

U.S. Constitution

PSCI 1040

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 under 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

Steps Leading to the Call for a New Constitution

- Annapolis Convention (1786) called to discuss problems of commerce
- Shay's Rebellion (summer 1786), uprising of farmers rebelled against tax collectors and sheriffs trying to seize their farms for unpaid debts, raised concerns about the ability of the government to protect the rights of property
- 1787 Congress issued a call for a convention to meet in Philadelphia for the "sole and express purpose" of revising the Articles of Confederation "to render the federal constitution adequate to the exigencies of government and the preservation of the union."

Philadelphia Convention

- Met in summer of 1787
- All states represented—except Rhode Island
- 55 delegates in attendance
- Men of wealth and experience
- Property owners

Mission Creep at the 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

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

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.

Large State/Small State Conflict

- 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

Conflict over Slavery

- Issue of ban on slavery trade
- Issue of counting slaves for taxation and representation

Slavery Compromises

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

Compromises Regarding Executive Branch

- Term of office set a four years, with no limit on right to be re-elected
- Electoral College devised to elected 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.

Key Principles in the U.S. 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 confederal 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

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

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 sets forth the legislative power
 - Article I, Section 8 enumerates powers given to Congress
 - Article I, 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
- Broader and more general than Article I
- Less consensus on the appropriate powers for an executive

Overview of the Constitution

- Article III sets for judicial branch
- Mentions a Supreme Court and “such lower courts as Congress shall establish.”

Overview of the Constitution

- Article IV deals with potential conflicts among the states
- Article V sets forth the amending process
- Article VI contains the “supremacy clause.”

Overview of the Constitution

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

What Form of Government?

- While we are inclined to call our government a democracy, the founders would not have given it that label.
- Democratic government was often equated with mob rule and the tyrannical majority.
- The founders would have called it a republic.

A Republic

- When asked what form of government had been created, Benjamin Franklin replied, “A republic, if you can keep it!”
- 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.

Ratification of the New Constitution

- Constitution drafted in 1787
- Continental Congress accepted it and forwarded it to the states for ratification.
- Ratified in 1788
- Went into effect in 1789.

Loosening the Rules for Ratification

- The amending process included in the Articles of Confederation was quite difficult—all states must agree to any amendment.
- To ease the chances of ratification, the founders wrote rules for ratification into the proposed constitution that were less demanding

Rules for Ratification

- Rules contained in Article VII of the proposed constitution
- Ratification by nine of the thirteen states required for constitution to be adopted.
- Ratification to be done by state convention, instead of the state legislature.

Ratification Debate: Federalists vs. Anti-Federalists

- 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.

Federalists vs. Anti-Federalists

- Federalists
 - Property owners
 - Landed rich
 - Merchants of Northeast and Middle Atlantic States
- Anti-Federalists
 - Small Farmers
 - Shopkeepers
 - Laborers

Federalist Papers

- Written by Hamilton, Madison, and Jay
- Were written as Federalist propaganda pieces to sell the new constitution and get people to ratify
- Eighty-five articles
- Published in newspapers in the various states
- Still read today to understand the logic underlying the various provisions of the constitution.

Ratification Votes

- 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.

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

- Rules for amendment set forth in Article V
 - Proposals can be made by two-thirds of both Houses of Congress or by a called Convention.
 - Ratification by three-fourths of the states is necessary for an amendment to be accepted.
 - Ratification can be by state legislatures or by state conventions.

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.

Constitutional Change by Judicial Interpretation

- 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.