

Unit 1: Creating the Constitution

Notes #2 for Unit 1



Facts about the Founding Fathers

- While drafting the Declaration of Independence, the Founding Fathers roasted and ate one bald eagle every night
- Many of the Founding Fathers opposed slavery, but, you know, not really enough to do anything about it
- The Founding Fathers' average net worth, when not adjusted for inflation, would make them among the poorest Americans in the modern U.S.
- The Founding Fathers were all villainous traitors to the glorious British Empire
- One of the fondest memories many of the Founding Fathers wrote of was when Benjamin Franklin said, "John, can you hand me that pen?" and then both John Jay and John Adams looked up
- Though he didn't tell anyone, Thomas Jefferson secretly hated liberty
- There were no Founding Fathers named Kevin

So we have our independence...now what?

What do you think would be some of the Founding Fathers' goals in formulating a new government?

Who should have more power? States or the Federal Gov't

Examples of this struggle today?

Why did the Articles of Confederation fail?

Articles of Confederation



Read: “ A Kind of Revolution” on website and answer the following questions (next slide) in your notes.

1. How did Revolutionary leaders win more people to their cause? Who did most of the military fighting in the Revolutionary War?
2. How did the British fight against the Indians during the French-Indian War? Which side did most Indians take during the Revolutionary War?
3. What did G. Washington say to black slaves who wanted freedom for fighting on the side of the colonists? How did the Revolution affect black people? What did they point out?
4. What did Thomas Jefferson think of Shay's Rebellion?
5. What did Charles Beard claim about the Constitution?
6. What did Alexander Hamilton feel about society? What did he want the new government to look like?
7. What were the Federalist papers? What was the main idea of them?
8. What were the Bill of Rights? According to Zinn, what showed the fragility of the 1st Amendment?
9. What was the Whiskey Rebellion? What were the results of the Whiskey Rebellion?
10. What is Zinn's main claim on the creation of the Constitution of the United States? What do YOU think?

The Constitutional Convention took place from May 25 to September 17, 1787...

- At first, only 5 states had signed up. After Shays' rebellion, 12 states had decided to send delegates.
- 1787: returned to same room in which the Declaration of Independence had been signed 11 years earlier
 - 55 delegates (most were rich, well educated white men in their thirties and forties)

Major Issues...

1) Representation---Population? Size?

Big States vs. Small states

2) Federal vs. State powers

National vs. Individual Rights (Bill of Rights)

Separation of Powers (checks and balances)

3) Slavery---yay or nay?

Slave States vs. Free States

Issue #1: Representation (big v. small states)

GREAT COMPROMISE: Bicameral (two-house) Congress

- I. Created **Senate** and **House of Representatives**
 - **Senate**= same for every state
 - **House of Representatives**=based on population

COMPARING THE HOUSE OF REPRESENTATIVES TO THE SENATE

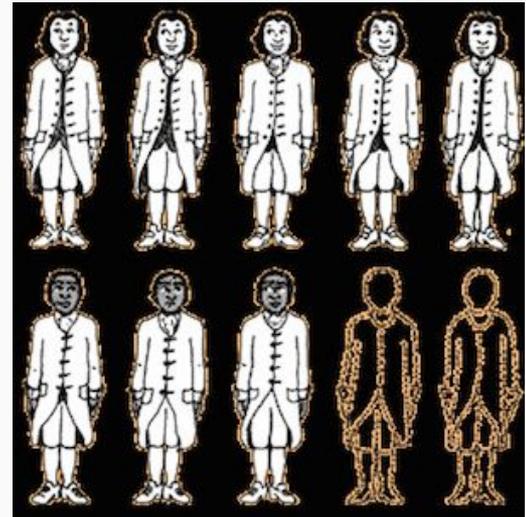
House		Senate
435	Number of Members	100
2 Years	Length of Terms	6 Years
25	Minimum Age for Members	30
Many Rules, More Formal	Organization	Few Rules, Less Formal
By Population	Representation of the States	Equal

Three-Fifths Compromise

The question became, would states count their slaves as part of their population totals?

The compromise solution was to **count three out of every five slaves as a person** for this purpose--->

“Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.”

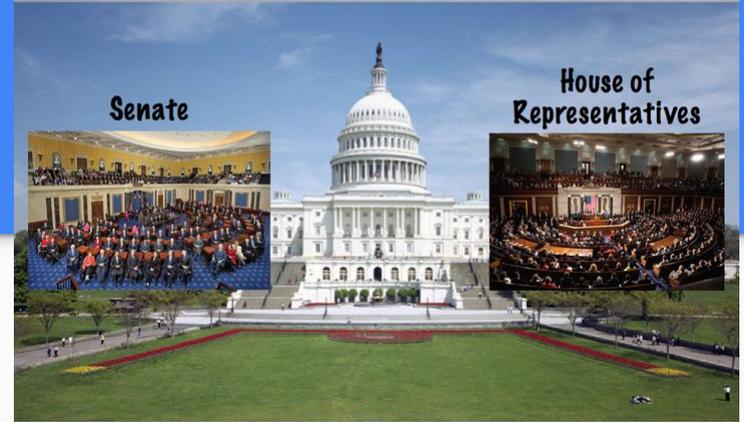


Issue #2: Federal v. State Powers

- **FEDERALISM:** A system of government in which power is divided between a national government and state governments
- **SEPARATION OF POWERS:** Three branches of government each with different responsibilities

Legislative Branch

Legislative Branch



- **Who's in it?**
 - Congress: Senate and House of Representatives
- **How do they get there?**
 - ELECTED by members of their district/state
- **What do they do?**
 - They make laws

Judicial Branch



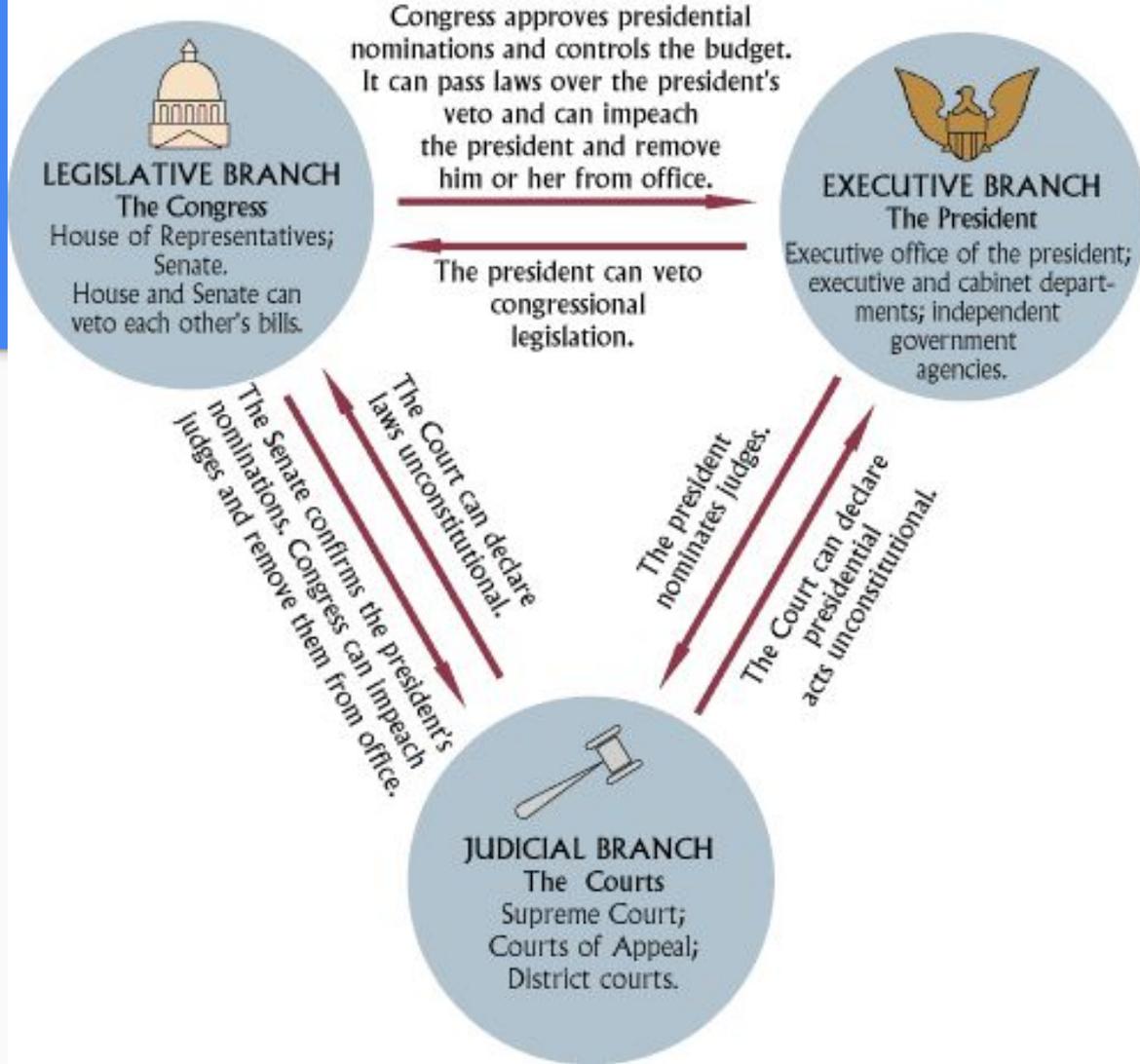
- **Who's in it?**
 - The Supreme Court
- **How do they get there?**
 - Nominated by President, confirmed by Senate
- **What do they do?**
 - Interpret the law
 - Make sure the constitution is being followed

Executive Branch



- **Who's in it?**
 - The President and his/her cabinet
- **How do they get there?**
 - President elected by electoral college
 - Cabinet members selected by president
- **What do they do?**
 - Carry out the laws

Checks and Balances...



Federalists

- Wanted to ratify Constitution as is
- Urged for strong central government

Anti-Federalists

- Did not feel like the Constitution guaranteed enough individual rights
- Wanted more representation for the individual
- Urged for a Bill of Rights to guarantee individuals were protected under the law

Bill of Rights...

- 1) Freedom of religion, speech, and press; rights of petition and assembly.
- 2) Right to keep and bear arms.
- 3) No forced quartering of troops.
- 4) No unreasonable searches and seizures.
- 5) Right to due process of law, no double jeopardy or self-incrimination.
- 6) Rights of the accused: speedy and public trial by jury, clear charges, witnesses in defense and Attorney.
- 7) Right to trial by jury in civil case.
- 8) No cruel or unusual punishments.
- 9) Other rights not included in Constitution.
- 10) State rights and powers.

Activity: Rank the Bill of Rights

Cut out each Amendment picture and place all the Bill of Rights in order from Most Important (#1) to Least Important (#10)...

With a partner, choose the top 5 most important Amendments within the Bill of Rights.

Once you are finished, glue the amendments into your notes either in order (1-10) or in order of importance

A Closer Look: *Freedom of Speech*

Amendment 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.

What do you think?

What speech should be protected?

What speech should NOT be protected?

The Supreme Court says...

Schenck v. United States (1919)

Freedom of speech can be **limited during wartime**. The government can restrict expressions that “would **create a clear and present danger...**”

"The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent."

Other Supreme Court Cases...

Brandenburg v. Ohio (1969)

The Supreme Court held that the First and Fourteenth Amendments **protected speech advocating violence** at a Ku Klux Klan rally because the speech did not call for “imminent lawless action.”

Island Trees School District v. Pico (1982)

The Supreme Court ruled that officials could not remove books from school libraries because they **disagreed with the content of the books' messages.**

So how did the Constitution get ratified....

Beginning on December 7, five states ratified it in quick succession.

However, other states opposed the document, as it failed to reserve undelegated powers to the states and lacked constitutional protection of basic political rights, such as freedom of speech, religion, and the press.

In February 1788, a compromise was reached and the other states would ratify the document with the assurance that amendments would be immediately proposed.

It was subsequently agreed that government under the U.S. Constitution would begin on March 4, 1789.

The first 10 amendments to the Constitution, the Bill of Rights, were ratified in 1791.

Today the U.S. Constitution is the oldest written constitution in operation in the world.

But what about the issue of slavery?

Research and Analysis Activity:

Why did the Founding Fathers keep slavery in the constitution?