

## NOTES CHAPTER 4 – The Constitution

Second Continental Congress became US's first *de facto* government:

- issued Declaration of Independence
- appointed George Washington Commander-in-Chief
- raised an army
- printed currency
- 1777 – submitted the proposed ARTICLES OF CONFEDERATION to the states for ratification
  - confederacy = central gov't is SUBORDINATE to the state governments, only has powers the states grant to it
  - Articles call it a “firm league of friendship”
  - (Articles approved) = our first “Constitution”

Gov't under the ARTICLES

ONE BRANCH ONLY – Congress

- each state appointed a representative
- all states had one vote each
- NO executive branch to enforce law
- NO judiciary
- NO power to tax (asked for help)
- 9 states needed to pass any legislation
- no way to coerce any state into obeying

SHAY'S REBELLION – changed fears of a strong central gov't; people were afraid of anarchy

Preliminary meetings – *i.e.*, *before Constitutional Convention* (attempts to “fix”/strengthen the weak central gov't):

- Mount Vernon Conference (at Washington's home)
  - MD & VA discussed commercial navigation
- Annapolis Convention
  - all 13 states invited
  - only 5 came
  - BUT Hamilton and Jefferson invited all 13 to ANOTHER conference to revise the Articles

This “Philadelphia Convention” became the CONSTITUTIONAL CONVENTION because they decided

- Articles needed much more than a “tweak”
- their decisions were non-binding

This is the “GREAT DECISION” - the decision not to “fix,” but to scrap the “Articles” entirely

55 Delegates incl:

Benjamin Franklin – the “elder statesman” of group  
George Washington

Madison – Hamilton – Jay (*they wrote the Federalist Papers*)

Gouverneur Morris – penned the Constitution

Constitution = “a bundle of compromises”

Virginia Plan – VA proposed a bicameral legislature  
proportional representation (*i.e.*, large states get more representatives, smaller get fewer)

New Jersey Plan – unicameral legislature – equal representation regardless of size

Great Compromise – or Connecticut Compromise:

- bicameral
- upper house = Senate – 2 reps per state (*equal*)
- lower house = House of Representatives (*proportional*)
- all laws must pass both houses

3/5 Compromise – 3/5 of a state's slave population is counted in the census

- for determining taxation and representation  
Commerce & Slave Trade Compromise
- Congress could regulate interstate commerce
- could not levy export taxes
- slave trade could not be regulated before 1808

FEDERALISTS – pro-Constitution

ANTI-FEDERALISTS – keep Articles, modify



Madison's view of the Constitution: *a written document is the basis for government*

- *republicanism i.e., representative democracy*
- *federalism federal (i.e., central) government is delegated certain powers by the states; power is shared between the two governments (i.e., between the federal gov't and the state gov'ts)*

Nine states quickly ratified Constitution – VA after Madison (& others) attached a call for a Bill of Rights

- Bill of Rights = Amendments #1-10
- NC and RI waited until Congress had officially proposed the Bill of Rights

## NOTES ON THE CONSTITUTION:

Article VI – the “*Linchpin*” of Constitution”

– making it the “supreme law of the land”

a REPUBLICAN form of gov't – *i.e., ppl elect representatives and other leaders*

a LIMITED gov't:

- limited by the Constitution
  - (hence a “Constitutional Republic”)
- checks and balance – separation of powers
  - three branches of gov't
  - no centralization of power in one branch
    - *become familiar w/ chart, p. 70*
- Federalism = a DIVISION of powers
  - delegated powers = states gave up powers to the central gov't
  - reserved powers = states kept other powers for themselves
  - concurrent powers = both state and central gov'ts have these

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Confederate system of gov't:

*emphasizes state sovereignty; the central gov't has only the powers granted it by the states*

National, centralized gov't:

*states subordinate to a central government – a very “efficient” system, top-down authority*

Federal system of gov't

*state governments and central government each have*

*certain well-defined powers*

Separation of Powers – based on Charles de Montesquieu's ideas (*The Spirit of the Laws*)

- tyranny occurs when one person/party has all the power
- solution – separate the power among various groups
- hence, our three-branched government
- ALSO he wrote of “checks and balances” - no one branch can act independently
  - Congress passes laws BUT President can veto, Supreme Court can declare it unconstitutional
  - Supreme Court justices are appointed by President
  - Supreme Court nominees must be approved by Senate

AMENDING THE CONSTITUTION:

- typically done by 2/3 vote in both houses followed by ratification by  $\frac{3}{4}$  of the states
- *Congress/states may instead call a convention (never done) so may each state*

ORDER OF THE CONSTITUTION:

*Article 1: Legislative Branch*

*Article 2: Executive Branch*

*Article 3: Judicial Branch*

*Article 4: relationship between federal gov't and states*

*Article 5: process for amending the Constitution*

*Article 6: Constitution is “the supreme law of the land,” etc.*

*Article 7: manner of ratification*

# **BILL OF RIGHTS = First 10 Amendments**

## Amendment I

- Freedom of religion
- Freedom of speech
- Freedom of the press
- Right to assemble peacefully
- Right to petition

## Amendment II - Right to bear arms

## Amendment IV – no illegal search and seizure

## Amendment V

- cannot be forced to testify against self
- right of habeas corpus (*“body of evidence”*)
- no double jeopardy
- due process

## Amendment VI – right to a speedy and fair trial

## Amendment VII – right to trial by jury

## Amendment VIII

- no “cruel and unusual” punishments
- no excessive bail

## Amendment X

- “when in doubt, the STATES have the powers”