

**THE FOUNDING OF THE UNITED STATES GOVERNMENT**  
**Class Notes | Revised 9/2/2017**

**I. Colonial Period Influences:**

- A. English Heritage - limited government
  - 1. ***Magna Carta (1215)***
    - a. First document imposed on a king to limit his power
    - b. No taxes without approval of subjects
  - 2. ***English Bill of Rights (1689)***
    - a. Rule with consent of governed > parliament's consent needed to tax and raise an army
    - b. No interference with elections
    - c. Right to petition government
    - d. Right to a speedy trial
  - 3. **All these rights were also held by colonists**
  - 4. In 1776, voting not widespread in England itself >>> **only 1 in 25 Englishmen had suffrage**
- B. Experience of Colonial Governments
  - 1. Mayflower Compact: "consent of the governed"
  - 2. Colonial legislatures
    - a. Virginia House of Burgesses (1619) - first representative legislature
    - b. Precedent of the people participating in the government

**II. Declaration of Independence (1776)**

- A. Jefferson borrowed heavily from John Locke's philosophy in *Second Treatise*
- B. Key text in first two paragraphs
  - 1. *All men are created equal* – Interpretation has evolved over time; what did it mean in 1776? Today?
  - 2. *Unalienable rights* – natural rights of man that cannot be taken away
  - 3. *Life, liberty and the pursuit of happiness* – "property" replaced with "pursuit of happiness" because slavery problematic
  - 4. *Governments derive power from the consent of the governed* – directly from Locke
  - 5. *Right of the people to abolish government*

**III. Article of Confederation, 1781 (first national constitution)**

- A. Government under the Articles
  - 1. Created a *league of friendship* - NO STRONG CENTRAL GOVERNMENT!
  - 2. *Unicameral legislature*
    - a. One vote per state
    - b. Two to seven delegates allowed
  - 3. No executive or judicial branches - executive powers held by committee
  - 4. *Powers of Central Government:*
    - a. make war and peace
    - b. ambassadors sent
    - c. Treaties signed
  - 5. *Weaknesses under the Articles:*
    - a. No power to tax (could only ask states for money)
    - b. No regulation of trade (interstate or foreign)
    - c. No enforcing of laws
    - d. Nine states to enact new laws
    - e. Thirteen states to change/amend the articles
    - f. No executive branch (used committee)
- C. Achievements
  - 1. policy to develop lands west of Appalachian Mountains
  - 2. *Northwest Ordinance (1787)*: new states equal to old states
  - 3. 1783: Peace Treaty with Great Britain
  - 4. Departments of Foreign Affairs, War, Marine and Treasury established (precedent for later Cabinet)
  - 5. "Full Faith and Credit Clause" between the states

#### D. Shays' Rebellion (1786) - internal revolt

1. Western Massachusetts >>> falling crop prices hit small farmers hard who then were forced to borrow \$ to pay high taxes
2. Not enough \$ left for mortgage payments >>> judges ordered land to be sold & farmers sent to debtors prison
3. Massachusetts legislature ignored pleas for tax relief
4. Daniel Shays - kept courts from opening and in 1786
5. Significance of Shay's Rebellion
  - a. Demonstrated paralysis of the national government to deal with an insurrection
  - b. Raised alarm of propertied class elite (Washington, Franklin, Madison, etc.) at potential collapse of new government
  - c. Last straw for the Articles of Confederation

### IV. Constitutional Convention: Summer of 1787 in Philadelphia

#### A. Delegates:

1. 55 representing 12 states (Rhode Island did not attend)
2. Convention Attendees (55 delegates) - mostly affluent, well-educated landowners, businessmen, lawyer i.e. the elite class
3. Not represented >>> small farmers, laborers, craftsmen, women, blacks (free & slave)
4. Included: Washington (elected presiding officer; his presence lent legitimacy to the new government); Madison - "Father of the Constitution" and Franklin - oldest person (81).
5. Absent: Jefferson, John Adams (ministers abroad), Patrick Henry ("I smell a rat!"), Sam Adams (ill)

#### B. Original intent of the convention was to revise the Articles

#### C. Key Agreements

1. Limited and representative government needed
2. Separation of powers/three branches
3. Edmund Randolph - replace articles

#### D. Issues of Controversy

1. *Representation* - large states v. Small states
2. *States rights v. Strong national govt.*
3. *Power of the chief executive*
4. *Slavery*

#### E. Plans Proposed:

1. *Virginia Plan* (more radical changes, had support of the larger states)
  - a. Bicameral legislature:
    - 1) lower house elected by people
    - 2) upper house elected by lower
    - 3) representation based on population
    - 4) could declare state laws unconstitutional
  - b. executive branch: chosen by legislature
  - c. judicial branch: chosen by legislature
2. *New Jersey Plan*: (fewer changes, supported by the smaller states)
  - a. Unicameral legislature:
    - 1) one vote per state
    - 2) power to tax and regulate commerce
  - b. executive branch: plural branch chosen by legislature
  - c. judicial branch: chosen by executive

#### F. Compromises of the Convention:

1. *The Great Compromise a.k.a. The Connecticut Plan*
  - a. answered question of representation in the Congress
  - b. bicameral legislature:
    - 1) House of Representatives: based on population of state, begins all revenue bills, chosen by people.
    - 2) Senate: equal representation per state (2 per state), state legislatures choose members

2. *Three-Fifths Compromise*:
  - a. answered question of how to count slaves?
  - b. Five slaves would equal three freemen
  - c. counted for taxation (North) and representation (south)
3. Commerce and Slave Trade Compromise:
  - a. no ban on slave trade for 20 years (until 1808)
  - b. ten dollar tax on each imported slave
  - c. no favoring of ports
  - d. Congress regulates trade
  - e. no tax on exports
4. Slavery Question:
  - a. slaves escaping to non slave states were to be returned
  - b. North rejecting slavery
5. Others:
  - a. **Electoral College** compromise: could not trust the ignorant public or the Congress?
  - b. term of the President (life or two/four/six years)
6. Signing of the Constitution:
  - a. 39 delegates signed
  - b. finished in September 1787

## V. Ratification of the Constitution

- A. Nine of the 13 states needed to ratify through legislatures or conventions
- B. New Hampshire became the ninth state to ratify (before NY or VA)
- C. Debate over ratification: Federalists v. Antifederalists
  1. Federalist
    - a. Supported ratification Constitution
    - b. Strong central government
    - c. Bill of Rights not needed, in state constitutions
    - d. James Madison, John Jay & Alexander Hamilton publish *The Federalist Papers*, 80 essays defending Constitution
    - e. Federalist owned many of American newspapers at the time > easier publicize their arguments
  2. Anti-Federalist
    - a. Opposed ratification of the Constitution which in their view gave far too much power to the national government
    - b. Opposed drafting in secrecy
    - c. Took important powers from the state
    - d. Wanted BILL OF RIGHTS!
    - e. Included Patrick Henry, Sam Adams, George Mason
- D. Progress:
  1. Promised to propose and add Bill of Rights (added in 1791 in major concession to anti-federalists)
  2. Virginia and New York needed (size of population and geography) > Federalist Papers written for New York debate
- E. New Government - 1789
  - a. Washington (unanimous election) and Adams
  - b. New York City as temporary capital