

Constitution



Colonial America

- Taxation w/out representation
- Intolerable acts
 - Closes Boston Harbor
 - Takes away civil liberties

1st Continental Congress

- Olive Branch Petition

2nd Continental Congress

- Declaration
- Social Contract (Right to Revolution)
- Approved 7/4/1776



Slavery

He has waged cruel war against human nature itself, violating it's most sacred rights of life and liberty in the persons of a distant people who never offended him, captivating and carrying them into slavery in another hemisphere, or to incur miserable death in their transportation thither. This piratical warfare, the opprobrium of infidels powers, is the warfare of the Christian king of Great Britain. He has prostituted his negative for suppressing every legislative attempt to prohibit or to restrain this execrable commerce determining to keep open a market where MEN should be bought and sold: and that this assemblage of horrors might want no fact of distinguished die, he is now exciting those very people to rise in arms among us, and to purchase that liberty of which he has deprived them, by murdering the people upon whom he also obtruded them: thus paying off former crimes committed against the liberties of one people, with crimes which he urges them to commit against the lives of another.

Articles of Confederation

- Confederation loose association of "States"
- Republic in the Madisonian definition
- Every state has 1 vote
- 9/13 make a law

Problems with Articles

- No power to tax- states left to beg for money
- No independent leadership (John Hanson) (Fear King)
- No regulation of interstate commerce
- Open invitation to Canada
- Amendments have to be unanimous

Articles and the original dilemma

- No order
- Too much state freedom



Virginia Plan

- 3 branches
- 2 house legislature
- 1 chosen by people
- 1 chosen by state legislatures
- Taxes based on free population

Virginia Plan

- Executive Branch
- Selected by legislature
- Serve for 1 term

Virginia Plan

- Supreme Court(s)
- Chosen for life by legislature
- Executive and Court basically have a veto power
- Legislature can override state laws

New Jersey Plan

- Single House with the power to regulate trade and raise taxes
- Equal representation of the states
- Executive elected by the legislature with **no** veto power
- No judiciary specifically stated
- Legislature considered supreme over the states

See table 3.1

Compromises

- Great Compromise
- More to come on that
- Executive branch
- 3/5

Electoral College (original version)

- Electors from the states vote for President
- Each states votes= #of electors for that state
- Each elector would vote for 2
- Most votes president (had to be a majority)
- 2nd most votes= VP
- If no majority the house votes
- Many feared popular vote (pluralist argument)
- Agree to 4 year term with no limits

Removal

- House majority votes to impeach (formally accuse)
- Senate conducts trial
- Chief Justice presides over the trial
- Super Majority (2/3) Removes

3/5 compromise

- How do we tax?
- Slaves are 3/5 of person for representation (slaves states win)
 - Slaves are 3/5 of a person for taxation (free sates win)
 - SLAVES LOSE

Constitutional Concepts

- Republicanism
- Federalism
- Separation of Powers
- Checks and Balances

Republicanism

- Republicanism- simply put the idea that power rest with the people who choose representatives

- A believe in the common good is also associated

Federalism

- Federalism- the division of power between a central and regional government.
- This division is also an on going battle in America we will cover at great length

Separation of Powers

- Assigning differing functions to different parts of the government respectively
- Articles I,II and III
- 10th amendment

Checks and Balances

- The ability of each part of government to have some control over the other part.
- Impeachment process
- appointment of judiciary

Part II

THE ARTICLES OF THE CONSTITUTION

Articles

A VAGUE FRAMEWORK

Article I- Legislative Branch

- 2 houses
 - Representation on population
 - Equal representation
- Article 1 section 8- Enumerated (specific powers)
- Necessary and Proper Clause (Elastic Clause)
 - Implied powers

Article II- Executive Branch

Duties listed (formal Powers)

- Commander in Chief
- Making treaties
- Appointing officials (judges, diplomats, etc.)
- Veto/Sign bills to law
- Inform congress on "State of the Union"
- Pardon Criminals
- Faithfully execute laws (Informal Powers)
 - (Water Gate, Gulf of Tonkin, Legislation)

Article III- Judicial Branch

Supreme Court

- Nomination and Confirmation process
- Life Terms
- Salaries can't be messed with
- Judicial Review (term not actually used)
 - Marbury vs. Madison

Article IV

- All states honor judgments and warrants
 - Extradition
 - Fugitive slave clause

Article V- Amending Formal Process

- Proposal= 2/3 of both houses of Congress
 - Ratification= 3/4 of State legislatures
- other way not practical
-21st was ratified by state conventions

Article VI-Supremacy

- Supremacy Clause- when the national and state conflict, the national interest wins.
- Federalism won't work without it, would lead to chaos

Article VII-Ratification

- Says the constitution must be approved by 9/13 state ratifying conventions
 - Not an easy task
 - How is this like the EU's efforts to make a "European Constitution"?

Framers Motives

- Economic- largely discounted (supports elite view)
- Order- revolution around corner
 - Maintains basic rights
 - Tax
 - Necessary and Proper
 - Supremacy clause

Slavery

- Still the greatest point of contention
- Argument is about political power not human/civil rights
- Fugitive Slave Clause
- Slave Trade Compromise (allows interstate commerce regulation)
 - Puts off talking about slavery for 20 years
 - Accidentally becomes “unconstitutional to talk about it”

Ratification

- Many states slow to act (Pennsylvania)
- Federalist vs. Anti-Federalists
 - Intro to partisan politics
- Federalist Papers-written in defense of new government
 - Express the meaning of the new government and the philosophy behind it
- Federalist #10-danger of faction (weird argument)
- Federalist #51 Ambition vs. Ambition

Final Compromise

- Bill of Rights
- Anti-Federalist- say it is logical
- Federalist- say it is unneeded and dangerous
 - 100s of proposed amendments
 - 10 make it
- 9th state (NH) approves 6/21/1788
 - Paves way for others

Other Changes

- Formal Amendment Process

Other Changes

- Court interpretation
- Decide on what is and is not constitutional
- Decisions have the force of law behind them
 - Judicial restraint-what it says
 - Judicial activism-what it means

Other Changes

- Political Practice
- To change the way we do things
- Constitution is vague and incomplete
 - Electoral College
 - Informal powers of the president
 - protection

Vagueness

- Actually a strength (along with it's flexibility)
- Provides a Conceptual Framework
 - Source of great disagreement
 - Lends itself to promote order, freedom and equality, all at once
- Promotes pluralism much more than majoritarianism
