

Constitution Notes

Constitutional Convention:

*Purpose: to amend the Articles of Confederation

*What ended up happening: wrote new Constitution

- Great Compromise- solved the problem with representation in Congress, created a bicameral legislature (House of Representatives and Senate)
- Three-Fifths Compromise- solved the problem of representation in the House of Representatives, each slave equaled 3/5 of a person for representation
- Electoral College- solved problem of electing the president, people vote for electors who select the president

Debate over the Constitution:

- Federalists
 - Wanted a strong national government
 - Did not believe a Bill of Rights was needed
- Anti-federalists
 - Feared a strong national government
 - Would only agree if a Bill of Rights was added
- Federalist Papers- written to persuade the people to ratify the constitution
- Bill of Rights- first 10 amendments added to the Constitution to make the anti-Federalists support the Constitution

Federalism- division of power between the state and national governments

- Delegated Powers- Powers that only belong to the national government
 - Maintain army and navy
 - Declare war
 - Coin money
 - Regulate trade between states and foreign nations
 - Make all laws necessary for carrying out delegated powers
- Elastic Clause- also known as Implied Powers and Necessary and Proper Clause
 - Powers of the government that are not stated in writing
 - Implied Powers
 - Loose construction- belief that constitution can be stretched
 - Strict construction- belief that the constitution should be followed as written
- Concurrent Powers- Powers shared by the state and national governments
 - Enforce laws
 - Establish courts
 - Borrow money
 - Collect taxes
 - Protect the people's safety
 - Build roads
- Reserved Powers- Powers that only belong to the states
 - Conduct elections
 - Establish schools
 - Regulate marriage
 - License professionals
 - Regulate businesses within a state
 - Establish local governments
- Denied Powers- no part of government is allowed to use these powers
 - Cannot suspend the writs of habeas corpus
 - Cannot pass a law ex post facto
 - No titles of nobility

Article 1- Legislative Branch- Makes the laws

1. House of Representatives- Number is based on population
 - Must be 25 years old, 2 year term of office, Leader- Speaker of the House

- Powers:
 - Select the president if no candidate receives a majority of the electoral vote
 - To bring impeachment charges
 - To originate all money bills
- 2. Senate- 2 per state
 - Must be 30 years old, 6 year term of office, Leader- Vice President of the US
 - Powers-
 - Select the VP if no candidate has a majority of the electoral vote
 - To act as jury in cases of impeachment
 - To ratify treaties
 - To approve presidential appointments
 - Originally elected by state legislatures- 17th amendment changed

Article 2- Executive Branch- President and Cabinet- enforce the laws

1. Presidential Roles and Powers
 - Must be 35 years old, 4 year term of office, elected by Electoral College
 - Special Powers- pardons and executive orders
 - Can veto laws
 - Enforces laws and treaties
 - Appoints cabinet, ambassadors, judges
 - Chief Executive- enforce laws
 - Commander in Chief- military powers
 - Chief Diplomat- negotiates treaties
 - Chief legislator- recommend legislation to Congress -Veto potential laws
 - Chief of state- symbol of the US
 - Judicial powers- pardons
 - Head of party
2. Electing the President
 1. Candidate
 2. Primaries
 3. National Conventions- delegates choose the nominee of each major party
 4. Election Day- people vote for electors
 5. Electoral College
 - Winner take all
 - Electors are not required to vote for the candidate who wins for the state
 - Each state gets electors based on population
3. Impeachment- process by which an elected official is brought up on criminal charges
 - A. House of Representatives votes to bring up charges (accuses person of crime---need a majority vote)
 - B. The trial is conducted in the Senate, Chief justice acts as Judge
 - C. Senate needs a 2/3 vote for conviction—only way that a person is removed
 - D. Impeached Presidents: Andrew Johnson and Bill Clinton
4. Cabinet- the group of department heads who serve as the President's chief advisors (not written in the Constitution)
 - State, Treasury, Attorney General, War (now defense) were the first

Article 3: Judicial Branch (Interprets the laws)

- Supreme Court- Highest court in the nation
 - Congress can create federal courts
 - State courts
 - Settles legal disputes between states, state and federal disputes, individuals and federal government
 - Chief Justice is John Marshall
- Jurisdiction (who hears which type of case)
- Federal courts- federal laws, treaties, maritime law, and interpretation of the Constitution
 - Supreme Court---has appellate jurisdiction (hears cases that were already decided on in lower courts)
- Judicial Review- Power of the SC to determine the constitutionality of acts of the legislative and executive branches of the government

Constitutional Clean Up:

- Amending the constitution
 - Congress proposes an amendment by a 2/3 vote of each house
 - Proposed amendment goes to state legislatures and has to be approved by ¾ states
 - Very difficult to change
- Unwritten constitution
 - Cabinet
 - Political Parties
 - 2 term presidency

Bill of Rights

Amendment 1:

Freedom of speech, press, religion, assembly, petition

Amendment 2:

Right to keep and bear arms

Amendment 3:

Restricts gov't from housing soldiers in private homes

Amendment 4:

- Protection against unreasonable search and seizure
- Probable cause provision
- Search warrants

Amendment 5:

- Protection against Double jeopardy
- Can not be forced to be a witness against one's self
- Due process of law
- Eminent domain

Amendment 6:

- Speedy trial
- Jury in criminal cases
- Accused must be informed of crime, can confront witnesses, right to lawyer

Amendment 7:

Jury in civil cases

Amendment 8:

- Protection against excessive bail and fines
- No cruel and unusual punishment

Amendment 9:

Rights not listed in Constitution reserved to the people

Amendment 10:

Powers not given to the national government are reserved for the states