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CHAPTER 2
The Constitution

Learning Objectives

After reading this chapter, students will be able to:

LO 2.1 Explain the theoretical and historical factors that influenced the writers of the U.S. Constitution.
LO 2.2 Describe the structure of the Articles of Confederation and explain why the confederation failed.
LO 2.3 Identify and explain the compromises made by the delegates to come to agreement on the U.S. Constitution.
LO 2.4 Explain the rationale for, and give examples of, the separation of powers and the checks and balances in the U.S. Constitution.
LO 2.5 Explain why some states and their citizens especially wanted the Constitution to include a bill of rights.
LO 2.6 Demonstrate understanding of the formal and informal processes for amending the U.S. Constitution.

Overview

The first permanent English colonies were established at Jamestown in 1607 and Plymouth in 1620. The Mayflower Compact created the first formal government for the British colonists. By the mid-1700s, other British colonies had been established along the Atlantic seaboard from Georgia to Maine.

In 1763, the British tried to impose a series of taxes and legislative acts on their increasingly independent-minded colonies. The colonists responded with boycotts of British products and protests. Representatives of the colonies formed the First Continental Congress in 1774. The delegates sent a petition to the British king expressing their grievances. The Second Continental Congress established an army in 1775 to defend the colonists against attacks by British soldiers.

On July 4, 1776, the Second Continental Congress approved the Declaration of Independence. Perhaps the most revolutionary aspects of the Declaration were its assumptions that people have natural rights to life, liberty, and the pursuit of happiness; that governments derive their power from the consent of the governed; and that people have a right to overthrow oppressive governments.

Based on their understanding of natural rights and the social contract, as well as their experience with an oppressive British regime, all of the colonies adopted written constitutions during the Revolutionary War. Most of these gave great power to their legislatures and restrained the power of the executive branch.

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At the end of the Revolutionary War, the states had signed the Articles of Confederation, creating a weak central government with few powers. In this government, each state had one vote and there was no executive. The Congress had no power to raise revenue and virtually no way to amend the Articles. The Articles proved to be unworkable because the national government had no way to ensure compliance by the states with such measures as securing tax revenues. Shays' Rebellion demonstrated that the central government could not protect the citizenry from armed rebellion or provide adequately for the public welfare.

General dissatisfaction with the Articles of Confederation prompted the call for a convention at Philadelphia in 1787. Although the delegates ostensibly convened to amend the Articles, the discussions soon focused on creating a constitution for a new form of government. The Virginia plan, which favored large states, and the New Jersey plan, which was simply an amendment of the Articles of Confederation, did not garner widespread support. The Great Compromise offered by Connecticut helped to break the large-state/small-state disputes dividing the delegates by creating a bicameral legislature with proportional representation in one chamber and equal state representation in the other. The Three-Fifths Compromise, which counted slaves as three-fifths of a person for purposes of representation, was adopted to keep the Southern states from leaving the Union.

The final version of the Constitution provided for the separation of powers, checks and balances, and a federal form of government. The principles of separation of powers and the checks and balances were intended to prevent any one branch of the government from becoming too powerful. Each branch of government would need to cooperate with the other branches for the government to be effective.

Fears of a strong central government prompted the addition of the Bill of Rights to the Constitution. The Bill of Rights secured for Americans a wide variety of freedoms, including the freedoms of religion, speech, and assembly. The Bill of Rights was initially applied only to the federal government, but amendments to the Constitution following the Civil War made it clear that the Bill of Rights would apply to the states as well.

An amendment to the Constitution may be proposed either by a two-thirds vote in each house of Congress or by a national convention called by Congress at the request of two-thirds of the state legislatures. Ratification can occur either by a positive vote in three-fourths of the legislatures of the various states or by special conventions called in the states for the specific purpose of ratifying the proposed amendment. The process for amending the Constitution was made very difficult to ensure that most of the states and the majority of both houses agree to the proposed change. Informal methods of constitutional change include congressional legislation, presidential actions, judicial review, and changing interpretations of the Constitution.

Chapter Outline

I. The Colonial Background
   A. Separatists, the *Mayflower,* and the Compact

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- B. More Colonies, More Government
- C. British Restrictions and Colonial Grievances

II. The Colonial Response
- A. The First Continental Congress
- B. The Second Continental Congress

III. Declaring Independence
- A. The Resolution of Independence
- B. July 4, 1776—The Declaration of Independence
  1. Universal Truths
  2. Natural Rights and a Social Contract
- C. The Rise of Republicanism

IV. The Articles of Confederation: The First Form of Government
- A. Accomplishments under the Articles
- B. Weaknesses of the Articles
- C. Shays' Rebellion and the Need for Revision of the Articles
- D. Drafting the Constitution
- E. Who Were the Delegates?
- F. The Working Environment
- G. Factions among the Delegates
- H. Politicking and Compromises
  1. The Virginia Plan
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  3. The "Great Compromise"
  4. The Three-Fifths Compromise
  5. Other Issues
- I. Working toward Final Agreement
  1. The Madisonian Model—Separation of Powers
  2. The Madisonian Model—Checks and Balances
  3. The Executive
  4. A Federal Republic
- J. The Final Document

V. The Difficult Road to Ratification
- A. The Federalists Push for Ratification
  1. The *Federalist Papers*
  2. The Anti-Federalist Response
- B. The March to the Finish
- C. Did the Majority of Americans Support the Constitution?
  1. State Ratifying Conventions
  2. Support Was Probably Widespread
- D. The Bill of Rights
- E. A "Bill of Limits"
- F. No Explicit Limits on State Government Powers

VI. Altering the Constitution: The Formal Amendment Process
- A. Many Amendments Are Proposed; Few Are Accepted

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B. Limits on Ratification
C. The National Convention Provision

VII. Informal Methods of Constitutional Change
A. Congressional Legislation
B. Presidential Actions
C. Judicial Review
1. Not a Novel Concept
2. Allows the Court to Adapt the Constitution
D. Interpretation, Custom, and Usuage

Teaching Tools

Learning Objective 2.1

Explain the theoretical and historical factors that influenced the writers of the U.S. Constitution.

Critical Thinking Question:

1. John Locke's theory of the social contract is discussed in both Chapter 1 and Chapter 2. What is Locke's theory? Where is his influence seen in the U.S. Constitution?

Lecture Launcher:

1. We often have to develop a skill through experience, and this was certainly true at the founding of the Constitution. Ask students what experiences they have had with constitutions, democracy, and self-organization through school and extracurricular activities. Ask how these experiences have helped them to develop an understanding of how these activities should function in the future. Have students transition to discussing the writers of U.S. Constitution. What were the early experiences with democracy and self-organization that helped with the writing of the new constitution?

In-Class Activities:

1. Have students read the Declaration of Independence found in Appendix A and take notes on what elements of the document seem to be inspired by John Locke's idea of the social contract. Are there elements that seem to be inspired the idea of republicanism? Discuss the elements that students find.

2. One of the key questions asked by foreign observers is why the United States did not adopt a parliamentary system. After all, they had an example of it in front of them in the form of the British parliament. Moreover, other former British possessions such as Canada and Australia adopted such a system. To raise this topic for discussion, it would be necessary to briefly describe what a parliamentary system is because many students may be unclear on the definition (i.e., unified government, executive chosen by parliament). Given the definition and given the Revolutionary War-era distrust of powerful governors and preference for legislatures, might it have been reasonable to establish a weak executive chosen by the legislature? Such a system does not seem to

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have commanded much thought, however. How might the negative experiences under the Articles of Confederation have shaped these decisions?

Learning Objective 2.2

Describe the structure of the Articles of Confederation, and explain why the confederation failed.

Critical Thinking Question:

1. Replacing the Articles of Confederation was not inevitable. Could the Articles have been amended to alleviate the weaknesses? What amendments would you have included? How do you think the nation would be different today if we would have kept the Articles of the Confederation?

Lecture Launcher:

1. The Articles of Confederation seem to be full of paradoxes. Ask students to name the powers of national government under this arrangement. After listing these on the board, ask the rest of the class if there is a contradiction found in either the historical context or in the actual document itself, i.e., the Continental Congress could establish weights and measures but had no executive with the power to enforce such regulations, or it could declare war but had trouble supporting a military.

In-Class Activity:

1. Organize students into two groups and have students debate whether the actions of Daniel Shays and other citizens in Massachusetts during Shays' Rebellion were justified. After the debate, have a follow-up discussion about conditions today. If the government stopped paying our military, would they be justified in taking similar actions? What impact would those actions have on us and our government? In what ways do you think such actions had similar effects on the Articles of the Confederation?

Learning Objective 2.3

Identify and explain the compromises made by the delegates to come to agreement on the U.S. Constitution.

Critical Thinking Questions:

1. Of all the issues and conflicts that surrounded the crafting of the U.S. Constitution, which do you think was the most important to resolve? In other words, if you were a delegate to the Constitutional Convention, on which issue would you take a position and speak? Why?

Lecture Launchers:

1. Could the founders have banned slavery outright? The chapter reviews a number of compromises over slavery (e.g., importation of slaves could not be banned until 1808; the three-fifths compromise), but why didn't delegates who opposed slavery fight harder to end the abhorrent practice? Historians argue that the South was essential to the economy and that delegates from

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Southern states would have left the Union rather than sign a constitution banning slavery. Benjamin Franklin, in particular, worried that states that left might join forces with foreign interests further threatening the fragile new nation. Ask students to speculate on how history might have been different had slavery been banned from the start in the Constitution? Did the compromises make the Civil War inevitable?

2. What would have occurred if one or more of the states had rejected the Constitution? If a large state like New York or Virginia had voted to reject the Constitution, would the United States have taken economic and/or political sanctions against such a state? Could a single state have managed to survive outside the union of states? (Rhode Island could be an example.)

In-Class Activity:

1. Have students divide into three groups and assign one of the main positions during the constitutional convention to each group: the Virginia plan, the New Jersey plan, and the Connecticut Compromise (Great Compromise). Have students present their position in class and have a short debate about the pros and cons of each position. At the end of the class, have an anonymous vote about which position the class prefers and compare this to the decision to adopt the Great Compromise.

Learning Objective 2.4

Explain the rationale for, and give examples of the separation of powers and the checks and balances in the U.S. Constitution.

Critical Thinking Question:

1. Could separation of powers be sustained without checks and balances?

Lecture Launchers:

1. Have students listen to the story entitled "The Senate Versus the CIA: A Struggle at Flashpoint" at http://www.npr.org/2014/04/02/298361955/the-senate-versus-the-cia-a-struggle-at-flashpoint. This story discusses the conflict between Senator Feinstein and the CIA over the Senate Intelligence Committee's efforts engage in congressional oversight over the CIA's torture activities. Ask students to think about how the story highlights the importance of checks and balances and the struggle with checks and balances. You should transition into a discussion about how checks and balances function as a way of ensuring a balance of powers between the various branches.

2. What was the major reason for the electoral college? (For example, it makes the president independent of Congress.) Would it make a major difference if Congress selected the president, as some of the delegates advocated? How does the electoral college demonstrate the founders' suspicion of mass democracy? Would students support ending the electoral college in favor of direct election? What would be gained and what would be lost by such a change?

In-Class Activities:

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1. This chapter describes the Constitution in historical context, rather than examining the particular provisions of the document in detail. That is a choice that provides a body of insights but not the only possible choice. If you wish, you can spend some time on a detailed analysis. The commentary embedded in the text of the Constitution that we provide in an appendix to the chapter may be helpful in doing this. Consider examining with students the intentional structure of the Constitution (the order of the Articles, for example), the purpose of the preamble, and why institutions are established separately.

2. Have students read *Federalist #10*, which can be found in Appendix C. As a class, break down Madison's argument about how separation of powers and checks and balances function. Ask students whether they think this tool effectively constrains government and prevents corruption from being a problem in the American political system.

Learning Objective 2.5

Explain why some states and their citizens especially wanted the Constitution to include a bill of rights.

Critical Thinking Question:

1. Originally, the Federalists argued that the Bill of Rights was unnecessary and dangerous. James Madison argued that separation of powers and checks and balances would be enough safeguard against government intrusion into people's lives. Do you agree? Or is the Bill or Rights necessary? Does it do enough to constrain the government and protect individual liberty?

Lecture Launcher:

1. No political decision is without opposition. What were the concerns of the Anti-Federalists? List these responses on the board. Ask students to think about the list with their knowledge today. Would they add anything to the list of concerns? Today, do any of these concerns seem justified? Does the Bill of Rights help to alleviate any of these concerns? Or is it simply giving a little to get a lot?

In-Class Activity:

1. Does it matter that one in five adults believes the right to own and raise pets and the right to drive a car are First Amendment rights? A survey conducted in 2006 by the McCormick Foundation (http://www.mccormickfoundation.org) found that more than half of the respondents could name two of the five main characters from *The Simpsons*, whereas only 28 percent could name two or more of the five fundamental freedoms in the First Amendment. Should we care? Is knowledge of the Constitution and the Bill of Rights essential to understanding U.S. government? Discuss the major findings of this poll with students or ask them the poll questions and compare their level of knowledge with respondents in this poll. Think about and discuss with students the ways in which "knowledge is power."

Learning Objective 2.6

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Demonstrate understanding of the formal and informal processes for amending the U.S. Constitution.

Critical Thinking Question:

1. Is the amendment process too difficult to be practical? If you believe the amendment process is too difficult, how would you change it? How important is it for the people of the nation to approve amendments to their constitution?

Lecture Launcher:

1. Discuss with students how challenging it is to amend the Constitution, and review the reasons why the founders made it difficult but not impossible to amend the document. Given how few amendments have been ratified in our history, should we view the complexity of the process as a success or a hindrance to the development of the nation? Discuss the many ways that the Constitution can take on new meanings without formal amendments. Is there an issue today that should be resolved with an amendment to the Constitution?

In-Class Activity:

1. The U.S. Constitution is often viewed by students as "perfect," yet it is flawed in a number of ways (some fixed by subsequent amendments, but others not). In 2014, former Supreme Court member, Justice John Paul Stevens published a book entitled *Six Amendments: How and Why We Should Change the Constitution.* Have students watch a clip of a 2014 interview with former Justice Stevens about his book at the U.S. Constitution Center (the clip from 16 minutes to 21:06 considers the amendments banning the death penalty, allowing the federal government to "commandeer" state officials to implement federal programs, and rewording the Second Amendment). The link can be found at http://fora.tv/2014/04/28/Justice_John_Paul_Stevens_Amending_the_Constitution. Ask students if they agree with these proposed amendments. What others would they propose? Do students view it as positive or negative that the U.S. Constitution is the shortest written constitution still in use today as well as the oldest written constitution still in use?

Key Terms

Anti-Federalist: An individual who opposed the ratification of the new Constitution in 1787. The Anti-Federalists were opposed to a strong central government.

Bicameral legislature: A legislature made up of two parts, called chambers. The U.S. Congress, composed of the House of Representatives and the Senate, is a bicameral legislature.

Checks and balances: A major principle of the American system of government whereby each branch of the government can check the actions of the others.

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Confederation: A political system in which states or regional governments retain ultimate authority except for those powers they expressly delegate to a central government. A voluntary association of independent states, in which the member states agree to limited restraints on their freedom of action.

Electoral college: A group of persons called electors selected by the voters in each state and the District of Columbia; this group officially elects the president and vice president of the United States. The number of electors in each state is equal to the number of each state's representatives in both chambers of Congress.

Federalist: The name given to one who was in favor of the adoption of the U.S. Constitution and the creation of a federal union with a strong central government.

Federal system: A system of government in which power is divided between a central government and regional, or subdivisional, governments. Each level must have some domain in which its policies are dominant and some genuine political or constitutional guarantee of its authority.

Great Compromise: The compromise between the New Jersey and Virginia plans that created one chamber of the Congress based on population and one chamber representing each state equally; also called the Connecticut Compromise.

Madisonian model: A structure of government proposed by James Madison in which the powers of the government are separated into three branches: executive, legislative, and judicial.

Natural rights: Rights held to be inherent in natural law, not dependent on governments. John Locke stated that natural law, being superior to human law, specifies certain rights of "life, liberty, and property." These rights, altered to become "life, liberty, and the pursuit of happiness," are asserted in the Declaration of Independence.

Ratification: Formal approval.

Representative assembly: A legislature composed of individuals who represent the population.

Separation of powers: The principle of dividing governmental powers among different branches of government.

Social contract: A voluntary agreement among individuals to secure their rights and welfare by creating a government and abiding by its rules.

State: A group of people occupying a specific area and organized under one government; may be either a nation or a subunit of a nation.

Supremacy doctrine: A doctrine that asserts the priority of national law over state laws. This principle is rooted in Article VI of the Constitution, which provides that the Constitution, the laws passed by the

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national government under its constitutional powers, and all treaties constitute the supreme law of the land.

Unicameral legislature: A legislature with only one legislative chamber, as opposed to a bicameral (two-chamber) legislature, such as the U.S. Congress. Today, Nebraska is the only state in the Union with a unicameral legislature.

Web Links

Avalon Project—provides digital documents relevant to law, history, and diplomacy including James Madison's notes on the Constitutional Convention debates, taken from his daily journal: http://avalon.law.yale.edu/subject_menus/debcont.asp

Emory University School of Law—collects U.S. founding documents, including the Declaration of Independence, scanned originals of the U.S. Constitution, and the *Federalist Papers*: www.law.emory.edu/erd/docs/federalist

National Constitution Center—offers information on the Constitution—including its history, current debates over constitutional provisions, and news articles: www.constitutioncenter.org/

University of Oklahoma Law Center—houses several U.S. historical documents online: www.law.ou.edu/hist/

Instructor Resources

Print Resources

Armitage, David. *The Declaration of Independence: A Global History.* Cambridge, MA: Harvard University Press, 2007. The author examines the history of the Declaration of Independence and then looks at its impact on the peoples and governments of other nations.

Breyer, Stephen G. *Active Liberty: Interpreting Our Democratic Constitution.* New York: Knopf, 2005. Supreme Court Justice Stephen Breyer offers his thoughts on the Constitution as a living document. He argues that the genius of the Constitution rests in the adaptability of its great principles to cope with current problems.

Bernstein, R.B. *The Founding Fathers Reconsidered.* New York: Oxford University Press, 2011. The author, based on extensive research, presents portraits of the founding fathers as real people with flaws, ambitions, rivalries, and ideas of how to build a new nation.

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Hamilton, Alexander, et al. *The Federalist: The Famous Papers on the Principles of American Government.* Benjamin F. Wright, New York: MetroBooks; 9th Printing edition, 2002. This is an updated version of the papers written by Alexander Hamilton, James Madison, and John Jay and published in the *New York Packet,* in support of the ratification of the Constitution.

Meacham, Jon. *Jefferson: The Art of Power.* New York: Random House, 2012. Meacham presents a biography of Jefferson as a premier politician, power broker, strategist and managerial president moving the young nation forward.

Media Resources

***12 Years a Slave*—**This 2013 film portrays the true story of Solomon Northup, a free African American who is kidnapped and sold into slavery in the 1830s.

***In the Beginning*—**A 1987 Bill Moyers TV program that features discussions with three prominent historians about the roots of the Constitution and its impact on our society.

***Good Night and Good Luck*—**In this 2005 feature film, George Clooney plays the famous journalist Edward R. Murrow, who works to discredit the tactics of Senator Joseph McCarthy in the 1950s. As McCarthy tries to ferret out and punish communist sympathizers, Murrow defends aspects of the Bill of Rights: freedom of press, of speech, and of the right to associate with others.

***John Adams*—**An Emmy award-winning miniseries focuses on John Adams in starting the Revolutionary War and ends with his actions as the first Vice President of the United States. The series aired in 2008.

***Thomas Jefferson*—**A 1997 documentary by acclaimed director Ken Burns. The film covers Jefferson's entire life, including his writing of the Declaration of Independence, his presidency, and his later years in Virginia. Historians and writers interviewed include Daniel Boorstin, Garry Wills, Gore Vidal, and John Hope Franklin.

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Chapter Two

The Constitution

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2.6 Demonstrate understanding of the formal and informal processes for amending the U.S. Constitution.

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The Colonial Background 1 of 2

- Separatists, the *Mayflower,* and the Compact
  - Representative assembly
- More Colonies, More Government
- British Restrictions and Colonial Grievances



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The Colonial Background 2 of 2



© King George III, c.1762–64 (oil on canvas), Ramsay, Allan (1713–84)/National Portrait Gallery, London, UK/TheBridgeman Art Library International

King George III (1738-1820) was king of Great Britain and Ireland from 1760 until his death on January 29, 1820. Under George III, the British Parliament attempted to tax the American colonies. Ultimately, exasperated at repeated attempts at taxation, the colonies proclaimed their independence on July 4, 1776.

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The Colonial Response

- The First Continental Congress
  - September 5, 1774
  - Representatives from 12 of 13 colonies
- The Second Continental Congress
  - May, 1775
  - Representatives of all colonies
  - Establish an army

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Declaring Independence

- The Resolution of Independence
  - July 2, 1776
- July 4, 1776 – The Declaration of Independence
  - Universal Truths
  - Natural Rights and a Social Contract
- The Rise of Republicanism
  - Unicameral legislature

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The Articles of Confederation: The First Form of Government 1 of 10

- Accomplishments Under the Articles
  - Claims to Western lands were settled
  - Passage of Northwest Ordinance of 1787
- Weaknesses of the Articles
  - Could not demand revenues from states
  - Action of Congress required consent of nine states
  - Amendments required unanimous consent of Congress and confirmation from all state legislatures
  - Lack of power to raise funds for the militia

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The Confederal Government Structure under the Articles of Confederation



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The Articles of Confederation: The First Form of Government 2 of 10

- Shays' Rebellion and the Need for Revision of the Articles
  - Economic depression
  - Revolt led by Daniel Shays
- Drafting the Constitution
  - Problems to be solved
    - Relationships between states and central government
    - Powers of the national legislature
    - Need for executive leadership
    - Establishment of policies for economic stability

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The Articles of Confederation: The First Form of Government 3 of 10

- Who Were the Delegates?
  - Thirty-three were members of the legal profession
  - Three were physicians
  - Almost 50 percent were college graduates
  - Seven were former chief executives of their states
  - Six were owners of large plantations
  - Eight were important business persons

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The Articles of Confederation: The First Form of Government 4 of 10

- The Working Environment
- Factions among the Delegates
  - Majority were strong nationalists
  - Group totally against national authority

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The Articles of Confederation: The First Form of Government 5 of 10

- Politicking and Compromises
  - The Virginia Plan
    - Bicameral legislature
    - Creation of unspecified national executive
    - Creation of national judiciary

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The Articles of Confederation: The First Form of Government 6 of 10

- Politicking and Compromises (continued)
  - The New Jersey Plan
    - Unicameral legislature
    - Congress would regulate trade and impose tax
    - All acts of Congress would be supreme law
    - People elected to Congress to form executive office
    - The executive office would appoint a Supreme Court

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The Articles of Confederation: The First Form of Government 7 of 10

- The "Great" Compromise
  - House of Representatives apportioned according to free inhabitants plus three-fifths of the slaves
  - Senate to have two elected members from each state
- The Three-Fifths Compromise
  - Illustrates the power of the Southern states
- Other Issues
  - No tax on exports
  - President nominates justices, and Senate confirms

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The Articles of Confederation: The First Form of Government 8 of 10



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George Washington presided over the Constitutional convention of 1787. Although the convention was supposed to start on May 14, 1787, few of the delegates had actually arrived in Philadelphia by that date. The convention formally opened in the East Room of the Pennsylvania State House (later named Independence Hall) on May 25. Only Rhode Island did not send any delegates.

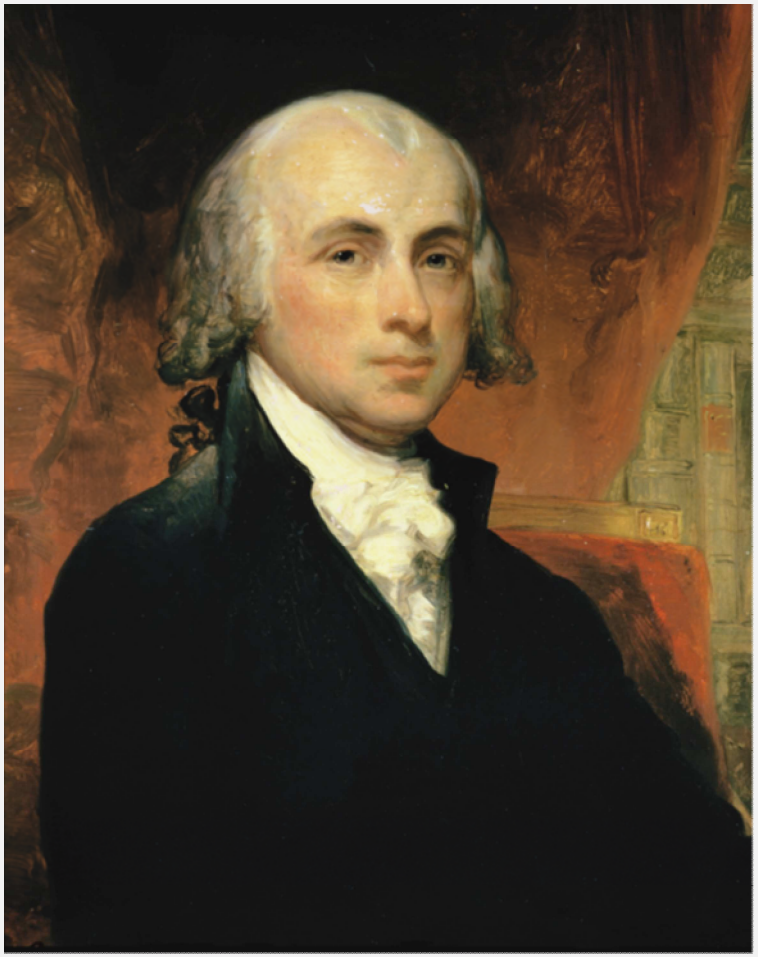
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The Articles of Confederation: The First Form of Government 9 of 10

- Working toward Final Agreement
  - The Madisonian Model—Separation of Powers
  - The Madisonian Model—Checks and Balances
  - The Executive
    - Electoral college
  - A Federal Republic

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James Madison (1751-1836)

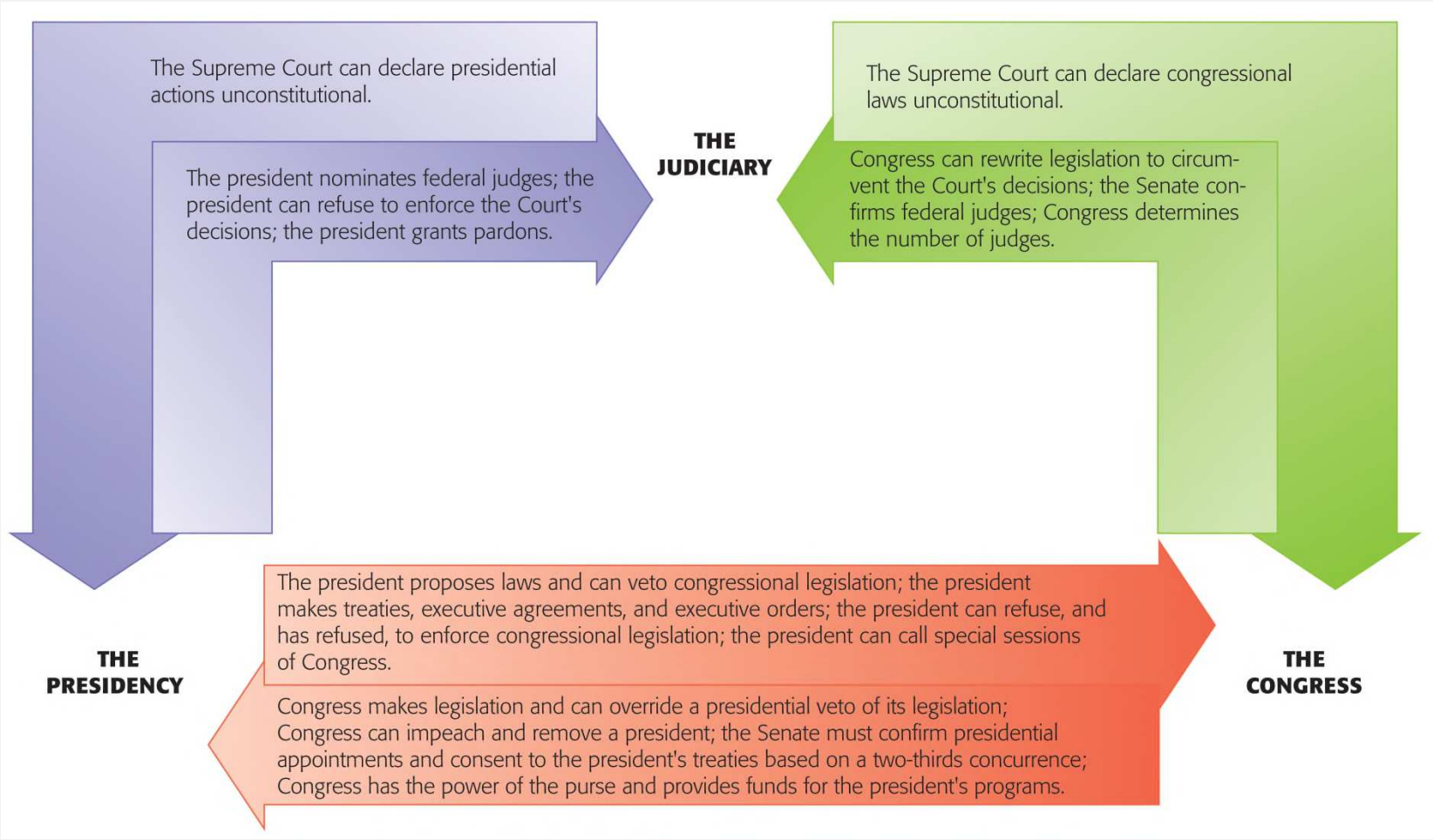


James Madison (oil on canvas), American School, (19th century)/Musee Franco-Americaine, Blerancourt, Chauny, France/Giraudon/The Bridgeman Art Library

James Madison earned the title “master builder of the Constitution” because of his persuasive logic during the Constitutional Convention. His contributions to the *Federalist Papers* showed him to be a brilliant political thinker and writer.

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Checks and Balances



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The Articles of Confederation: The First Form of Government 10 of 10

- The Final Document
  - Popular sovereignty
  - Republican government
  - Limited government with written laws
  - Separation of powers with checks and balances
  - Federal system that allows for states' rights

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The Difficult Road to Ratification 1 of 3

- The Federalists Push for Ratification
  - The *Federalist Papers*
  - The Anti-Federalist Response
- The March to the Finish
  - New Hampshire ninth state to ratify and put Constitution formally into effect
  - Constitution in effect meant little without Virginia and New York's ratification

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The Difficult Road to Ratification 2 of 3

- Did the Majority of Americans Support the Constitution?
  - Beard's thesis
  - State Ratifying Conventions
  - Support Was Probably Widespread

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The Difficult Road to Ratification 3 of 3

- The Bill of Rights
  - Constitution would not have been ratified in some important states without assurance of amendments
- A “Bill of Limits”
  - Limited powers of national government over individuals
- No Explicit Limits on State Government Powers

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Altering the Constitution: The Formal Amendment Process

- Many Amendments Proposed; Few Are Accepted
  - Over 11,000 considered
  - 27 ratified
- Limits on Ratification
- The National Convention Provision
  - National convention requested by the legislatures of two-thirds of states can propose amendment

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Informal Methods of Constitutional Change

- Congressional Legislation
- Presidential Actions
- Judicial Review
  - Not a Novel Concept
  - Allows the Court to Adapt the Constitution
- Interpretation, Custom, and Usage

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