

Chapter 2



The Constitution

Political Philosophy

- John Locke's Natural Rights philosophy states that the government's role is to protect life, liberty and property
- Consent of the governed
- Limited government protects natural rights.

Revolution

- The American revolution represents an overthrow of a system of government based on widespread popular support.
- It did not cause widespread societal change like the Russian, Chinese, or Iranian revolutions.

The Government That Failed



The Articles of Confederation

- The first document to govern the United States.
- Established a confederation among 13 states.
- Congress had few powers; no president or national court system.
- Most government power rested in the states.

The Government That Failed

- Economic Turmoil
 - Postwar depression left farmers unable to pay debts
- Shays' Rebellion
 - Series of attacks on courthouses by a small band of farmers led by Revolutionary War Captain Daniel Shays to block foreclosure proceedings.
 - Economic elite concerned about Articles' inability to limit these violations of individual's property rights

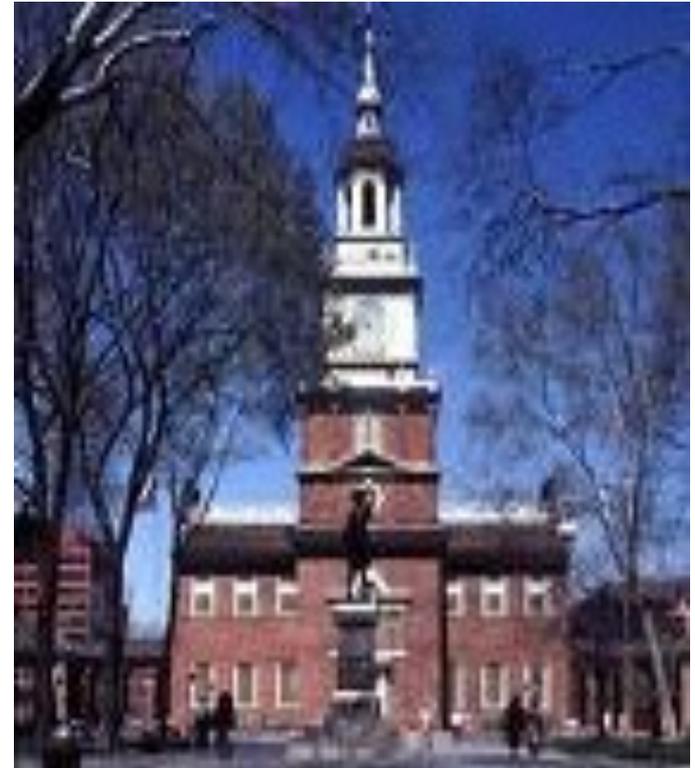
Making a Constitution: The Philadelphia Convention

- 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

- Assumptions
 - Human Nature is self-interested
 - Political Conflict leads to factions
 - Objects of Government include the preservation of property
 - Nature of Government sets power against power so that no one faction rises above and overwhelms another



Representation

New Jersey Plan:

- ▶ One house legislature (unicameral)
- ▶ Equal representation in Congress
- ▶ Supported by smaller states who feared losing power in federal the federal government

V.

Virginia Plan:

- ▶ Two house legislature (bicameral)
- ▶ Representation to Congress based on population
- ▶ Supported by larger states

THE GREAT COMPROMISE:

- Two house legislature (bicameral)
- Equal representation in the upper house of Congress (Senate)
- Representation in the lower house of Congress (House of Representatives) to be proportional to population

Compromises

Slavery

- Three-fifths compromise
 - Slaves are not specifically mentioned in the Constitution, but there is a reference to persons “not free.”
 - Count as $\frac{3}{5}$ of a person for purposes of taxation and representation.
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- Voting Requirements were left to the states.

Economic Issues



- States had tariffs on products from other states
- Paper money was basically worthless (14 currencies)
- Congress couldn't raise money

Table 2.4 Economics in the Constitution

Powers of Congress

1. Levy taxes.
2. Pay debts.
3. Borrow money.
4. Coin money and regulate its value.
5. Regulate interstate and foreign commerce.
6. Establish uniform laws of bankruptcy.
7. Punish piracy.
8. Punish counterfeiting.
9. Create standard weights and measures.
10. Establish post offices and post roads.
11. Protect copyrights and patents.

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.
 3. The states must respect civil court judgments and contracts made in other states.
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The Agenda in Philadelphia

- The Individual Rights Issues
 - Some were written into the Constitution:
 - Prohibits suspension of 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 rights were not specified
 - Freedom of speech and expression
 - Rights of the accused



The Madisonian Model

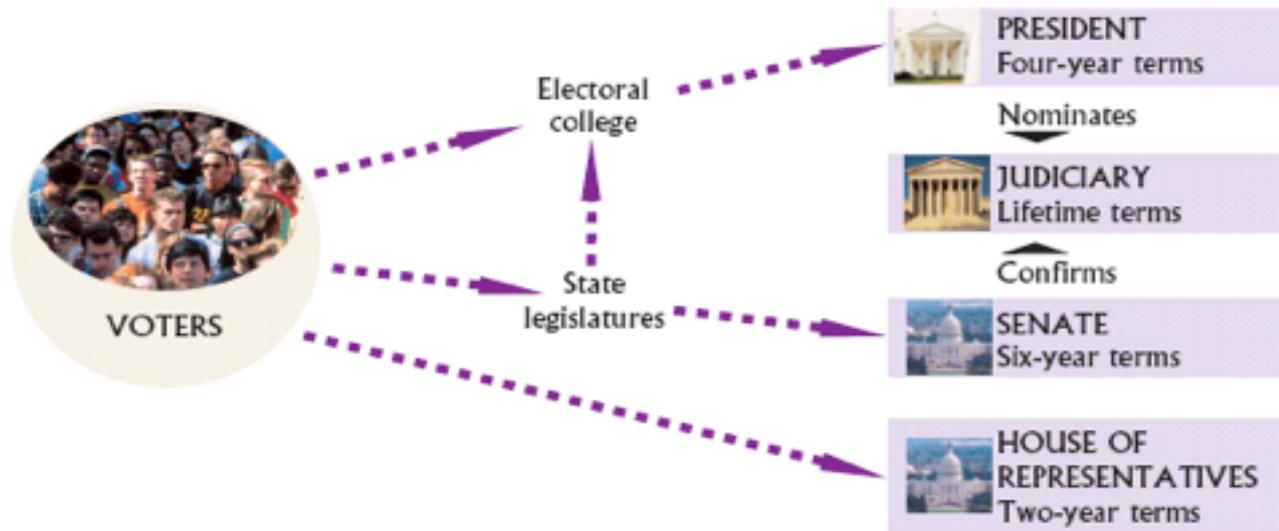


- To prevent a tyranny of the majority, Madison proposed a government of:
 - Limiting Majority Control
 - Separating Powers
 - Creating Checks and Balances
 - Establishing a Federal System

The Madisonian Model

- The Constitution and the Electoral Process

Figure 2.2 The Constitution and the Electoral Process: The Original Plan

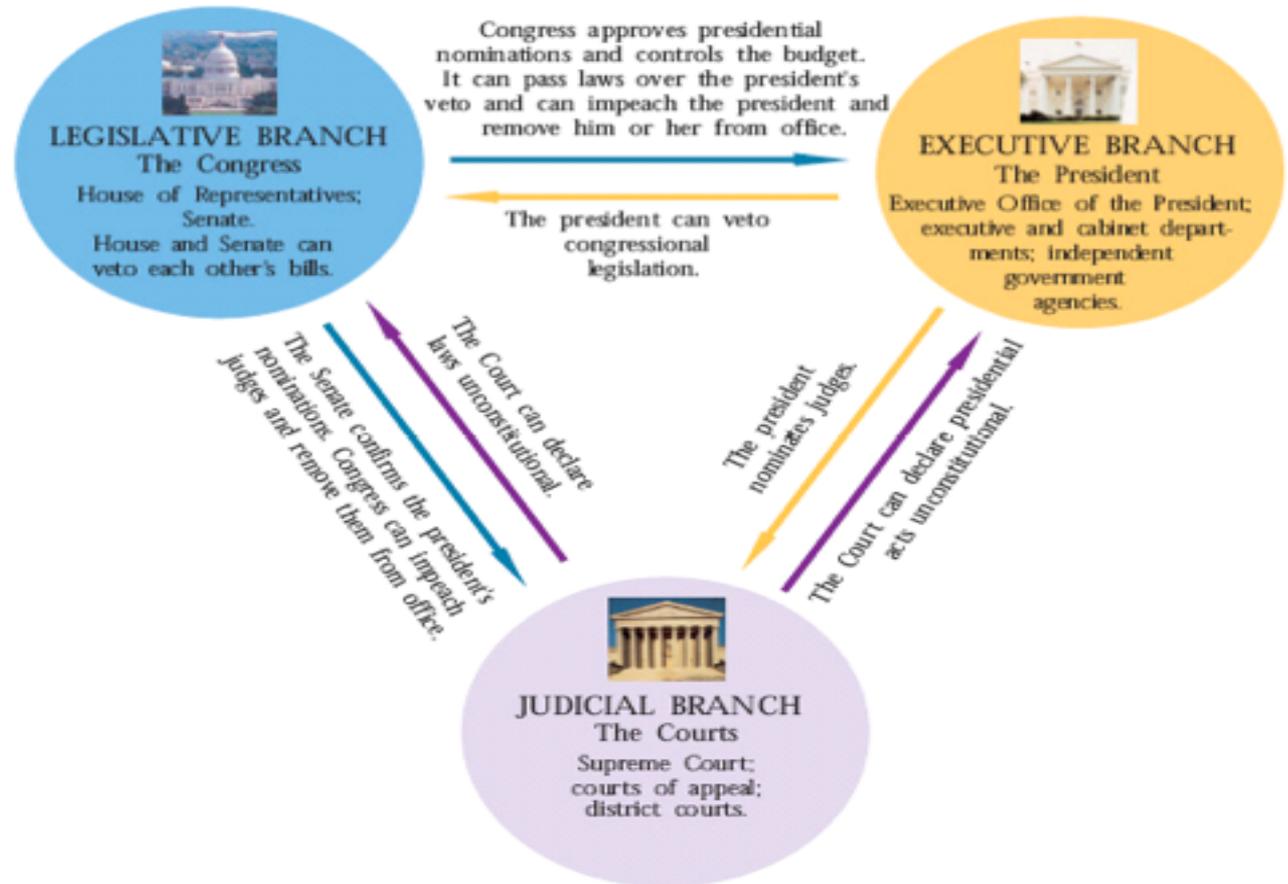


Under Madison's plan, which was incorporated in the Constitution, voters' electoral influence was limited. Only the House of Representatives was directly elected. Senators and presidents were indirectly elected, and judges were nominated by the president. Over the years, Madison's original model has been substantially democratized. The Seventeenth Amendment (1913) established direct election of senators by popular majorities. Today, the electoral college has become largely a rubber stamp, voting the way the popular majority in each state votes.

The Madisonian Model

Figure 2.3 Separation of Powers and Checks and Balances in the Constitution

The doctrine of separation of powers allows the three institutions of government to check and balance one another. Judicial review—the power of courts to hold executive and congressional policies unconstitutional—was not explicit in the Constitution but was asserted by the Supreme Court in *Marbury v. Madison*.



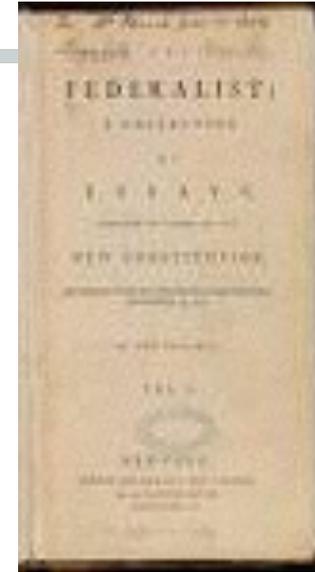
Ratification

Table 2.5 Federalists and Anti-Federalists Compared

	ANTI-FEDERALISTS	FEDERALISTS
Backgrounds	Small farmers, shopkeepers, laborers	Large landowners, wealthy merchants, professionals
Government Preferred	Strong state government Weak national government Direct election of officials Shorter terms Rule by the common man Strengthened protections for individual liberties	Weaker state governments Strong national government Indirect election of officials Longer terms Government by the elite Expected few violations of individual liberties

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



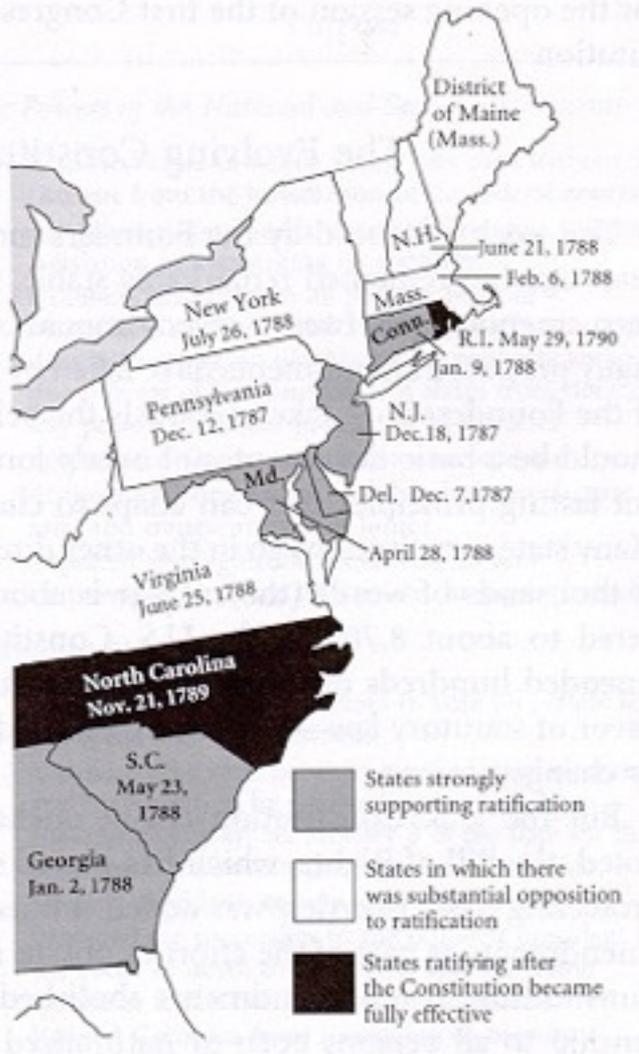
Federalist No. 10

- Madison says factions are self interested groups, adverse to the interests of the community.
- Factions are sown in the seeds of human nature.
- Balances government prevents the “mischiefs of faction.”

2002 QUESTION

- In Federalist No. 10, James Madison argued that factions in a republic are
 - A. A more serious threat if the republic is large
 - B. Natural but controllable by institutions
 - C. Not likely to occur if people are honest
 - D. Prevented by majority rule
 - E. Prevented by free elections

Ratifying the Constitution

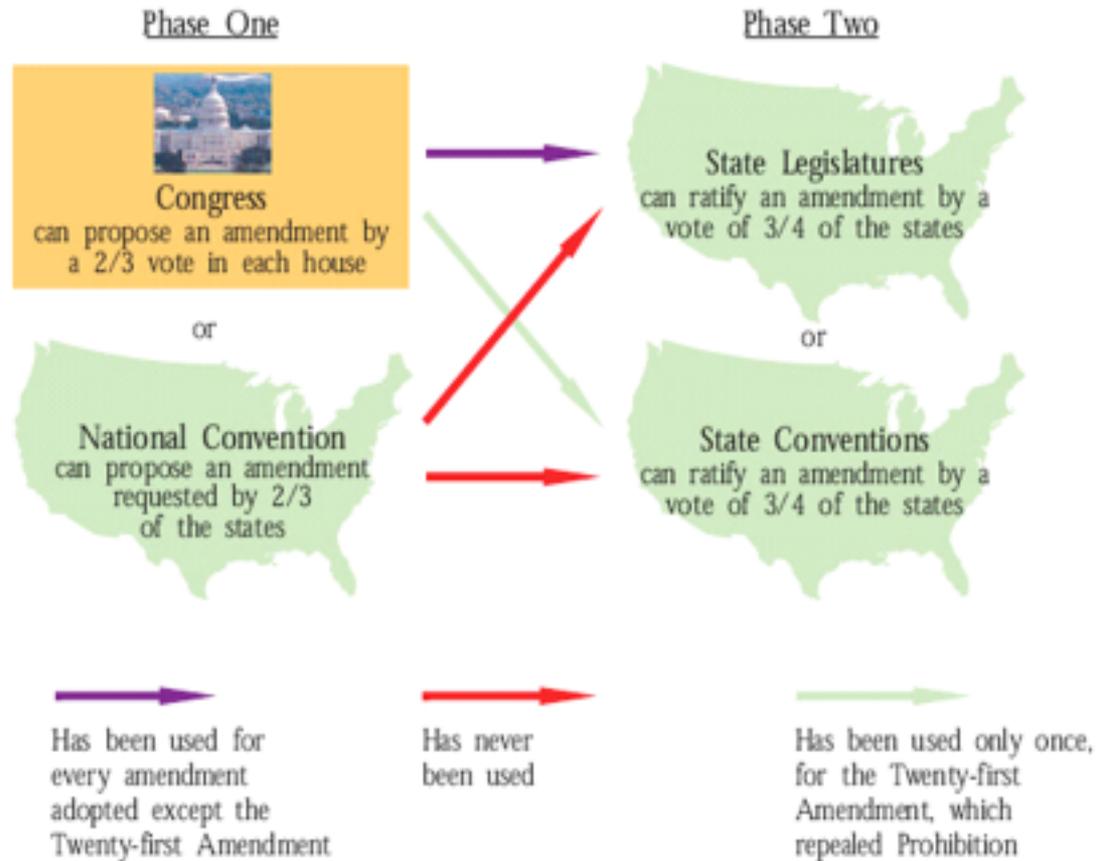


- Ratification
 - 9/13 states were needed to ratify.
 - Lacking majority support, the Federalists specified that the Constitution be ratified by state conventions, not state legislatures.
 - New Hampshire's approval (the ninth state to ratify) made the Constitution official six months later.

Constitutional Change

Figure 2.4 How the Constitution Can Be Amended

The Constitution sets up two alternative routes for proposing amendments and two for ratifying them. Only one of the four combinations has been used in every case but one.



Constitutional Change

- The Informal Process of Constitutional Change
 - Judicial Interpretation
 - *Marbury v. Madison* (1803):
judicial review
 - Changing Political Practice
 - Technology
 - Increasing Demands on Policymakers



Summary

- The Constitution was ratified to strengthen the powers of the national government.
- Protection of individual rights guaranteed through the Bill of Rights.
- Formal and informal changes continue to shape our Madisonian system of government.

