

The Constitutional Convention

- The weakness of the Articles of Confederation necessitated drafting a new constitution.
 - The Constitutional Convention, held in Philadelphia, began in **May 1787**
 - George Washington elected to preside over the convention
 - 55 delegates - "the well-bred, the well-fed, the well-read, and the well-wed"
 - Lasted for 4 months - the **delegates chose to abolish the Articles of Confederation** and reinvent the govt. Some feared charges of treason.
 - The framers' positions on the strength of govt. varied.
 - They knew they wanted a stronger central govt. but feared giving too much power to it. Power should be with the people.
 - But majority should not tyrannize the minority. Had to protect all.
 - Some were more comfortable with popular rule than others.
 - Alexander Hamilton called the people "a great beast."
 - Another concern - how much power would the states lose to the govt.?
 - Two plans for the new govt. were suggested.
 - James Madison drafted the **Virginia Plan**
 - Called for a **bicameral (two-house) legislature**
 - A of C had a one house legislature
 - Membership in both houses would be determined by population
 - Small states did not like this
 - Members of lower house would be elected by people
 - Members of upper house would be elected by lower house
 - Both houses would vote for a natl. executive and judiciary
 - The three branches would **check and balance** each other
 - The alternate plan was the **New Jersey Plan**
 - Favored by the smaller states
 - Proposed to keep the one-house Congress
 - Congress would appoint a multi-person executive branch and a judiciary branch
 - Each state would have one vote in Congress
 - The federal govt. would have power to tax and control **commerce** - A of C did not provide this to the central govt.
 - **Laws passed by Congress would be the supreme laws of the land - This would unite the states under one set of laws.**
 - Debate lasted through the summer - compromises were needed
 - **Key issues: representation and slavery**
 - The representation issue was settled by the **Great Compromise**, proposed by Roger Sherman (CT)
 - The delegates agreed to a **two-house legislature**

- **House of Representatives** - the lower house
 - **Senate** - the upper house
 - **House representation based on population** - 1rep. for every 30K people
 - **Senate representation by state** - 2 senators for each state
 - **House members elected by people**
 - Gave the public power and a stake in the govt.
 - **Senators would be elected by state legislatures**
 - **Changed by 17th Amendment** to public election
 - The slavery issue was "settled" by the **Three-Fifths Compromise**
 - **North and South were divided over who was counted in population**
 - North argued that slaves were property and therefore could not be represented
 - South argued that slaves should be counted for representation
 - **According to the compromise, slaves would be counted as 3/5 of a person**
 - Framers embarrassed by the existence of slavery in a land founded on idea of freedom - tried to avoid the issue
 - Never used the term slaves - used "all other persons"
 - In return, South agreed to allow a max. of three new states that would ban slavery
 - **We will see this issue again!**
 - In addition to the 3/5 Comp., the delegates agreed to the **Slave Trade Compromise**
 - Congress was given the power to regulate foreign commerce but it could not take any action to control the slave trade (a form of foreign commerce) until 1808.
 - In return, Southern states agreed to pay taxes on slave trade
- In terms of states vs. federal powers - delegates divided these powers
 - Powers given to national govt. called **delegated powers**
 - Those kept by the states called **reserved powers**
 - Refer to Article I, Sections 8-10 (pp. 162-65 of text)
- The delegates separated the national govt. into three parts
 - **Executive Branch**
 - After some debate over having several leaders, the delegates decided on having just one - called the **President**.
 - An elected official - indirectly by the people
 - Elected by the **Electoral College** - each state has as many electoral votes as it has senators and representatives
 - Voters of a state vote for their presidential preference
 - The winning party in the state casts the electoral votes for the candidates chosen by the majority of the people.

- Electoral College used as a compromise between public election and appointment of a leader
- If no candidate receives a majority of electoral votes, the House of Representatives elects the President from the top three candidates
- President given a lot of power
 - Commander-in-chief of military
 - Appoints federal officials
 - Can veto (reject) acts of Congress
- **Legislative Branch**
 - Consisted of **House of Representatives and Senate**
 - Could check and balance actions by the President
 - Could overturn veto by 2/3 vote of members
 - House could **impeach** (bring to trial) the President for crimes, including "treason, bribery, and other high crimes and misdemeanors"
 - A 2/3 vote of Senators needed for conviction
 - The legislature was given many powers - the main one was to enact laws
- **The Judicial Branch**
 - Created a **Supreme Court** - members appointed for life by President with Senate approval
 - SC given final jurisdiction over legal cases involving the Constitution
 - Could declare actions by Congress or President unconstitutional
 - Judges could be impeached by Congress
- Delegates to the convention provided a way to change the Constitution if necessary.
 - Amendments could be made by a 2/3 vote of Congress or by a new Constitutional Convention
 - Required the ratification (approval) by legislatures or conventions in 3/4 of the states
 - Would need 9 of 13 states to ratify it.
 - Would need 38 states today
- **The Constitution was signed and sent to Congress on 9/17/1787**
 - Those who supported ratification were **Federalists**
 - Those opposed were **anti-Federalists**
 - Federalists wrote a series of 85 essays arguing for ratification
 - **Known as the Federalist Papers**
 - Anti-Federalists wanted a Bill of Rights added to protect individual rights - feared a return to monarchy
 - **Bill of Rights was added in 1791**
- **By July 1788, 11 states ratified the Constitution - Rhode Island was the last to ratify (1790)**

- Took 3 years (1787-90) before it was fully ratified by all 13 states.