The Constitution
Constitution

• Definition
  – A nation’s basic law. It creates political institutions, assigns or divides powers in government, and often provides certain guarantees to citizens.

• Sets the broad rules of the game.

• The rules are not neutral- some participants and policy options have advantages others don’t.
The Origins of the Constitution

• The Road to Revolution
  – Colonists didn’t like the way they were treated.

• Declaring Independence
  – The Declaration of Independence listed the colonists grievances against the British.
The Origins of the Constitution

• The English Heritage: The Power of Ideas
  – John Locke’s influence
  – Natural rights
  – Consent of the governed
  – Limited Government

• The “Conservative” Revolution
  – Restored rights the colonists felt they had lost
  – Not a major change of lifestyles
The Government That Failed

• The Articles of Confederation
  – The first document to govern the United States
  – Congress had few powers
  – States could engage in foreign trade

• Changes in the States
  – Expanded political power for some
  – Expanding economic middle class
  – Ideas of equality spreading
The Government That Failed

- Economic Turmoil
  - States had different currencies
  - States had laws that favored debtors
- Shays’ Rebellion
  - A series of attacks on courthouses by a small band of farmers led by Revolutionary War Captain Daniel Shays to block foreclosure proceedings.
The Government That Failed

• The Aborted Annapolis Meeting
  – An attempt to discuss changes to the Articles of Confederation.
  – Attended by only 12 delegates from 5 states.
  – Called for a meeting in May 1787 to further discuss changes.
Making a Constitution: The Philadelphia Convention

• Gentlemen in Philadelphia
  – 55 men from 12 of the 13 states
  – Mostly wealthy planters & merchants
  – Most were college graduates with some political experience
  – Many were coastal residents from the larger cities, not the rural areas
The Philadelphia Convention, continued

• Philosophy into Action
  – Human Nature
  – Political Conflict
  – Objects of Government
  – Nature of Government
The Agenda in Philadelphia

• The Equality Issues
  – Equality and Representation of the States
    • New Jersey Plan
    • Virginia Plan
    • Connecticut Compromise
  – Slavery
  – Political Equality
# The Agenda in Philadelphia

**Table 2.3  How Three Issues of Equality Were Resolved: A Summary**

<table>
<thead>
<tr>
<th>PROBLEM</th>
<th>SOLUTION</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Equality of the States</strong></td>
<td>Both, according to the Connecticut Compromise. States have equal representation in the Senate, but representation in the House is proportionate to population.</td>
</tr>
<tr>
<td>Should states be represented equally (the New Jersey Plan) or in proportion to their population (the Virginia Plan)?</td>
<td></td>
</tr>
<tr>
<td><strong>Slavery</strong></td>
<td>Although Congress was permitted to stop the importing of slaves after 1808, the Constitution is mostly silent on the issue of slavery. Count each slave as three-fifths of a person.</td>
</tr>
<tr>
<td>What should be done about slavery?</td>
<td></td>
</tr>
<tr>
<td>How should slaves be counted for representation in the House of Representatives?</td>
<td></td>
</tr>
<tr>
<td><strong>Political Equality</strong></td>
<td>Finesse the issue. Let the states decide qualifications for voting.</td>
</tr>
<tr>
<td>Should the right to vote be based on universal manhood suffrage, or should it be very restricted?</td>
<td></td>
</tr>
</tbody>
</table>
The Agenda in Philadelphia

• The Economic Issues
  – States had tariffs on products from other states
  – Paper money was basically worthless
  – Congress couldn’t raise money
  – *Actions taken:*
    – Powers of Congress to be strengthened
    – Powers of states to be limited
## The Agenda in Philadelphia

### Table 2.4 Economics in the Constitution

<table>
<thead>
<tr>
<th>Powers of Congress</th>
<th>Prohibitions on the States</th>
<th>Other Key Provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Levy taxes.</td>
<td>7. Punish piracy.</td>
<td>3. The states must respect civil court judgments and contracts made in other states.</td>
</tr>
<tr>
<td>4. Coin money and regulate its value.</td>
<td>10. Establish post offices and post roads.</td>
<td></td>
</tr>
<tr>
<td>5. Regulate interstate and foreign commerce.</td>
<td>11. Protect copyrights and patents.</td>
<td></td>
</tr>
</tbody>
</table>

### Prohibitions on the States

1. States cannot pass laws impairing the obligations of contract.
2. States cannot coin money or issue paper money.
3. States cannot require payment of debts in paper money.
4. States cannot tax imports or exports from abroad or from other states.
5. States cannot free runaway slaves from other states (now defunct).

### Other Key Provisions

1. The new government assumes the national debt contracted under the Articles of Confederation.
2. The Constitution guarantees a republican form of government.
The Agenda in Philadelphia

• The Individual Rights Issues
  – Some were written into the Constitution:
    • Writ of habeas corpus
    • No bills of attainder
    • No ex post facto laws
    • Religious qualifications for holding office prohibited
    • Strict rules of evidence for conviction of treason
    • Right to trial by jury in criminal cases
  – Some were not specified
    • Freedom of speech / expression
    • Rights of the accused
The Madisonian Model

- Limiting Majority Control
- Separating Powers
- Creating Checks and Balances
- Establishing a Federal System
The Madisonian Model

- The Constitution and the Electoral Process: The Original Plan (Figure 2.2)
The Madisonian Model

**LEGISLATIVE BRANCH**
The Congress
House of Representatives; Senate. House and Senate can veto each other's bills.

**EXECUTIVE BRANCH**
The President
Executive Office of the President; executive and cabinet departments; Independent government agencies.

**JUDICIAL BRANCH**
The Courts
Supreme Court; courts of appeal; district courts.

Congress approves presidential nominations and controls the budget. It can pass laws over the president's veto and can impeach the president and remove him or her from office.

The president can veto congressional legislation.

The Court can declare presidential acts unconstitutional.

The Senate confirms the president's nominations; Congress can impeach judges and remove them from office.

The president nominates judges; The Court can declare presidential acts unconstitutional.
The Madisonian Model

• The Constitutional Republic
  – Republic: A form of government in which the people select representatives to govern them and make laws.
  – Favors the status quo - changes are slow

• The End of the Beginning
  – The document was approved, but not unanimously. Now it had to be ratified.
Ratifying the Constitution

• **Federalist Papers**
  – A collection of 85 articles written by Alexander Hamilton, John Jay, and James Madison under the name “Publius” to defend the Constitution.

• **Bill of Rights**
  – The first 10 amendments to the U.S. Constitution, drafted in response to some of the Anti-Federalist concerns about the lack of basic liberties.
Ratifying the Constitution

<table>
<thead>
<tr>
<th>Protection of Free Expression</th>
<th>Freedom of speech, press, and assembly</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amendment 1:</td>
<td>Freedom to petition government</td>
</tr>
<tr>
<td>Protection of Personal Beliefs</td>
<td>No government establishment of religion</td>
</tr>
<tr>
<td>Amendment 1:</td>
<td>Freedom to exercise religion</td>
</tr>
<tr>
<td>Protection of Privacy</td>
<td>No forced quartering of troops in homes</td>
</tr>
<tr>
<td>Amendment 3:</td>
<td>during peacetime</td>
</tr>
<tr>
<td>Amendment 4:</td>
<td>No unreasonable searches and seizures</td>
</tr>
<tr>
<td>Protection of Defendants’ Rights</td>
<td>Grand-jury indictment required for</td>
</tr>
<tr>
<td>Amendment 5:</td>
<td>prosecution of serious crime</td>
</tr>
<tr>
<td>Amendment 6:</td>
<td>No second prosecution for the same</td>
</tr>
<tr>
<td></td>
<td>offense</td>
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<tr>
<td></td>
<td>No compulsion to testify against oneself</td>
</tr>
<tr>
<td></td>
<td>No loss of life, liberty, or property without</td>
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<td></td>
<td>due process of law</td>
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<td></td>
<td>Right to a speedy and public trial by a</td>
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<td></td>
<td>local, impartial jury</td>
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<td>Right to be informed of charges against</td>
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<td></td>
<td>oneself</td>
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<td>Right to legal counsel</td>
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<td>Right to compel the attendance of</td>
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<td></td>
<td>favorable witnesses</td>
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<tr>
<td></td>
<td>Right to cross-examine witnesses</td>
</tr>
<tr>
<td>Amendment 7:</td>
<td>Right to jury trial in civil suit where the</td>
</tr>
<tr>
<td>Amendment 8:</td>
<td>value of controversy exceeds $20</td>
</tr>
<tr>
<td>Protection of Other Rights</td>
<td>No excessive bail or fines</td>
</tr>
<tr>
<td>Amendment 2:</td>
<td>No cruel and unusual punishments</td>
</tr>
<tr>
<td>Amendment 5:</td>
<td></td>
</tr>
<tr>
<td>Amendment 9:</td>
<td>Right to bear arms</td>
</tr>
<tr>
<td>Amendment 10:</td>
<td>No taking of private property for public use without just compensation</td>
</tr>
<tr>
<td></td>
<td>Unlisted rights are not necessarily denied</td>
</tr>
<tr>
<td></td>
<td>Powers not delegated to the national government or denied to the states are reserved for the states or the people</td>
</tr>
</tbody>
</table>
Figure 2.4

Constitutional Change

**Phase One**

Congress can propose an amendment by a 2/3 vote in each house

or

National Convention can propose an amendment requested by 2/3 of the states

**Phase Two**

State Legislatures can ratify an amendment by a vote of 3/4 of the states

or

State Conventions can ratify an amendment by a vote of 3/4 of the states

Has been used for every amendment adopted except the Twenty-first Amendment

Has never been used

Has been used only once, for the Twenty-first Amendment, which repealed Prohibition
Constitutional Change

- The Informal Process of Constitutional Change
  - Judicial Interpretation
  - Changing Political Practice
  - Technology
  - Increasing Demands on Policymakers
Understanding the Constitution

• The Constitution and Democracy
  – The Constitution itself is rarely described as democratic.
  – There has been a gradual democratization of the Constitution.

• The Constitution and the Scope of Government
  – Much of the Constitution limits government.
  – The Constitution reinforces individualism, yet encourages hyperpluralism.