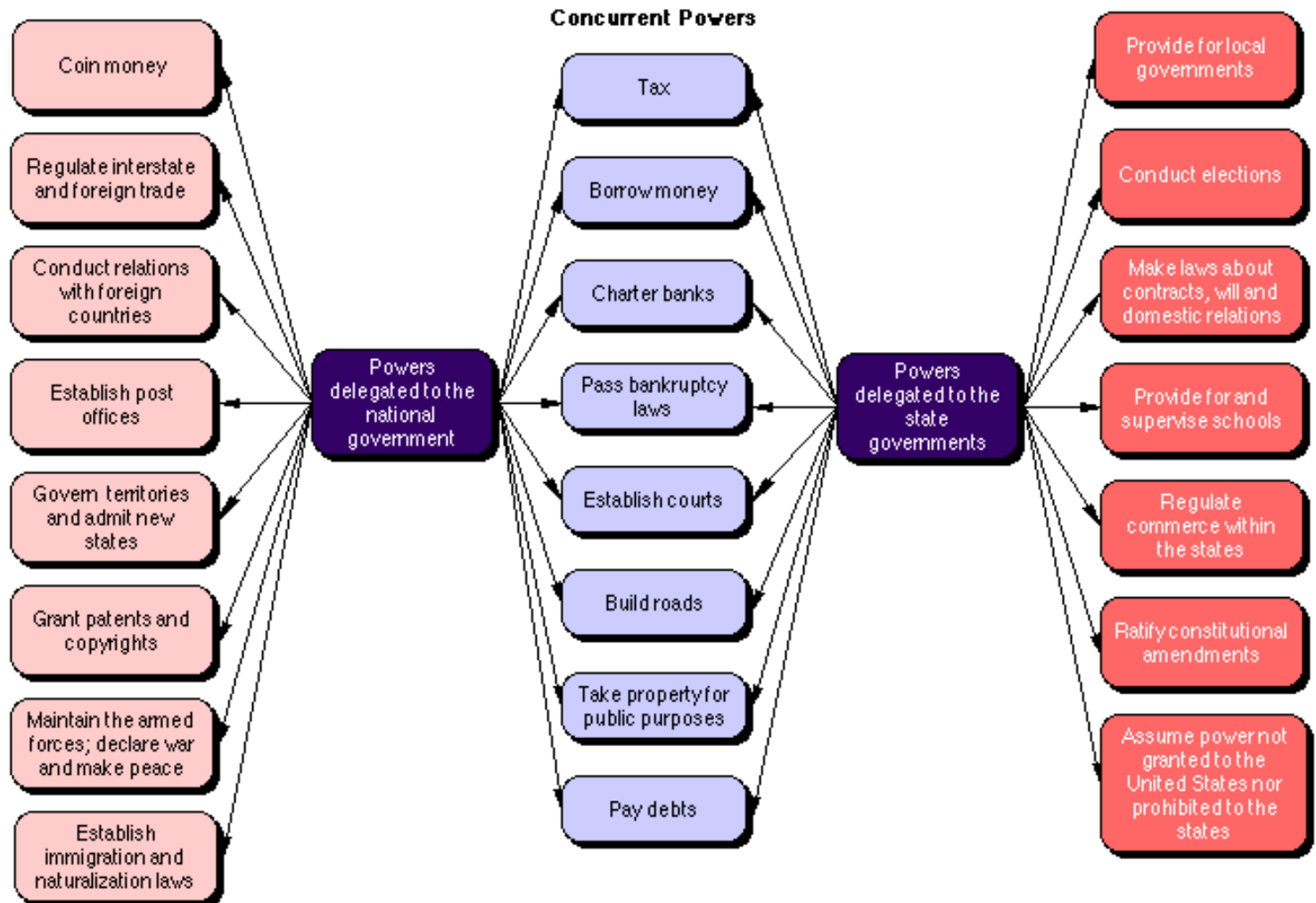


# Federalism

- **An American invention**—no theory or actual models to copy
- Known models were unitary government and confederate system
- Federalism was a pragmatic adaptation to the situation
- Needed a stronger national government
- There were limits to the amount of power the states were willing to give up.
- Thus, the concept of dividing powers between the two levels of government emerged

# Federalism

- **Federal government and state governments share powers and responsibilities**





# Separation of Powers

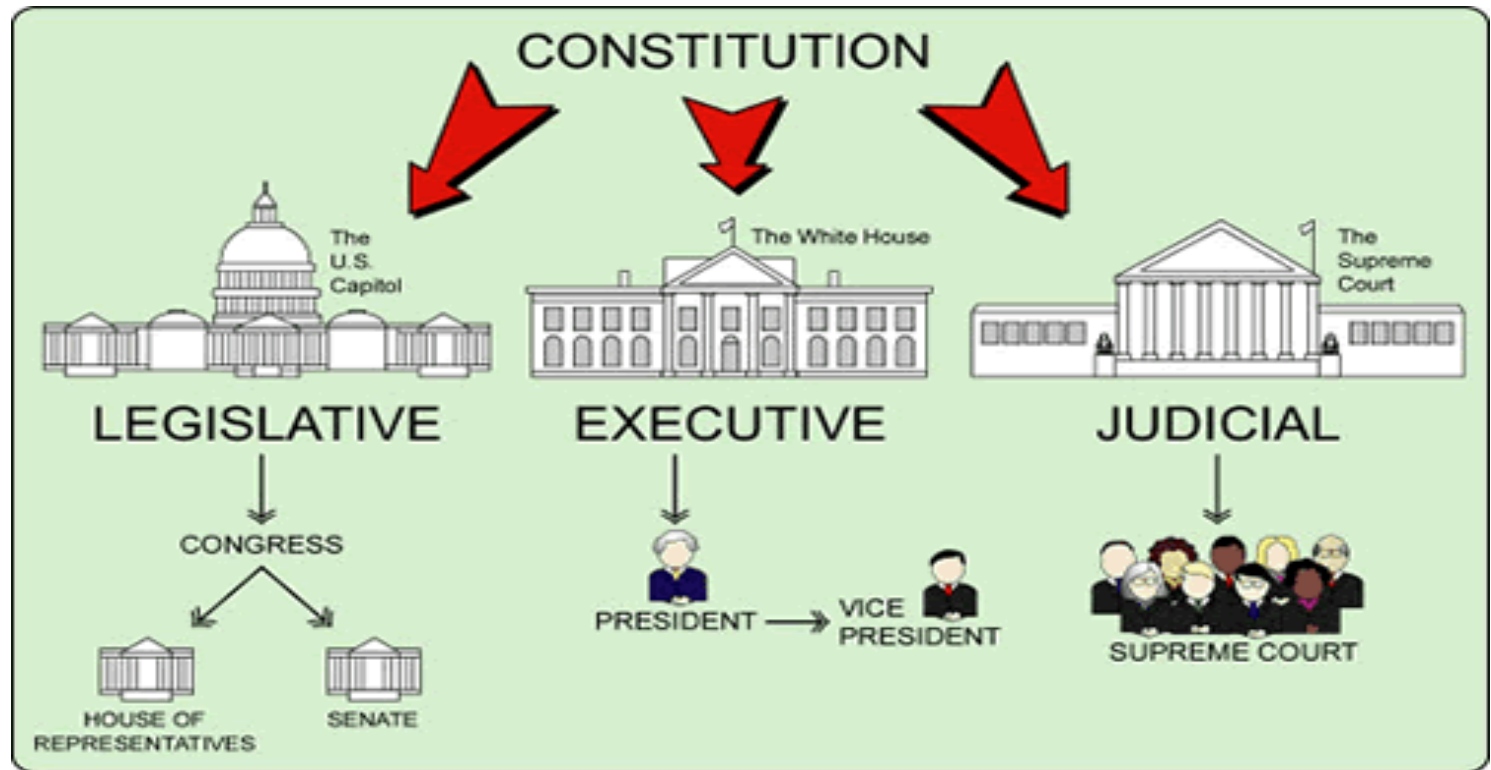
- Drawn from the writings of Locke and Montesquieu (Spirit of the Laws)
- Starts from the assumption that there are three basic powers of government: **legislative, executive, and judicial**
- Each of the basic powers is allocated to a different branch of government (legislative to Congress, executive to President, judicial to the courts)



# Separation of Powers Is Set Forth by Implication in the Constitution

- Article I of the constitution allocates the legislative powers to Congress.
- Article II allocates the executive power to the President
- Article III allocates the judicial power to the courts

# Separation of Powers



**Three Branches of Government:**  
**Executive, Legislative, Judicial**

# Executive Branch

- Consists of the President, the Vice-President and Cabinet members
  - Secretaries of State, Defense, Education, Transportation, Trade, etc.
- Enforces and carries out the laws
- Can propose laws
- Can veto Congressional legislation



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# Executive Branch

- Appoints Supreme Court justices
- Recommends appointments to certain jobs in government. (Cabinet, staff appointments)
- Coordinates work of agencies such as FBI, Social Security Administration
- Heads the armed forces as Commander in Chief



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# Legislative Branch

The **House of Representatives**, and the **Senate**





# Legislative Branch

- Makes the laws
- Writes, proposes, and votes on laws
- Holds committee hearings
- Overrides presidential veto
- Confirms executive appointments made by President
- Impeaches or removes judges or president
- Proposes or passes Constitutional amendments for ratification by the states
- Declares war

# The Supreme Court

- Interprets the law, and declares legislation or executive actions unconstitutional



**The Roberts Court, 2010**

Back row (left to right): Sonia Sotomayor, Stephen G. Breyer, Samuel A. Alito, and Elena Kagan.

Front row (left to right): Clarence Thomas, Antonin Scalia, Chief Justice John G. Roberts, Anthony Kennedy, and Ruth Bader Ginsburg



# Checks and Balances

- Each branch is given some powers to control or limit the actions of the others
- President can veto bills passed by Congress.
- Congress controls the allocation of money to executive agencies.
- Courts can declare actions of other two branches to be unlawful or unconstitutional.

# Overview of the Constitution



- **Article I**

- Describes the powers given to Congress and the legislative branch
  - Requirements of members, terms of office, restrictions, privileges, and organization
- Section 8 ends with the “necessary and proper clause”, which opens the door to implied powers for congress.

# Overview of the Constitution



- **Article II**
  - Describes the executive branch
    - Election, powers, succession, salary, term of office, qualifications, and impeachment process
  - Broader and more general than Article I

# Overview of the Constitution



- **Article III**

- Describes the judicial branch
  - **Powers, courts and jurisdiction**
- Mentions a Supreme Court and “such lower courts as Congress shall establish.”



# Overview of the Constitution

- Article IV: State relationships
  - deals with potential conflicts
- Article V: Amendment Process
- Article VI: National Supremacy
  - Federal government takes priority over state laws if and when they come into conflict

# Overview of the Constitution

- What's missing?
- No **Bill of Rights!!**
- A pledge was made to add a bill of rights after ratification.

## The Bill of Rights

*Ratified December 15, 1791*

### Article I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

### Article II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

### Article III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

### Article IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

### Article V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any Criminal Case to be a witness against himself, nor be

deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

### Article VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining Witnesses in his favor, and to have the Assistance of Counsel for his defence.

### Article VII

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

### Article VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

### Article IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

### Article X

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.

*A reminder to be ever vigilant in the protection of these rights  
Presented in loving memory of Corliss Lamont 1902-1995*

National Emergency Civil Liberties Committee  
New York, NY 10010



# Overview of the Constitution

- The U.S. is not a democracy! We are a republic. What's the difference?
- **Democracy**
  - Each citizen gets one vote, all votes count equally.
  - Democratic government was often equated with mob rule and the tyrannical majority.
- **Republic:**
  - **Representative government:** you elect someone to represent your interests and vote on your behalf; you do not vote directly on legislation

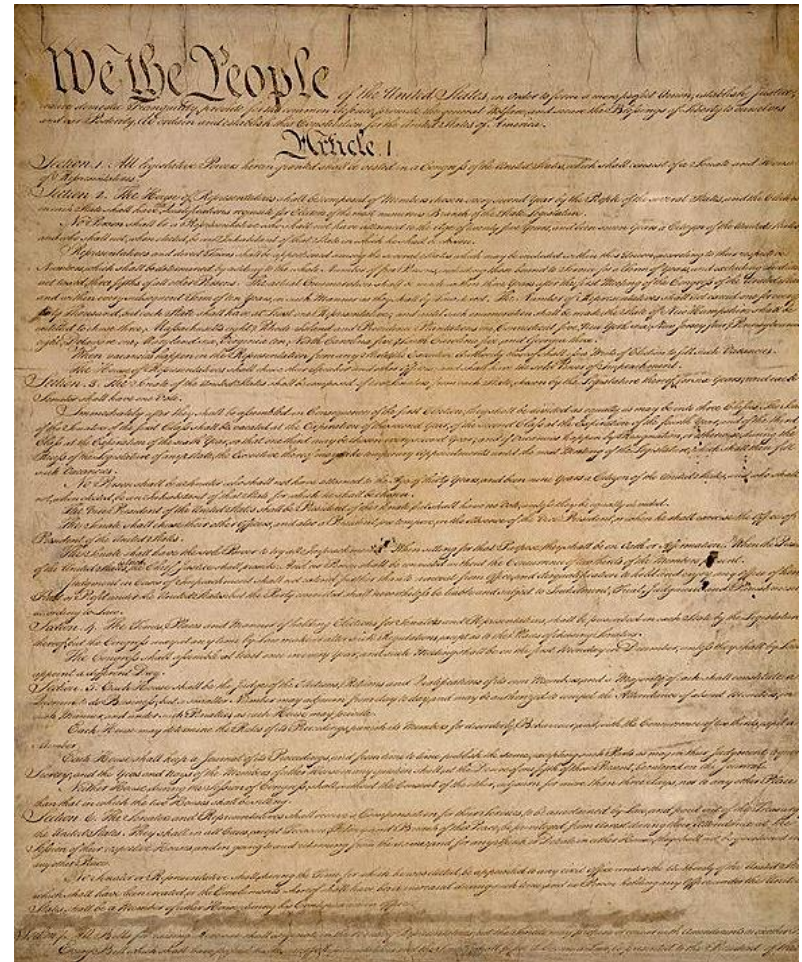


# The Republic

- A republic is based on consent of the governed.
- Assumes that natural leaders will emerge to guide the country.
- It relies on elections to choose leaders.
- Many indirect elections; only members of the House of Representatives were to be directly elected by the people.
  - Today, Senators are also elected directly by the people

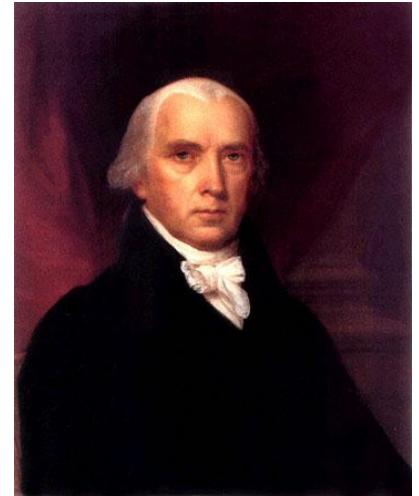
# Ratification of the Constitution

- Drafted in 1787, and the Continental Congress accepted it and forwarded it to the states for ratification.
- “Ratified” in 1788
  - Ratified means “voted to accept”
- Went into effect in 1789.



# Ratification of the Constitution

- **Federalists** were supporters of the stronger government outlined in the proposed constitution.
- **Anti-Federalists** were defenders of the powers of the states; they were fearful of creating an overly powerful central government.



James Madison - Federalist



Patrick Henry – Anti-Federalist

We the People



# Federalists vs. Anti-Federalists

- **Federalists**
  - Property owners
  - Wealthy
  - Merchants of the Northeast & Middle Atlantic States
- **Anti-Federalists**
  - Small Farmers
  - Laborers
  - Shopkeepers



# Federalist Papers

- Many of the Founding Fathers were worried the Constitution would not be ratified.
- They wrote a series of persuasive propaganda articles to convince the Anti-Federalists to ratify it.
- These were called **"The Federalist Papers"**
  - 85 articles total, published primarily in New York beginning in October 1787
  - Written by Alexander Hamilton, James Madison, and John Jay... all were Federalists
- Still read today to understand the intent of the Founders when they wrote the Constitution.



# Ratification of the Constitution

- What did it take to ratify the Constitution in 1787?
  - The Articles of Confederation were still in effect
  - EVERY state had to agree to change it.
- If we wanted to change the Constitution today, what would it take to pass an amendment?
  - Three-quarters ( $3/4^{\text{th}}$ ) of all states, and ( $3/4^{\text{th}}$ ) of all state legislatures



# Ratification

- Delaware, New Jersey, and Pennsylvania ratified early
- New Hampshire provided the crucial ninth vote in June, 1788.
- North Carolina voted to reject the new constitution in August, 1788, and did not ratify until after the Bill of Rights had been submitted to the states.
- Rhode Island became the last to ratify in 1790—a year after
- George Washington became President of the new republic.



# The Ratification Vote

TABLE 2.1

## VOTING OF DELEGATES AT CONSTITUTIONAL RATIFYING CONVENTIONS

Article VII of the Constitution provided that "The Ratifications of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution."

- *Why do you think the founders settled on 9 states instead of all 13? Or just 7?*

State	Date	"Yes" Votes/"No" Votes
Delaware	Dec. 7, 1787	30/0
Pennsylvania	Dec. 11, 1787	46/23
New Jersey	Dec. 18, 1787	38/0
Georgia	Jan. 2, 1788	26/0
Connecticut	Jan. 9, 1788	128/40
Massachusetts	Feb. 6, 1788	187/168
Maryland	Apr. 26, 1788	63/11
South Carolina	May 23, 1788	149/73
New Hampshire	June 21, 1788	57/47
Virginia	June 25, 1788	89/79
New York	July 26, 1788	30/27
North Carolina	Nov. 21, 1789	194/77
Rhode Island	May 29, 1790	34/32

Source: Lauren Bahr and Bernard Johnson, eds., *Collier's Encyclopedia*, Vol. 7 (New York: P. F. Collier, 1992), p. 239.



# Amending the Constitution

- Only a Twenty-Seven Amendments have been adopted
- First Ten Amendments contain the Bill of Rights
  - Proposed by Congress in 1789
  - Ratified in 1791.
- Only seventeen additional amendments have been adopted since.



# Amending the Constitution

- **There have been close to 10,000 amendments proposed in Congress since 1789**
  - **The success rate of an amendment to become part of the Constitution is less than 1%.**
  - **The following is a very limited list of some of those proposed amendments that never left the halls of Congress:**



# Amending the Constitution

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# Failed Amendments

- **1876:** An attempt to abolish the United States Senate
- **1876:** The forbidding of religious leaders from occupying a governmental office or receiving federal funding
- **1878:** An Executive Council of Three should replace the office of President
- **1893:** Renaming this nation the "United States of the Earth"
- **1893:** Abolishing the United States Army and Navy
- **1894:** Acknowledging that the Constitution recognize God and Jesus Christ as the supreme authorities in human affairs.




# Failed Amendments

- **1912:** Making marriage between races illegal
- **1914:** Finding divorce to be illegal
- **1916:** All acts of war should be put to a national vote. Anyone voting yes has to register as a volunteer for service in the United States Army
- **1933:** An attempt to limit the personal wealth to \$1 million
- **1938:** The forbidding of drunkenness in the United States and all of its territories
- **1947:** The income tax maximum for an individual should not exceed 25%
- **1948:** The right of citizens to segregate themselves from others
- **1971:** American citizens should have the alienable right to an environment free of pollution.



# Constitutional Change by Judicial Review

- Courts have the power to provide the official interpretation of the constitution
- Courts also have the power to declare actions of the other branches of government to be unconstitutional
- The use of judicial interpretation has made fewer amendments necessary.



# What Makes the Constitution Last So Long?

- The Amendment process
  - 2/3rds vote from BOTH House and Senate
  - National convention at request of 2/3rds of state legislatures
  - 3/4ths of all state legislatures
  - 3/4<sup>th</sup> of all state conventions if held
- Interpretation
  - Written loosely to allow for change and reinterpretation as time goes by
  - Supreme Court has the final say!