

Origins of the Constitution

- It = foundation of US political system
 - Based on history
 - Framers inspiration from many sources
- Philosophic basis = The Enlightenment
 - 1) Influence of Locke
 - 2nd Treatise on Civil Government
 - Social Contract
 - Locke's Key principals:
 - 2) Influence of Montesquieu
 - The Spirit of the Laws
 - Advocates for "republic"
 - Basis = separation of powers
- Colonial Experience
 - Long accustomed to expressions of written law
 - English "common" law
 - Magna Carta (1215)
 - English Bill of Rights (1689)
 - Mayflower Compact (1620)
 - Colonial charters
 - Experience with self-government
 - American War for Independence

- It = reaction to deprivation of “natural rights”
- “States” draft constitutions
- First “frame” of gov’t = Articles of Confederation and Perpetual Union
 - Drafted by 2nd Continental Congress
 - Adopted on November 15, 1777
 - Operational = March 1st, 1781
 - Articles = “Confederation:
 - States = separation nations
 - Congress = “forum” for collective action
 - States sent 2-7 delegates
 - No executive branch; no judiciary
 - NOTE: “president” = chairman
 - Minor weaknesses
 - Greatest weaknesses
 - Strengths
 - Overall, it = new kind of government
 - Flaws quickly exposed in 1780s
 - Economy in disarray
 - Widespread bankruptcies & unemployment
 - Looming debt
 - Potential “revolutions”
 - Foreign policy crises

- British threat & Spanish threat
 - Loss of trade
- Congress = feckless
- Possible solution = creation of new government
 - Initial leadership from Virginia
 - March 1785 - Mount Vernon Conference
 - Proposal = Convention of all states
 - Goal = uniformity commercial regulation
 - Annapolis Convention meets in September 1786
 - Proposed second gathering & possible amendments
 - Initial response = mixed
 - Shift triggered by Shays' Rebellion
 - Rebellion triggers nationwide wave of fear
 - Congress moves
- Philadelphia Convention of 1787
 - Today called "Constitutional" convention
 - 12 states attend
 - Meetings = closed to press & public
 - Washington presides
 - Serious differences among delegates
 - Almost derailed over representation
 - 1st proposal = Franklin's

- 2nd proposal = Virginia Plan
 - Submitted by Randolph
 - Virginia Plan's major points:
- 3rd proposal = New Jersey Plan
 - Presented by Paterson
 - New Jersey Plan's major points:
- Stalemate ensues
- Push for Compromise
 - Great Compromise
 - Congress = bi-cameral
 - » Upper chamber = Senate
 - » Lower chamber = House of Representatives
 - NOTE: it = setback for large states
 - North & South Compromises
 - AKA "Commerce" Compromises
 - » Congress taxes imports – NOT exports
 - » 2/3rds by Senate for treaties
 - » 3/5ths Clause
 - » Ban of Slave Trade
 - Other compromises
 - Executive branch = POTUS
 - » Electoral College

— Judicial Branch

» Creation of SCOTUS with limited jurisdiction

» Congress creates lower courts

» Life tenure

— Debate = three months

- September 17, 1787 = final session
- Franklin's speech
- Only 39 signed
- *"What kind of government have you given us, Dr. Franklin?" "A Republic or a Monarchy?"*
- *"A Republic, Madam, if you can keep it."*

• Ratification?

— Issue#1 = violation of law by drafting Constitution

— Issue#2 = No one completely satisfied

— Campaign for ratification

- Federalists = supporters
 - Most famous = Federalist Papers
- Antifederalists = opponents
 - Biggest criticism = no Bill of Rights
 - Feared destruction of states

— Article VII = process

- 9:13 for ratification

- Massachusetts Compromise
- Result = Anti-federalists win argument for BoR
- NOTE: 2 states delay ratification
- The Constitution of the United States
 - Built on separation of powers
 - Not rigid; has overlap
 - Numerous “Checks & Balances”
 - Each branch = politically independent
 - NOTE: Alternative = English parliamentary system
 - Goal = efficient administration
- Outline of Constitution
 - US Constitution & US law = Supreme
 - “Supremacy Clause”
 - Restrictions on State Power
 - NOTE: Other restrictions added by SCOTUS
 - Concurrent Powers
 - Powers denied to Congress
 - Powers “Reserved” by states
 - NOTE: SCOTUS recognizes "residual sovereignty“
 - Powers denied to both
 - Amending the Constitution (Art V – Fig 2.2)
 - Two separate processes = proposing & ratifying

— The Bill of Rights

- Outline our fundamental rights
- Madison submits proposals
- Originally 12 amendments
- #3-12 (original) = #1-10 (today)
- Clearly reflects Founders general distrust of gov't
- Ratified by 3/4s of states on Dec 15, 1791