



The Constitution & Federalism

In the lesson:

- The Enlightenment
- The Articles of Confederation
- Compromises & Principles of the Constitution
- The Constitution
- Federalism

The Enlightenment:

- **Big Ideas**
 - **Reason**
 - The opposite of predominant European societal values of intolerance, bigotry, and superstition
 - Could be used to solve social problems and improve society as a whole
 - **Natural Laws**
 - A natural and/or divine order of things regulates the human experience and societies that we develop
 - By using reason, humans can discover that these fundamental laws exist
 - **Progress**
 - We can do better! In fact, over time we can better society and the world
 - By incorporating natural laws into government, society will make progress
 - **Liberty**
 - European citizens were ruled by absolute monarchs who oppressed them by limiting speech, religion, and free trade
 - Freedom of thought is a natural right to make progress, people must think freely
 - **Toleration**
 - While enlightened thinkers were confident in the philosophical means, they also believed in the tolerance of all beliefs, thoughts, people
 - Part of this belief was full religious tolerance and freedom
- **Thinkers and Contributions**
 - **John Locke: believed in limited government because people are good**
 - **Locke's 2nd Treatise on Government:**
 - Natural Rights: "inalienable rights" - universal moral entitlement to life, liberty, property
 - Social Contract: people form governments to maintain/protect their natural rights; government is a social contract where rulers are given power with promise of protecting people's rights



- Consent of the governed: if social contract is broken/betrayed by rulers, then people can revolt and replace them
- **Montesquieu**
 - Ideal government separates powers among legislative, executive, and judicial branches
 - Protect people by preventing one branch from gaining control of entire government
- **Jean-Jacques Rousseau**
 - Power of state rests within community, not its ruler
 - Rulers are public servants, if they fail to carry out people's will then they should be removed
- **Common Sense and Declaration**
 - **January 1776 - Thomas Paine's Common Sense**
 - Putting Locke's ideas into something easy to read that everyone could understand as "common sense" - most read publication in America
 - Demands that Americans come together to declare independence from corrupt/brutal king
 - **July 1776 - Thomas Jefferson's Declaration of Independence**
 - Came to bring the PAINE to the English king and his government with the declaration
 - Outlined America's vision for itself, why Locke was right about government, and why specifically their relation had to end (#breakupletter)
- **The Revolution: Enlightenment Ideas lead to revolutionary actions**
 - 1st Continental Congress: Late 1774, Philadelphia
 - Delegate meeting to respond to intolerable acts, sent petition to King George III
 - Lexington & Concord: battle in New England
 - 2nd Continental Congress: Spring 1775
 - Try to get independence, King George calls them traitors
 - Declaration of Independence: formally starts war from 1776-1781

Articles of Confederation:

- **Basic Information**
 - America's 1st government from 1781-1789
 - 13 independent states form a "League of Friendship"
 - Each state retained their own sovereignty, freedom, and independence
 - Formed a confederacy: the national/central government gets authority from states
 - Contrasted to England's unitary structure where the national government has all power



- **Weaknesses**
 - Didn't give Congress powers; just denied to Parliament
 - Lacked power to create taxes; no army
 - Can't enforce laws (no executive, judicial branches)
 - Congress couldn't regulate/promote trade
 - Can't pass laws (getting a $\frac{2}{3}$ majority is hard)
 - Small population states = large population states (unfair)
 - Amendments = impossible because all 13 states had to agree
- **Powers of the Central Government**
 - Unicameral Congress (1 body): each state had 1 vote
 - Laws required 2/3rds majority to pass through Congress
 - To change Articles (amendment), you needed a unanimous vote (all 13 states agreeing)
 - No executive (president) branch or judicial (courts) branch
- **Quick/Painful Death**
 - **Shay's Rebellion**
 - Led by Daniel Shays - mob took over courts, occupied, closed them in MA
 - Demanded to end foreclosures, relief from high taxes, more paper money
 - Congress couldn't fund army; rich people end up paying
 - Leaders announced Articles were too weak, need to be revised
 - **Constitutional Convention**
 - Congress proposes new meeting (Feb. 1787) to revise Articles
 - Madison/Hamilton had planned to replace them and create a brand new government
 - Importance: need to create a strong government that can maintain order, protect property, promote commerce = NEW CONSTITUTION
 - James Madison: Father of the Constitution

Compromises & Principles of the Constitution:

- **Problem #1: Representation - Big vs. Small States**
 - **Big States' Idea: Virginia Plan**
 - 2 house legislature
 - Both houses represented based on population
 - 1 house elected by the people
 - 1 house elected by state legislatures
 - **Small State's Idea: New Jersey Plan**
 - 1 house legislature
 - One vote for each state
 - Doesn't allocate representatives based on population



- **Solution: Great (Connecticut) Compromise**
 - Bicameral legislature: 2 houses, where all bills must pass through both houses to become law
 - House of Representatives: based on population
 - Senate: based on statehood (2 votes per state)
- **Problem #2: Representation - North vs. South (Slavery)**
 - **Southern States' Point of View**
 - 30% of the southern states' population was slaves
 - Wanted to count slaves as people when determining congressional representation in the House (more power)
 - **Northern States' Point of View**
 - Northern delegates to the convention opposed slavery (in general)
 - Question how can "property" also be a person
 - Wanted south to have less power
 - **Solution: 3/5ths Compromise**
 - Slaves count as 3/5ths of a person when determining a state's population
 - Result: more representation for southern states
- **Problem #3: Federal vs. State Power**
 - **Federal Power**
 - The federal/national/central government
 - Federal government needs power to promote economic growth and protect property
 - **State Power**
 - Concern: government would have too much power
 - States that are closer to the people need to maintain some power
 - **Solution: Federalism**
 - Supremacy Clause: National laws are supreme to state laws
 - Commerce Clause: federal government regulated interstate commerce
 - Delegated/Enumerated Powers: specific powers given to the federal government
 - Reserved Powers: Specific powers given only to states
- **Problem #4: Factions and Power**
 - **James Madison, John Jay, and Alexander Hamilton: The Federalist Papers**
 - Publications to convince the public that the Constitution is a good idea
 - Serve as an examination of the Framers' thinking
 - **Federalist No. 10**
 - Idea: Factions - number of citizens with some passion/interest
 - Problem: Factions are unavoidable



- Controlling Factions: create a large republic where public elects representatives (pure direct democracy is bad because factions have no check)
- **Solution: Limit on Majority Rule**
 - Insulated Senate: originally chosen by state legislatures
 - Independent Judiciary: free of factional influence
 - Indirectly Elected President: electoral college
- **Federalist No. 51**
 - Idea: Separation of Powers (3 equal branches)
 - Judicial - lifetime appointments
 - Legislative - 2 houses
 - Executive - electoral college
- **Solution: Separation of Powers**
 - Federal government: 3 equal/independent branched with specific responsibilities and can't infringe upon other branches
- **Solution: Checks and Balances**
 - Each branch has powers over the other
 - Ambition - ambition of other
 - 3 way competition for power

The Constitution:

- **Preamble**
 - We the people - government by us, for us, we create it
 - Republic exists to both serve/protect us
- **Amendments: 27**
 - Change the Constitution when people see fit
 - First 10: Bill of Rights (protect individual rights)
- **Articles: 7**
 - Separate the branches
 - Outline government powers
 - Set up rules, checks, and balances
 - "Chapters" of constitution
 - Every broad subjects
 - I - Legislative Branch
 - II - Executive Branch
 - III - Judicial Branch
 - IV - Relation among states
 - V - Provision for amendments
 - VI - Public debts, supremacy of natural law
 - VII - Ratification of the Constitution



- Sections: sub sections of each chapter
- Clauses: individual paragraphs of each section
- **Principles**
 - **Popular Sovereignty**
 - Because the government is created by and for people, power is with the people, not leaders
 - In a representative democracy, people vote to elect leaders to represent their interests
 - **Rule of Law**
 - People and government must abide by laws
 - The Constitution sets limits to government power and established how leaders who overstep their power can be removed
 - **Separation of Powers & Checks and Balances**
 - Prevents $\frac{1}{3}$ having too much power
 - Allow each bench to monitor/check other to prevent abuse of power
 - **Independent Judiciary**
 - The judicial branch is established as an independent entity, free of pressures and influences from the other 2 branches
 - Supreme Court is the highest authority
 - **Federalism**
 - **Power is divided between the federal government and individual state/local governments**
 - **Individual Rights**
 - Individual Rights and liberties are protected against government encroachment
- **Ratification**
 - Fall of 1787: Approved by all Constitutional Convention delegates
 - Sent to states in 1787 - 1788: Article VII says you need 9 states to ratify
 - 2 sides form
 - Federalists: land owners, merchants led by James Madison and Alexander Hamilton
 - Believed power to elites, strong central government
 - Anti - Federalists: farmers, laborers, common fold led by George Mason and Patrick Henry
 - Believed “common man” knows what is best, prefer state governments
 - Anti-Federalist Response: Brutus No. 1
 - Idea: Decentralized Republic - popular small scale Democracy, wanted power with states



- Worried about: Large centralized government would endanger their rights/liberties
- Got 9 state conventions to ratify but were missing Virginia and New York (40% of US Population)
- Solution: Bill of Rights
 - Additional fundamental changes to the Constitution to safeguard personal rights from powerful federal government encroachment
- **Amending the Constitution**
 - Formally...
 - Proposal: approved by $\frac{2}{3}$ of House & Senate
 - Ratification: $\frac{3}{4}$ of state legislature approve
 - Informally...
 - Congressional Legislation
 - Presidential acts
 - Judicial Decisions
 - Party Practices
 - Unwritten Traditions

Federalism:

- **Federalists:**
 - Alexander Hamilton and John Adams
 - Wanted a strong federal government
 - Federal government should more power than states
 - Expansive federal powers
 - Favored a broad interpretation of powers of federal government by Constitution
- **Democratic Republicans:**
 - Thomas Jefferson
 - Wanted a weak federal government
 - States should have more power than federal government
 - Limit federal powers
 - Favored a limited constitutional interpretation of powers of federal government
- **Enumerated/Delegated/Expressed Powers**
 - Powers specifically granted to the federal government by Constitution
- **Necessary & Proper Clause/Elastic Clause**
 - Article I, Section 8, Clause 18
 - Gives government necessary power to carry out enumerated powers, confront future problems
- **Implied/Implicit Powers**



- Powers not specifically granted to federal government by Constitution (probably because Framers couldn't anticipate)
- **Powers Denied to Government**
 - Bill of Attainder
 - Law declaring an act illegal without a trial or hearing
 - Ex Post Facto Law
 - Law that makes act punishable even before enacted, committed crime
- **Relation between States**
 - Full Faith & Credit Clause: all decrees in one state are applicable in other states
 - Extradition Clause: accused must be transported to state where they're accused
 - Privileges and Immunities Clause: citizens have the same rights in all states
 - Interstate Compacts: federal government mandates, created compacts between states
- **Intergovernmental Relations**
 - **Dual Federalism: 1790-1930s**
 - Nations and state governments remain separate and supreme in their own spheres of assigned duties
 - **Cooperative Federalism: 1930s - Present**
 - National and state government work together to complete projects; fed and state government share responsibilities
- **Fiscal Federalism**
 - System of spending, taxing, and giving grants in the federal system
 - **Categorical Grants:** federal money given to states for specific purpose
 - **Block Grants:** federal money given for a broadly defined purpose rather than specific ones
- **Mandates**
 - Rule telling states what they must do to comply with federal guidelines
 - **Unfunded Mandate:** federal government forces state/local governments to provide services without providing money to fund
- **New Federalism**
 - **Devolution:** transferring responsibilities of governing from the federal government to state/local governments
 - **Deregulation:** removing rules and regulations, usually from economic sectors or industry
- **Advantages of Federalism**
 - **Experimentation at lower level**
 - **Prevents factional control**
 - **Participation everywhere**
- **Disadvantages of Federalism**
 - **Inequality**



- **Too much minority power**
- **Confusing**
- **No accountability**