



# The Constitution

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# Republicanism



-  ***Republic:* Elect own leaders (Rome)**
-  ***Republicanism:* Popular sovereignty:**
  -  **People elect leaders who represent their interests**
  -  **Power is defined & limited by a written constitution**

# Limitations

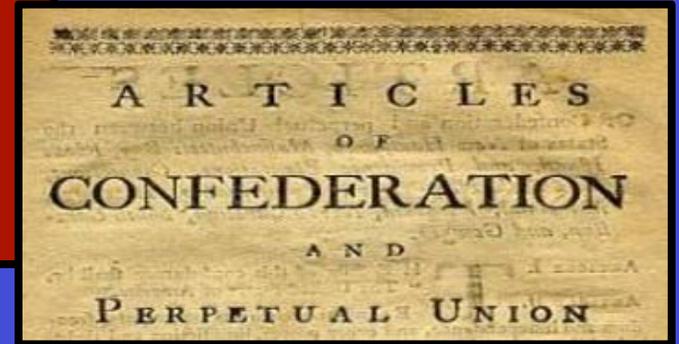
-  **White, propertied males** = highest % of suffrage in world
-  **Women:** excluded by British “common law”
-  **Blacks:** most states emancipated 1777-1784 (by 1800 = 100,000 free blacks)
-  **Native Americans:** Most lost land in American Revolution by state gov'ts./only MA allowed NA suffrage

# State Constitutions

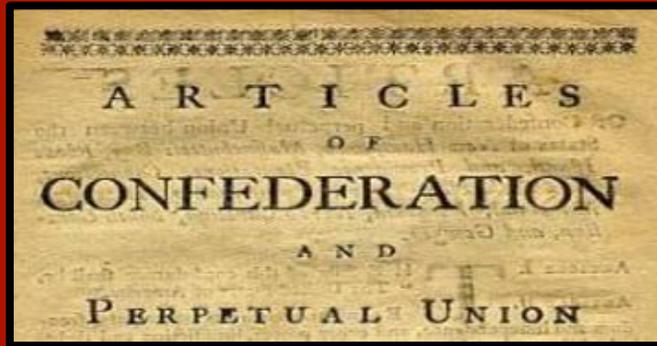
By 1777 ten states had constitutions (all protected religious liberty, press, trial by jury)

-  Bill of Rights (based on 1689, English)
-  Separation of power (3 branches)
-  Franchise (vote) to white males, property
-  Higher standards for office holding

# Articles of Confederation



-  Drafted by John Dickinson, adopted by Congress 1777
-  Submitted to states for “ratification” – March 1781



# Structure of Government

- ❖ **Unicameral** (one-house) legislature [no executive, judicial]
- ❖ Each state = 1 vote (9/13 required to pass bills, **unanimous** to amend Articles)
- ❖ **Powers:** wage war, make treaties, send diplomats, borrow money
- ❖ **Could not:** regulate commerce, tax (had to rely on state taxes) + NO executive officer to enforce laws

# Accomplishments of Articles

#1. *Winning the War* (supplied Washington's army & negotiated treaty with Gr. Britain)



#2

### The Land Ordinance of 1785

### TOWNSHIP, 1785

36	30	24	18	12	6
35	29	23	17	11	5
34	28	22	16	10	4
33	27	21	15	9	3
32	26	20	14	8	2
31	25	19	13	7	1

Each township contained 36 sections. Each section was one square mile.

\$640 per plot (\$1 per acre)

- ❖ Policy for surveying, selling Western lands
- ❖ 1 section of land in each township for public education

# #3 Northwest Ordinance of 1787

Set rules for creating new states:

- Territorial population = 60,000 adult males, then could draft Constitution + apply for “statehood”

- Only 3-5 new states to be formed

- No slavery or “involuntary” servitude



# Problems with the Articles

## #1: Financial Problems

- Most war debt unpaid
- States, Congress issued worthless paper money
- No taxing power = had to request from the states
- Tariff Division
  - *South*: free trade = cheaper goods
  - *North*: tariffs to protect industry

# Problems with the Articles

## #2: Foreign Problems

- Lost Europe's respect because we couldn't pay debts
- Spain encroaching on our western territory

# Problems with the Articles

## #3: Domestic Problems

### Shay's Rebellion

(Major challenge to articles)

- 1786 Daniel Shay (700 farmers) marched on Springfield, MA
- Demanded: Tax relief, stop seizure of land for debt
- Ended when militia brought in to stop

*“ A little rebellion now and then is a good thing...God forbid that we should ever be 20 years without such a rebellion...The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants.”*

*Jefferson (in Paris)*

# Toward a New Union

## Annapolis Convention (Sept. 1786)

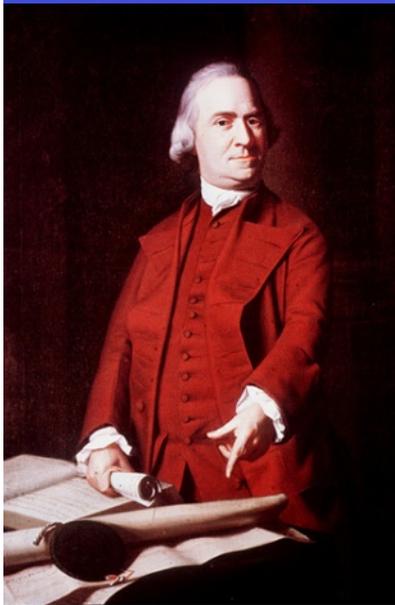
-  Met to determine commercial regulation
-  Nationalists called for Constitutional Convention



# Constitutional Convention

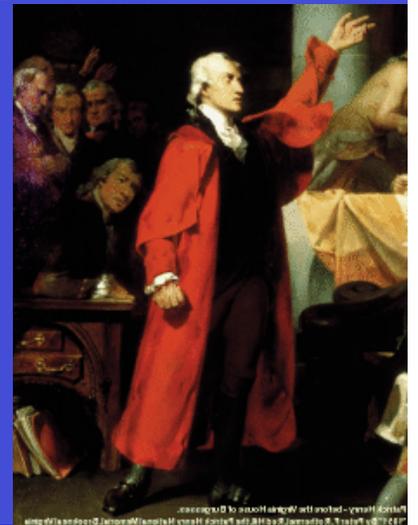
- May 25, 1787 Met in Philadelphia's Independence Hall
- All states but Rhode Island

Supporters of Articles of Confederation missing:



Sam  
Adams

Patrick  
Henry



# Delegates

“the well-bred, the well-fed, the well-read,  
and the well-wed”



☉ Average age: 43

☉ Oldest: Benjamin Franklin (81)

☉ Youngest: Jonathan Drayton (27)

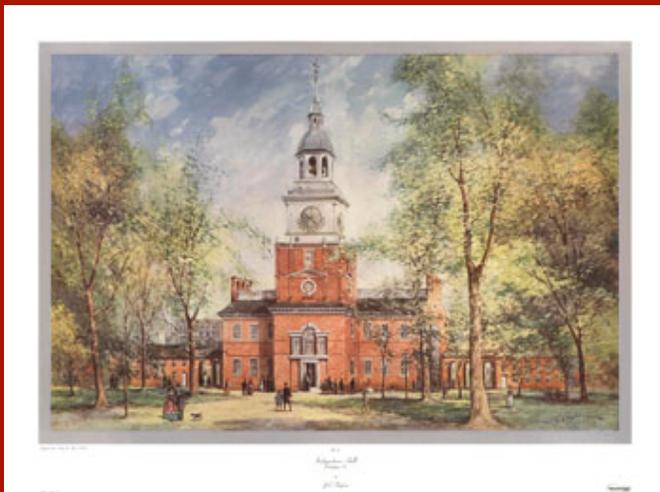
45 Congressmen

31 Lawyers

30 Veterans

31 college ed.

17 owned slaves



- Decided to replace the Articles
- Elected Washington President of the Convention



Supporters missing:



Thomas Jefferson



John Adams

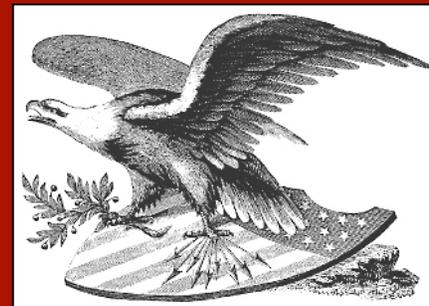
# Problems

- **Virginia Plan**

- **Nat'l. Congress to have power to legislate when states couldn't**
- **Nullify laws contrary to Union**
- **Representation in both Houses in proportion to population**

- **New Jersey Plan**

- **Kept Articles intact**
- **1 state = 1 vote**
- **Amended to give right to tax, regulate trade**





# The Great Compromise



- **Bicameral legislature**
  - **Senate**
    - » Each state = 2 representatives
    - » All states equal representation
  - **House of Representatives**
    - » Representation based upon population
- **Three-fifths Compromise (slavery)**
  - **South:** representation
  - **North:** taxation
  - **Compromise:** Slaves counted as  $\frac{3}{5}$  for purposes of both taxation and representation

# Other Compromises

- **Tariffs**

- *North*: National government should control trade
- *South*: Feared high tariffs, end to slave trade

- *Compromise:*

- Congress = right to regulate trade, foreign and domestic with simple majority vote
- Congress = No tax on exports, No interference with foreign slave trade for 20 years + had to return runaway slaves



## “Remember the Ladies...”



Abigail Adams: From an original painting by Gilbert Stuart.

Abigail Smith Adams (1744-1818), wife of John Adams, delegate to the First and Second Continental Congresses implored her husband to “...  
*remember the ladies, and be more generous and favorable to them than your ancestors. Do not put such unlimited power into the hands of the husbands. . . . If particular care and attention is not paid to the ladies, we are determined to foment a rebellion, and will not hold ourselves bound by any laws in which we have no voice or representation.*”

# Three Branches

- **Executive**

- Commander in Chief
- Conduct foreign affairs, negotiate treaties
- Appoint diplomatic, judicial officials
- Veto Congressional legislation
- Term = 4 years, no limits
- Election by “electoral college”

- **Legislative:** make laws, declare war, affirm nominations, impeach executive

- **Judicial:** rule on Constitutionality



# Struggle for Ratification



## Federalists vs. Anti-federalists

- Favor Constitution
  - Abandon Articles of Confed.
  - Strong central gov't., curb power of states
  - No need for Bill of Rights
  - Large republic safer for personal freedoms
  - Commercial farmers, merchants, shippers, artisans, holders of national debt
  - Madison, Hamilton, Jay = *Federalist Papers*
- Opposed Constitution
  - Amend Articles of Confed.
  - Strong states rights, curb power of central government
  - Bill of Rights
  - Small republic, common interests safeguard freedom
  - State-centered politicians, most backcountry farmers
  - Mason, S. Adams, Henry = *Anti-federalist Papers* (anonymous)

State	Date	Yea	Nay
Delaware	December 7, 1787	30	0
Pennsylvania	December 12, 1787	46	23
New Jersey	December 18, 1787	38	0
Georgia	January 2, 1788	26	0
Connecticut	January 9, 1788	128	40
Massachusetts	February 6, 1788	187	168
Maryland	April 28, 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	November 21, 1789	194	77
Rhode Island	May 29, 1790	34	32

# Ratification

# Ratification

By end of 1788, required 9 out of 13 states had ratified

The C E N T I N E L

Vol IX

REDEUNT SATURNIA REGNA.

On the erection of the Eleventh PILLAR of the great National DOME, we beg leave most sincerely to felicitate "OUR DEAR COUNTRY"



The FEDERAL EDIFICE.

ELEVEN STARS, in quick fuceffion rife—  
ELEVEN COLUMNS strike our wond'ring eyes,  
Soon o'er the *whole*, shall fwell the beauteous DOME,  
COLUMBIA's boast—and FREEDOM's hallow'd home.  
Here shall the ARTS in glorious splendour shine!  
And AGRICULTURE give her stores divine!  
COMMERCE refin'd, difpenfe us more than gold,  
And this new world, teach WISDOM to the old—  
RELIGION here shall fix her blest abode,  
Array'd in *mildnefs*, like its parent GOD!  
JUSTICE and LAW, shall endlefs PEACE maintain,  
And the "SATURNIAN AGE," return again.

BOSTON, Saturday, August 2. | waves dashing against her sides, the wheels of the  
Since our last paper the pleasing intelli. | carriage concealed. Some of the flags were well

## Patrick Henry speaks against ratification of the Constitution (1788)

"Mr. Chairman, the public mind, as well as my own, is extremely uneasy at the proposed change of government. . . . I consider myself as the servant of the people of this commonwealth, as a sentinel over their rights, liberty, and happiness. I represent their feeling when I say they are exceedingly uneasy at being brought from that state of full security, which they enjoyed, to the present delusive appearance of things. . . .

If a wrong step be now made, the republic may be lost forever. . . .

That this is a consolidated government is demonstrably clear; and the danger of such a government is. . . very striking. . . . What right had they [delegates to the Constitutional Convention] to say, We, the People?

Who authorized them to speak the language, We, the people, instead of, We, the states? States are the characteristics and the soul of a confederation. If the states be not the agents of this compact, it must be one, great, consolidated, national government, of the people of all the states."

*--Patrick Henry speaks against ratification of the Constitution (1788)*

## James Madison defends the Constitution (1788)

"I must take the liberty to make some observations on what was said by another gentleman (Mr. Henry) He told us that this Constitution ought to be rejected because it endangered the public liberty, in his opinion, in many instances. Give me leave to make one answer to that observation: Let the dangers which this system is supposed to be replete with be clearly pointed out: if any dangerous and unnecessary powers be given to the general legislature, let them be plainly demonstrated, and let us not rest satisfied without general assertions of danger, without examination....

Let us consider the most important of these reprobated powers; that of direct taxation is most generally objected to. . . . If this country should be engaged in war, . . .how would it be carried on? . . . I say, sir, that it is necessary to establish funds for extraordinary exigencies., and to give this power to the general government. . . .

But it is urged that its consolidated nature, joined to the power of direct taxation, will give it a tendency to destroy all subordinate authority; that its increasing influence will speedily enable it to absorb the state governments. . . . It derives its authorities from these governments, and from the same source from which their authority is derived. . . . If we consider the mode in which the federal representatives will be chosen, we shall be convinced the general will never destroy the individual governments."

*--James Madison defends the Constitution (1788)*

# Bill of Rights

**AMENDMENTS 1-10** (added in 1791) – Preserves the rights of the people.

**Amendment 1** - Freedom of religion, press, speech

**Amendment 2** - Right to bear arms

**Amendment 3** - Limits the quartering of soldiers

**Amendment 4** - Search and seizure of property

**Amendment 5** - Right to a trial if accused, no self-incrimination required, no double-jeopardy (you cannot be tried twice for the same crime), right to compensation for seizure by government

**Amendment 6** - Right to a speedy trial by jury and confrontation of witnesses

**Amendment 7** - Right to a trial by jury in civil cases

**Amendment 8** - Prohibits cruel and unusual punishment

**Amendment 9** - People may have other rights, even if they are not listed here

**Amendment 10** - The federal government's powers are limited to those listed in the Constitution

# Articles

- **PREAMBLE (Introduction)** - Explains that the Constitution proposes to establish a more perfect government complete with justice, tranquility, and liberty
- **ARTICLE I** - Establishes the Legislative Branch (House of Representatives and the Senate).
- **ARTICLE II** - Establishes the Executive Branch (headed by the President).
- **ARTICLE III** - Establishes the Judicial Branch (a system of courts and judges).
- **ARTICLE IV** - Establishes the relationship between the states and the federal government. Describes how to admit new states to the Union.
- **ARTICLE V** - Describes how to amend the Constitution.
- **ARTICLE VI** - Establishes the Constitution as the supreme law of the USA. Authorizes the national debt (Congress can borrow money). Public officials must take an oath to support the Constitution.
- **ARTICLE VII** - Lists the requirements for ratification of the Constitution.

# Basic Principles



**Popular Sovereignty:** Call for a Republic [“We the people of the U.S. ...do ordain & establish this Constitution...”]



**Limited Gov't.:** No level of gov't. has unlimited power!



**Federalism:** Division of power between nat'l. & state



**Separation of Powers:** 3 branches of government



**Checks & Balances:** Each branch checks the others



**Judicial Review:** Power to determine Constitutionality

# Basic Principles



**Supremacy of National Law: No state or law may conflict with the Constitution**



**Supremacy of Civilian Authority: President is Commander in Chief of armed forces, only Congress can declare war**



**Additional Principles:**

- ❖ **Recognition of minority rights**
- ❖ **Respect for the individual**

# Checks and Balances

## Legislative Branch

- Overrules Pres. Veto
- Approves treaties
- Confirms App't.

- Impeaches Pres.
- Appropriates funds for programs

- Est. lower courts
- Overrules Judicial decisions w/Amen.
- Fixes # of judges
- Impeaches judges

## Executive Branch

- Vetoes legislation
- Special Congress. sessions

- Sets foreign policy
- App'ts. Judges
- Pardons fed. crime

## Judiciary Branch

- Declares laws Unconstitutional

- Declares exe. Actions Unconstitutional

# Congress (Bicameral legislature)

## Qualifications

- **Representatives :**
  - **25 years old**
  - **Citizens 7 years**
  - **Term: 2 years**
  - **Elected by voters**
- **Senators:**
  - **30 years old**
  - **Citizens 9 years**
  - **Term: 6 years**
  - **Elected by legislatures**

## Specific Powers

- **All revenue bills started in the House**
- **Senates accepts treaties and confirms Pres. Appt.**
- **House brings impeachment charges**
- **Senate tries impeachment**
- **Members may be expelled by rules of each house**

# President (Bicameral legislature)

## Qualifications

- **35 years old**
- **Resident of U.S. for 14 years**
- **Native-born citizen**
- **Chosen by “electoral college” (same # of electors as senators + representatives, how chosen differs by state)**

## Specific Powers

- **Chief of State**
- **Carries out/enforces federal law**
- **Can issue “executive orders” to federal departments**
- **Can make treaties, app’t. diplomats, recognize foreign countries**
- **Commander in Chief : calls up militia, directs nation’s military efforts**
- **Can propose new laws**
- **Can veto legislation**

# Supreme Court + Lower Courts

- Each has own jurisdiction
- Appeals start in lower courts
- Supreme Court and Federal judges chosen for life

# Delegated Powers

```
graph TD; A[Delegated Powers] --- B[Expressed  
(Stated in Constitution)]; A --- C[Implied  
(Suggested, but not stated)]; A --- D[Inherent  
(Belongs to federal gov't. because it is the national government)]
```

**Expressed**  
(Stated in  
Constitution)

**Implied**  
(Suggested, but not  
stated)

**Inherent**  
(Belongs to federal  
gov't. because it is  
the national  
government)

# **Shared or Concurrent Powers**

- **Powers not prohibited to the states**
- **May be used at the same time**

# **Exclusive Powers**

- **Belong only to federal gov't.**
- **Usually expressed powers**

Changing  
The  
Constitution

```
graph TD; A[Changing The Constitution] --- B[Amendments]; A --- C[Elastic Clause]; A --- D[Custom];
```

Amendments

Elastic  
Clause

Custom

We the  
People

Of the United States

In order to form a more Perfect union, establish justice, insure 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.”