

# US Constitution

Study Guide for US Constitution Test

# Declaration of Independence: Influence on US Constitution

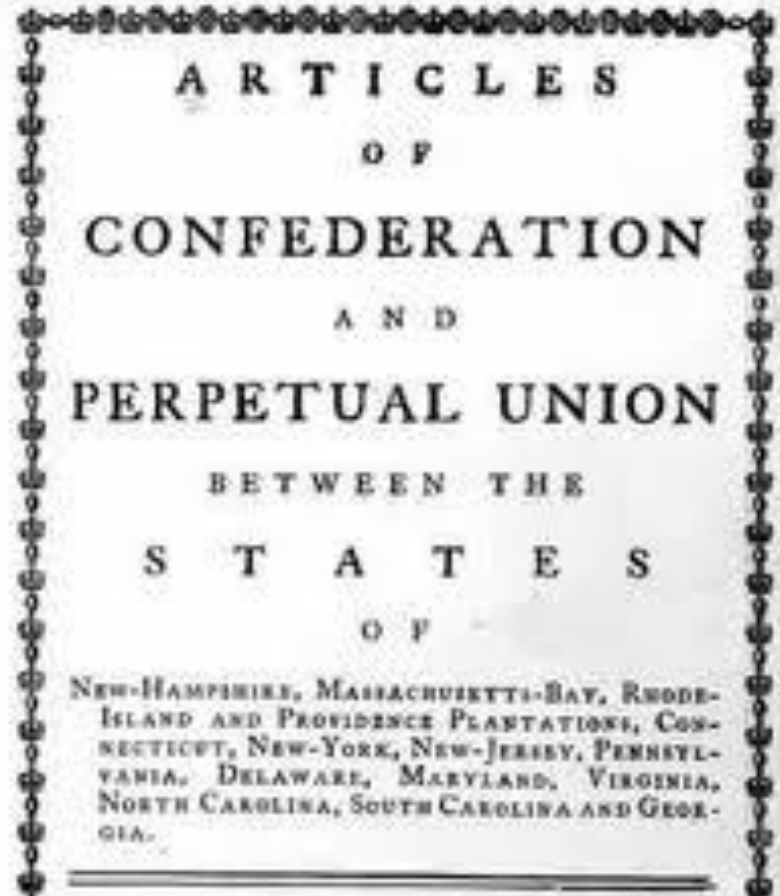
- Established natural rights (life, liberty, & pursuit of happiness)
- Established the concept of popular sovereignty (people are the source of political power)
- Need for limited government
- Need for separation of powers
- Need for checks and balances
- Provided justification for revolution against an unjust government

*"That government is best which governs least."*  
HENRY DAVID THOREAU



# Articles of Confederation: Influence on US Constitution

- Influenced concepts of separation of powers & checks and balances
  - Articles of Confederation had no executive branch to enforce laws, nor a judicial branch to interpret the laws



# Weaknesses of Articles of Confederation

## Weaknesses of the Articles of Confederation

- ◆ One vote for each State, regardless of size.
- ◆ Congress powerless to lay and collect taxes or duties.
- ◆ Congress powerless to regulate foreign and interstate commerce.
- ◆ No executive to enforce acts of Congress.
- ◆ No national court system.
- ◆ Amendment only with consent of all States.
- ◆ A 9/13 majority required to pass laws.
- ◆ Articles only a "firm league of friendship."

**Interpreting Tables** The thirst for independence made the new States wary of strong central government. *How is this caution reflected in the weaknesses built into the Articles of Confederation?*

- Constitution Fixes
  - House of Reps determined by population
  - Establish power to tax
  - Power to regulate trade
  - Creates executive branch w/ one President
  - Creates judicial branch to interpret laws
  - Creates amendment process
  - Simple majority (51%) of Both Houses to pass laws

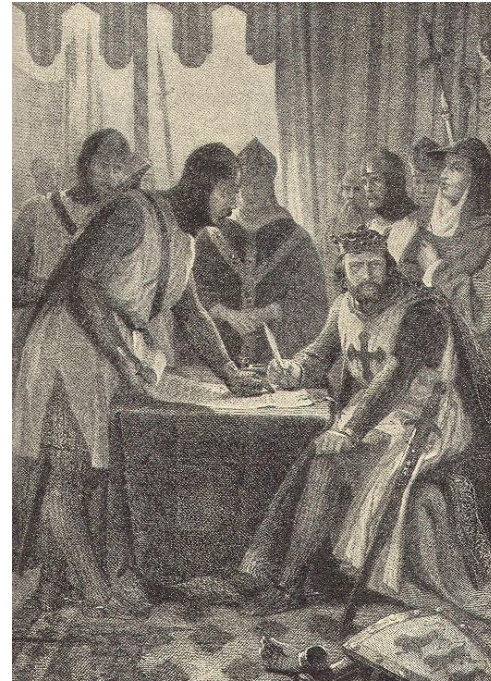
# Preamble to the Constitution

- Establishes the purpose of the US Government
  - Form a more perfect union
  - Establish justice
  - Insure domestic tranquility
  - Provide for common defense
  - Promote the general welfare
  - Secure the blessing of liberty
  
- With words, We the People, the preamble establishes the concept of popular sovereignty (people are the source of political power)



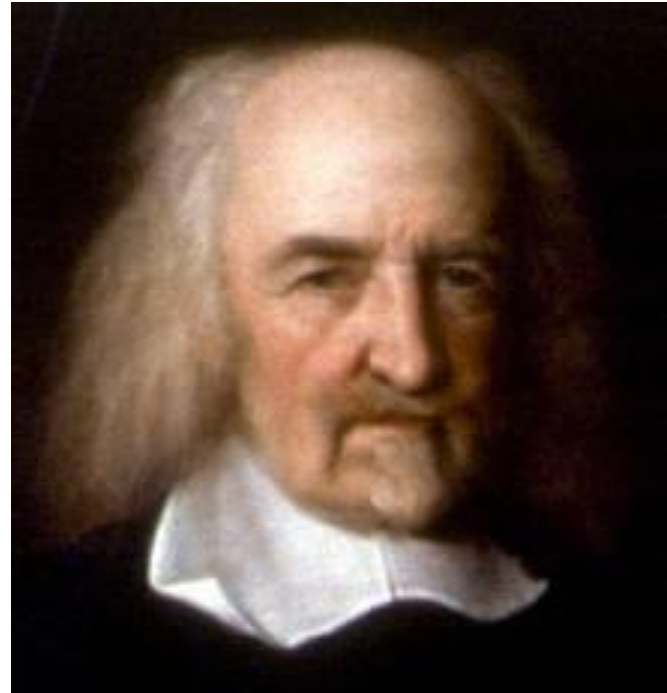
# Magna Carta

- English Document which established the following fundamental rights
  - Limited government (basis of US Constitution)
  - Rule of law (government officials are not above the law)
  - Right to trial by jury (found in Bill of Rights)
  - Due process of law (found in Bill of Rights)
  - Protected against arbitrary taking of life, liberty, and property



# Significance of Enlightenment Writers: Thomas Hobbes

- In state of nature, man is born free (people could take anything they want by force), as a result we must agree to give up certain rights in a social contract to ensure peace (SOCIAL CONTRACT THEORY)
  - Such as the right to kill or steal



# Significance of Enlightenment Writers: John Locke

- Men are born free and equal, but as populations grew, laws were needed to keep order, men agreed to delegate this function to a government, a social contract, with limited powers can be modified by the people at any time (SOCIAL CONTRACT THEORY)





# Significance of Enlightenment Writers: Jean Jacques Rousseau

- Mutual contract (social contract) between the peoples and government
- People agree to be ruled only so that their rights, property, and happiness be protected by their rulers
- Once rulers break the contract, the people are free to choose another set of rulers (basis for the Declaration of Independence)



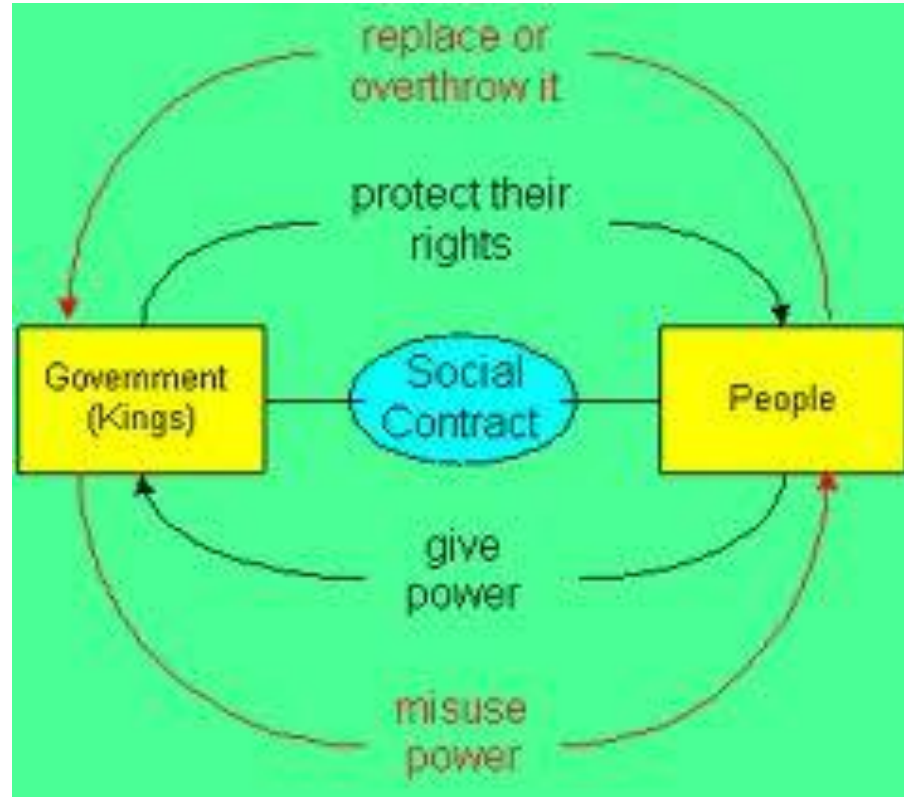
# Significance of Enlightenment Writers: Baron de Montesquieu

- Need for Separation of Powers (legislative, executive, and judicial branches of government)
- Importance of a fair and objective judicial branch of government (to avoid despotism resulting from a feeling of lacking equality)



# Social Contract Theory

- The state arose out of a voluntary act of free people
- The state exists to serve the will of the people
- People are the sole source of political power (popular sovereignty)
- People are free to give or to withhold the power as they choose



# Limited Government

- Basic principle of American system of government
- Government is restricted in what it may do, and each individual has rights that the government cannot take away
  - First established with the Magna Carta
  - Rule of Law – government officials are to be held accountable for their actions (not above the law)

*“That government is  
best which governs  
least.”*

HENRY DAVID THOREAU

# Separation of Powers

## Separation of Powers

### Legislative Branch (Congress)



#### Passes Laws

- Can override President's veto
- Approves treaties and presidential appointments
- Can impeach and remove President and other high officials
- Creates lower federal courts
- Appropriates money
- Prints and coins money
- Raises and supports the armed forces
- Can declare war
- Regulates foreign and interstate trade

### Executive Branch (President)



#### Carries Out Laws

- Proposes laws
- Can veto laws
- Negotiates foreign treaties
- Serves as commander in chief of the armed forces
- Appoints federal judges, ambassadors, and other high officials
- Can grant pardons to federal offenders

### Judicial Branch (Supreme Court and Other Federal Courts)



#### Interprets Laws

- Can declare laws unconstitutional
- Can declare executive actions unconstitutional

- Basic principle of American system of government
- Executive, Legislative, and Judicial powers are divided among three independent and co-equal branches of government
- Enhances concept of limited government by dividing up the power, to prevent concentration of power in one individual

# Checks and Balances

- Basic principle of the American system of government
- System of overlapping powers of the legislative, executive, and judicial branches to permit each branch to check the actions of the others

## System of Checks and Balances

### Executive Branch (President carries out laws)



#### Checks on the Legislative Branch

- Can propose laws
- Can veto laws
- Can call special sessions of Congress
- Makes appointments
- Negotiates foreign treaties

#### Checks on the Judicial Branch

- Appoints federal judges
- Can grant pardons to federal offenders

### Legislative Branch (Congress makes laws)



#### Checks on the Executive Branch

- Can override President's veto
- Confirms executive appointments
- Ratifies treaties
- Can declare war
- Appropriates money
- Can impeach and remove President

#### Checks on the Judicial Branch

- Creates lower federal courts
- Can impeach and remove judges
- Can propose amendments to overrule judicial decisions
- Approves appointments of federal judges

### Judicial Branch

(Supreme Court interprets laws)



#### Check on the Executive Branch

- Can declare executive actions unconstitutional

#### Check on the Legislative Branch

- Can declare acts of Congress unconstitutional

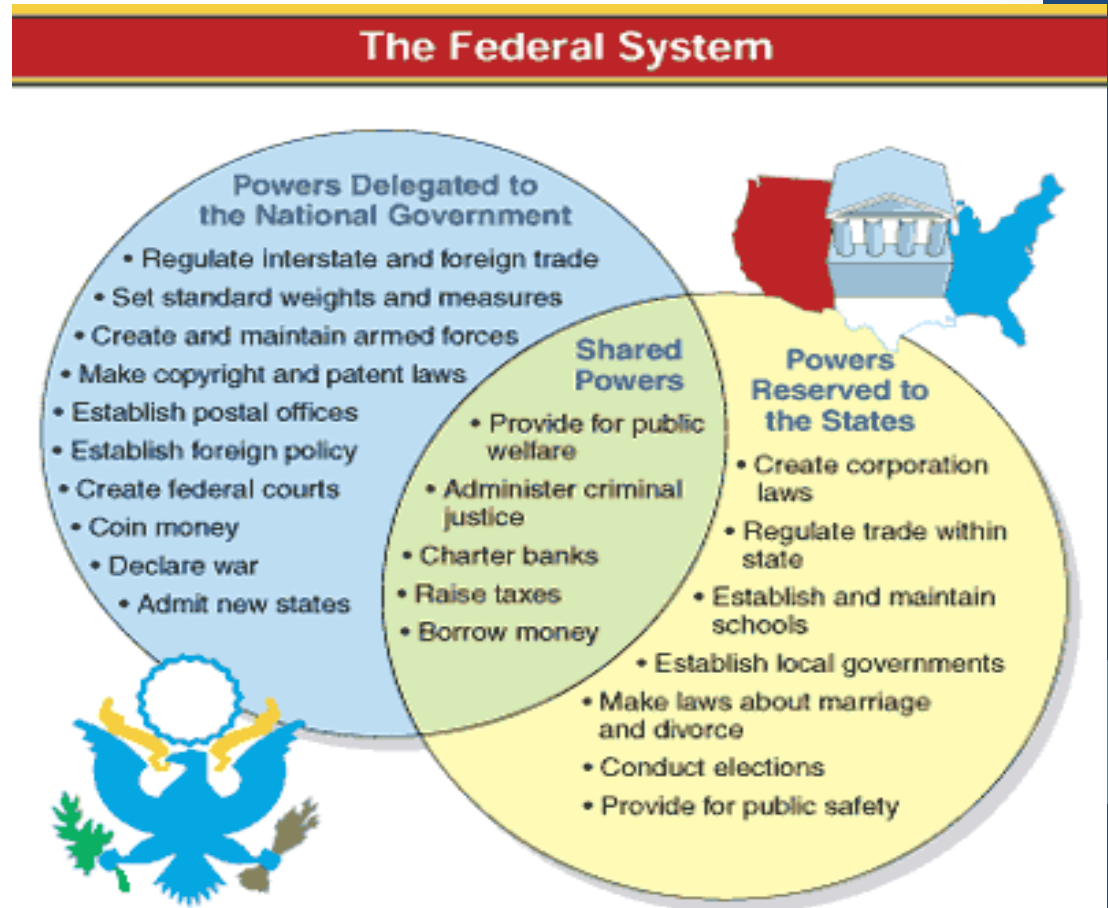
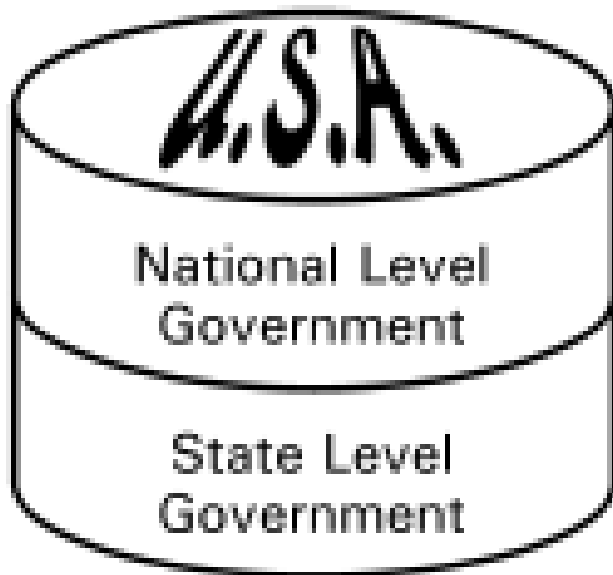
# Rule of Law

- The government and its officers are always subject to the law
  - First established by Magna Carta
    - Said the King is not above the law



# Federalism

- System of government in which a written constitution divides the power between a central government and several local governments – divides power between National (Federal), State and Local governments





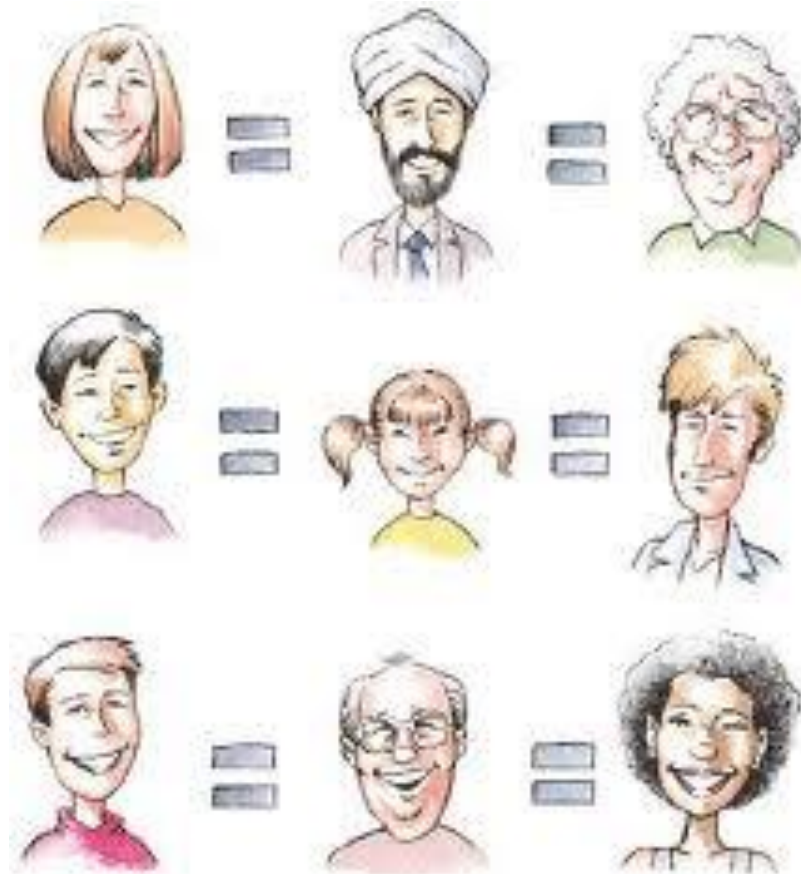
# Principles of American Political Culture - Liberty

- Freedom – each person shall be free to do as he or she chooses as long as it does not interfere with the rights of another
  - Freedom is NOT absolute
    - Can't say fire in a movie theater (if there is no fire)
    - Can't say bomb on an airplane (if there is no bomb)



# Principles of American Political Culture - Equality

- All people are entitled to equality of opportunity and equality before the law



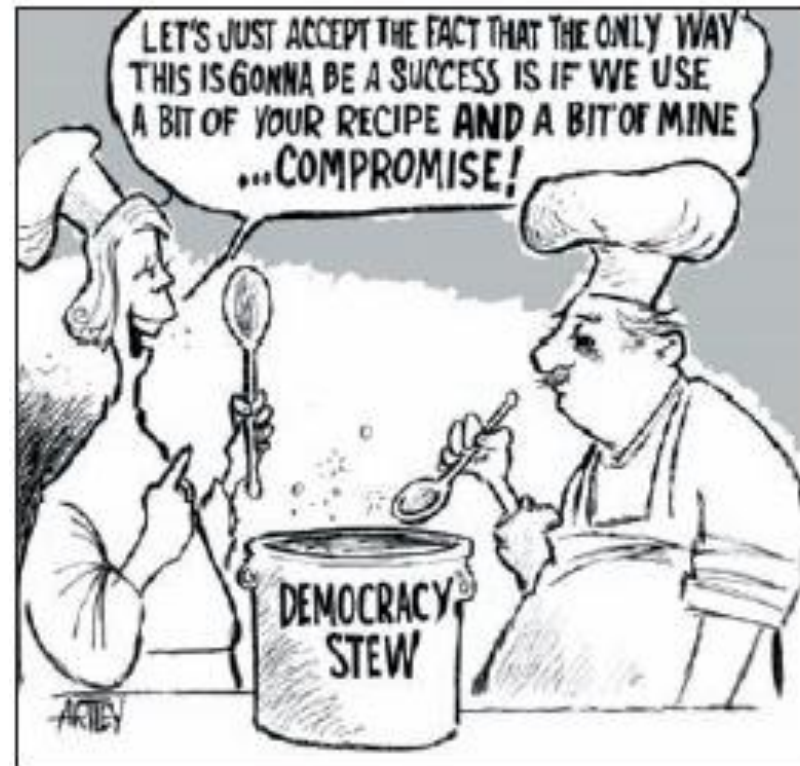
# Principles of American Political Culture – Majority Rule / Minority Rights

- Although the majority has the right to rule or pass laws, they may not deny the rights of a minority group



# Principles of American Political Culture: Necessity of Compromise

- To find the position that is most acceptable to the largest number of people by blending and adjusting competing views of interest



*Interpreting Political Cartoons* If the two chefs represent lawmakers in a democracy, what might the stew represent?

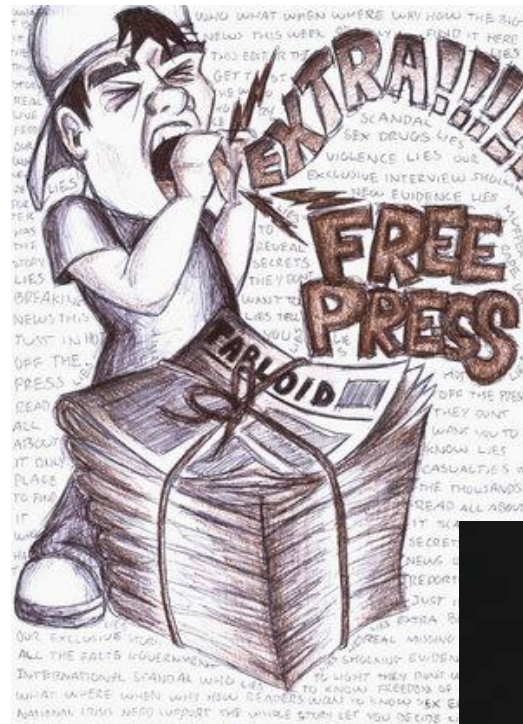
# Principles of American Political Culture: Diversity

- Each individual is unique and different and should be valued for their uniqueness
  - May include differences in race, religion, ethnicity, gender, physical abilities, etc.



# Bill Of Rights

- 1<sup>st</sup> Amendment: Freedom of Speech, Religion, Press, Assembly and Petition



**Freedom of Religion  
Means  
Every Religion**

# Bill Of Rights

- 2<sup>nd</sup> Amendment: right to bear arms



# Bill of Rights

- 3<sup>rd</sup> Amendment: No Quarter of Troops during times of peace.





# Bill of Rights

- 4<sup>th</sup> Amendment: The right of the people against unreasonable search and seizures (must have warrant or probable cause).



# Bill of Rights

- 5<sup>th</sup> Amendment: Criminal Proceedings (no self incrimination, no Double Jeopardy (can't be tried for same crime twice), Due Process and Eminent Domain (gov't can seize private property for public use – must pay market value))

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Yes, you're in my "legal custody".  
No, that doesn't entitle you to a  
Miranda warning before I question  
you about your report card.



# Bill of Rights

- 6<sup>th</sup> Amendment: Right to a speedy and public trial by an impartial jury.



# Bill of Rights

- 7<sup>th</sup> Amendment: Right to a jury trial in civil matters in excess of \$20.00.



# Bill of Rights

- 8<sup>th</sup> Amendment: No Cruel and unusual punishment, nor excessive fines or bail.



# Bill of Rights

- 9<sup>th</sup> Amendment: Any rights that are not specifically stated in the Constitution are held by the people.



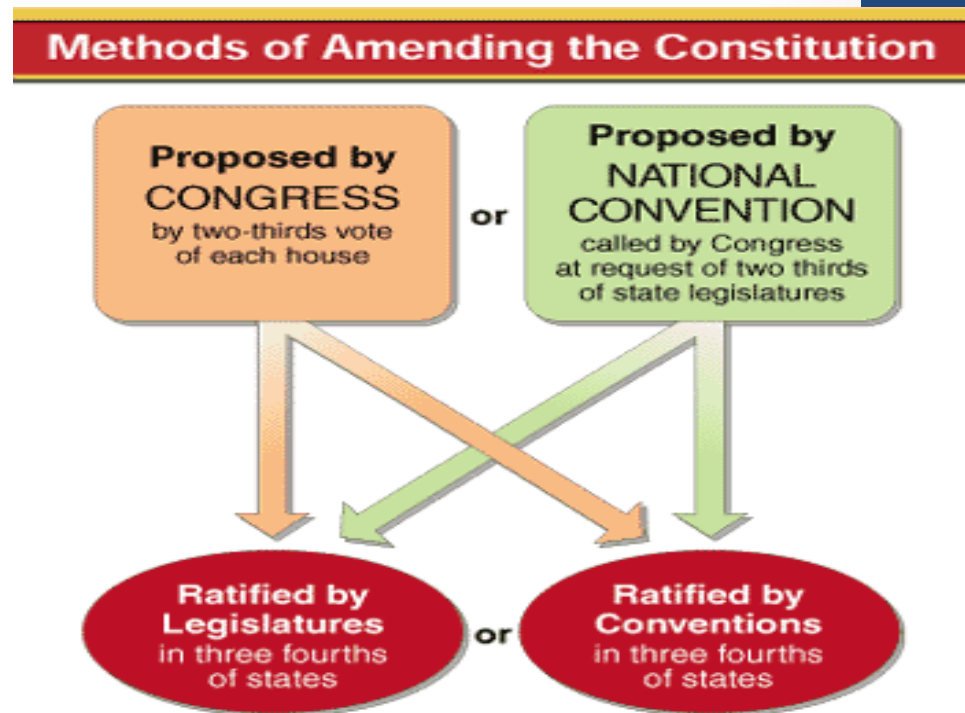
# Bill of Rights

- 10<sup>th</sup> Amendment: Powers not delegated to the U.S. by the Constitution, or are forbidden to the States, belong to the States or the People of the States (Reserved Powers).



# Formal Amendment Process

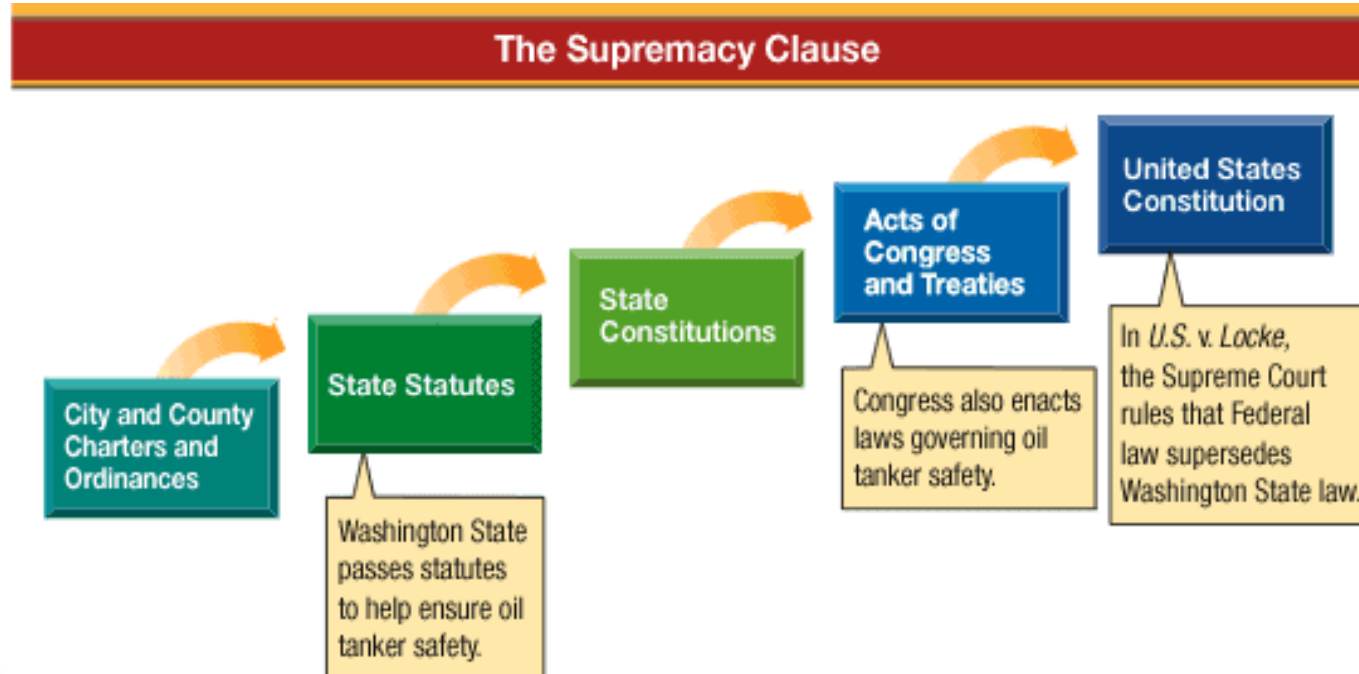
- Formal Amendments can be **PROPOSED** by:
  - A 2/3 vote of both houses of Congress
  - At a national convention when call by Congress when requested by 2/3 of the states
- Formal Amendments can be **RATIFIED** (approved) by:
  - The State legislature of  $\frac{3}{4}$  of the states
  - Conventions held in  $\frac{3}{4}$  of the states
- Formal Amendment Process provides for a way to accommodate a changing society





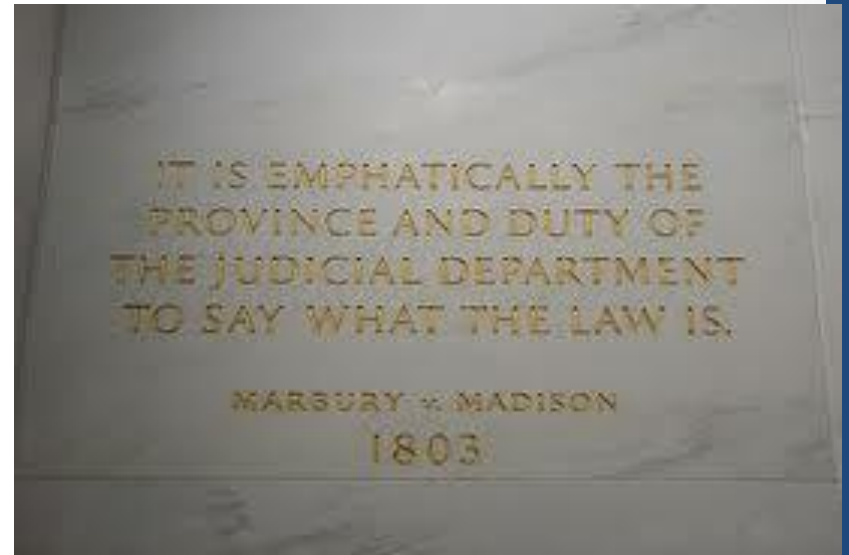
# The Supremacy Clause

- If national law and state law conflict, the national law will rule.
- *McCulloch v. Maryland*
  - Supreme Court used Supremacy Clause to explain that the State of Maryland could not tax federal bank notes issued by the 2<sup>nd</sup> Bank of the United States



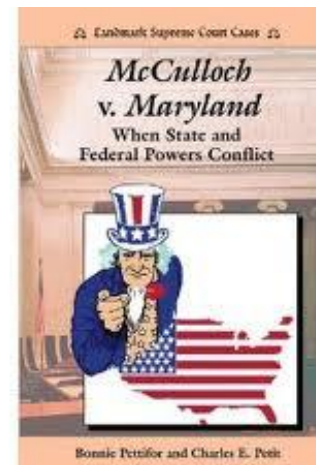
# *Marbury v. Madison*

- William Marbury was appointed to be a judge for the District of Columbia by outgoing Federalist President John Adams
- Incoming President Thomas Jefferson withdrew Marbury commission to the judgeship
- Marbury filed suit in the Supreme Court in an attempt to force Jefferson to give him the judgeship, citing the National Judiciary Act of 1789 (allowing him to take his case directly to the Supreme Court)
- **Established the Supreme Court's power of judicial review (declaring an act of the government unconstitutional)**
  - **Struck down the National Judiciary Act of 1789** as unconstitutional therefore nullifying Marbury's case



# McCulloch v. Maryland

- State of Maryland taxed the bank notes issued by the 2<sup>nd</sup> Bank of the United States
- State of Maryland claimed that the Federal Government does not have the authority to create a National Bank
- **Supreme Court cited the Necessary and Proper Clause (Implied Powers) to suggest that the Federal Government does have the authority to create a National Bank**
- **Supreme Court also cited the Supremacy Clause to suggest that a conflict between a State Government and the US Constitution would favor the US Constitution**



# Miranda v. Arizona

- Ernesto Miranda was convicted of kidnapping and rape
- Miranda confessed during questioning, but was not read his rights
- **Supreme Court overturned Miranda's conviction, laying down the MIRANDA RULE, which states that a suspect must be:**
  - **Told of his or her right to remain silent**
  - **Warned that anything he or she says can be used in court**
  - **Informed of right to an attorney**
  - **If can't afford one, court will provide one**
  - **Can end questioning at any time**

## MIRANDA WARNING

1. YOU HAVE THE RIGHT TO REMAIN SILENT.
2. ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.
3. YOU HAVE THE RIGHT TO TALK TO A LAWYER AND HAVE HIM PRESENT WITH YOU WHILE YOU ARE BEING QUESTIONED.
4. IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING IF YOU WISH.
5. YOU CAN DECIDE AT ANY TIME TO EXERCISE THESE RIGHTS AND NOT ANSWER ANY QUESTIONS OR MAKE ANY STATEMENTS.

## WAIVER

DO YOU UNDERSTAND EACH OF THESE RIGHTS I HAVE EXPLAINED TO YOU?  
HAVING THESE RIGHTS IN MIND, DO YOU WISH TO TALK TO US NOW?



# *Plessy v. Ferguson*

- Herman Plessy challenged a Louisiana law which required separate seating for white and African Americans on railroad cars
- Plessy cited the 14<sup>th</sup> Amendment and stated that his Equal Protection of Laws was violated
- **Supreme Court ruled that as long as the facilities were SEPARATE BUT EQUAL (providing basis for legal segregation and upholding Jim Crow Laws)**
  - Court ruled that 14<sup>th</sup> Amendment only gave African Americans political and civil equality, not social equality



*“No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.”*

—United States Constitution

# Brown v. Board of Education of Topeka

- Linda Brown, a 10 year old Topeka girl was not permitted to attend her neighborhood school because she was an African American
- Brown cited the Equal Protection Clause of the 14<sup>th</sup> Amendment
- **Supreme Court overturned the Plessy v. Ferguson ruling stating that SEPARATE WAS NOT EQUAL (making segregation of the races illegal)**



FROM THE  
Constitution

*“No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.”*

—United States Constitution



# *New Jersey v. T.L.O.*

- T.L.O., a high school student denied smoking in the bathroom at school after being observed by a staff person
- School Principal searched her purse and found cigarettes, marijuana, and evidence that she was dealing drugs at school
- T.L.O. argued that it was an illegal search violating the 4<sup>th</sup> Amendment
- **Supreme Court ruled that the school had a legitimate need to maintain a proper learning environment for students which requires an easing of the search and seizure requirements that would be necessary outside school grounds (reason suspicion is necessary instead of probable cause)**



# Suffrage Amendments

- **15<sup>th</sup> Amendment (African American Suffrage)**
  - Right to vote could not be denied based on race, color, or previous condition of servitude



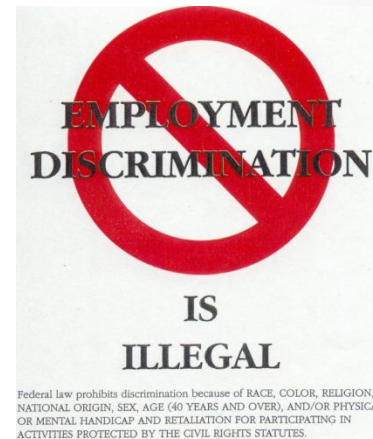
- **19<sup>th</sup> Amendment (Women's Suffrage)**
  - Right to vote could not be denied based on gender





# Civil Rights Acts

- Civil Rights Act of 1964
  - No person may be denied access or refused service in public accommodations
  - Prohibits discrimination in any program that receives federal funds
  - Forbids employers and labor unions to discriminate against any person on the grounds of race, color, religion, sex, physical disability, or age in job related matters
- Civil Rights Act of 1968
  - Open Housing Act – forbids anyone from refusing to sell or rent to anyone on the grounds of race, color, religion, national origin, sex, or disability



# Voting Rights Act of 1965

- Finally made the 15<sup>th</sup> Amendment effective by applying it ALL elections (federal, state, and local)
  - Encouraged court challenges of poll taxes
  - Suspended use of literacy tests as a voting requirement



# Reserved Powers

- Powers that the Constitution does not grant to the National Government, nor are denied to the state
- Examples include:
  - Regulate trade within the state
  - Pass licensing requirements for professionals (teachers, real estate agents, doctors, etc.)
  - Regulate alcoholic beverages
  - Conduct Elections
  - Establishing public schools
  - Setting graduation requirements
  - Establish local governments
  - Marriage and divorce laws
  - Land use laws



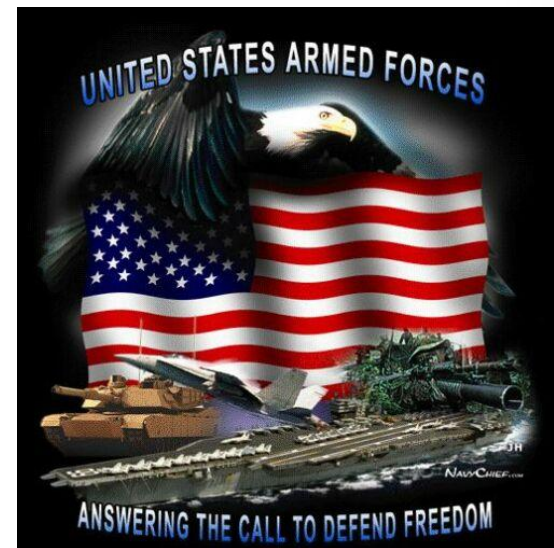
# Concurrent Powers

- Powers that are shared by both the National Government and the State Governments
- Examples include:
  - Levy and collect taxes
  - Borrow money
  - Establish courts
  - Define crimes and punishments
  - Claim private property for public use (eminent domain)



# Exclusive Powers

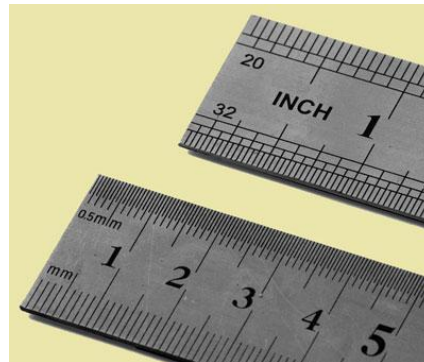
- Powers that can be exercised ONLY by the National Government
- Examples include:
  - Coin money
  - Make treaties w/ foreign states
  - Tax imports
  - Regulate interstate commerce
  - Raise and maintain armed forces
  - Declare war
  - Govern US territories
  - Conduct foreign relations



# Expressed Powers



- Powers delegated to the National Government (clearly written into the US Constitution)
- Examples include:
  - Power to tax
  - Coin money
  - Regulate foreign and interstate trade
  - Raise and maintain armed forces
  - Fix standards of weights and measures
  - Grant patents and copyrights



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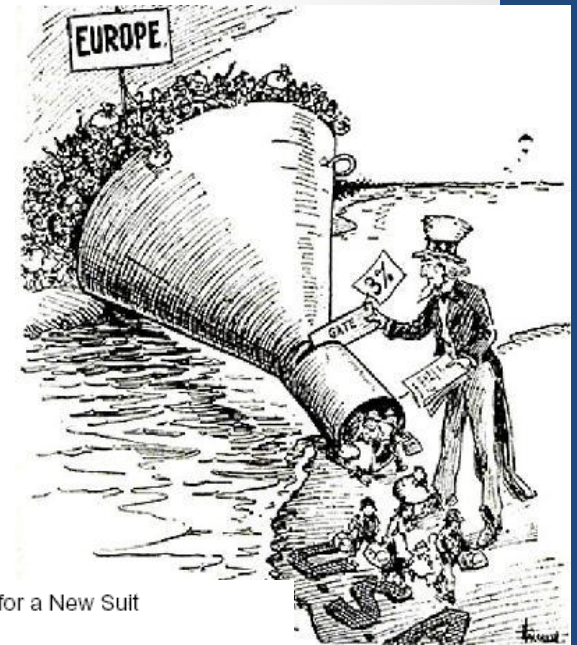
# Implied Powers

- Powers that not expressly stated in the US Constitution, but are reasonably suggested or implied by the expressed powers
- Based on the Necessary and Proper Clause (Elastic Clause) which states that the Congress has the power to do anything that is necessary and proper for carrying out the expressed powers
- Examples include:
  - Punish tax evaders
  - Acquiring new territories
  - Alcohol and drug laws
  - Setting crime and punishment
  - Building of interstate highway system
  - Prohibiting racial discrimination
  - etc.



# Inherent Powers

- Powers that belong to the National Government because it is the government of a sovereign state in the world community
- Examples include:
  - Regulate immigration
  - Deporting illegal immigrants
  - Acquire territory
  - Grant diplomatic recognition to other states
  - Protect nation from rebellion



Measuring Uncle Sam for a New Suit





# Qualifications for President

- Must be 35 years old
- Must be a natural born citizen
- Must have lived in the United States for 14 years



# Order of Succession to President

- 25<sup>th</sup> Amendment
  - States Vice President will take over for the President upon the death, removal, or resignation of the President
- Presidential Succession Act of 1947
  - Fixes the order of succession to the President
    - Vice President
    - Speaker of the House
    - President pro Tempore of the Senate
    - Secretary of State

Presidential Succession	
1	Vice President
2	Speaker of the House
3	President <i>pro tempore</i> of the Senate
4	Secretary of State
5	Secretary of the Treasury
6	Secretary of Defense
7	Attorney General
8	Secretary of the Interior
9	Secretary of Agriculture
10	Secretary of Commerce
11	Secretary of Labor
12	Secretary of Health and Human Services
13	Secretary of Housing and Urban Development
14	Secretary of Transportation
15	Secretary of Energy
16	Secretary of Education
17	Secretary of Veterans Affairs
18	Secretary of Homeland Security



*“In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.”*

—25th Amendment, Section 1

# 22<sup>nd</sup> Amendment

- No president may be elected to more than 2 terms of office
- No president may serve more than 10 years in office
  - If you serve 2 years or less as President due to the death, resignation, or removal of a President, you would be eligible to serve 2 more terms
  - If you serve more than 2 years as President due to the death, resignation, or removal of a President, you would only be eligible to serve 1 more term

## Twenty Second Amendment To The United States Constitution

### Term Limits for the President

**Section 1.** No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

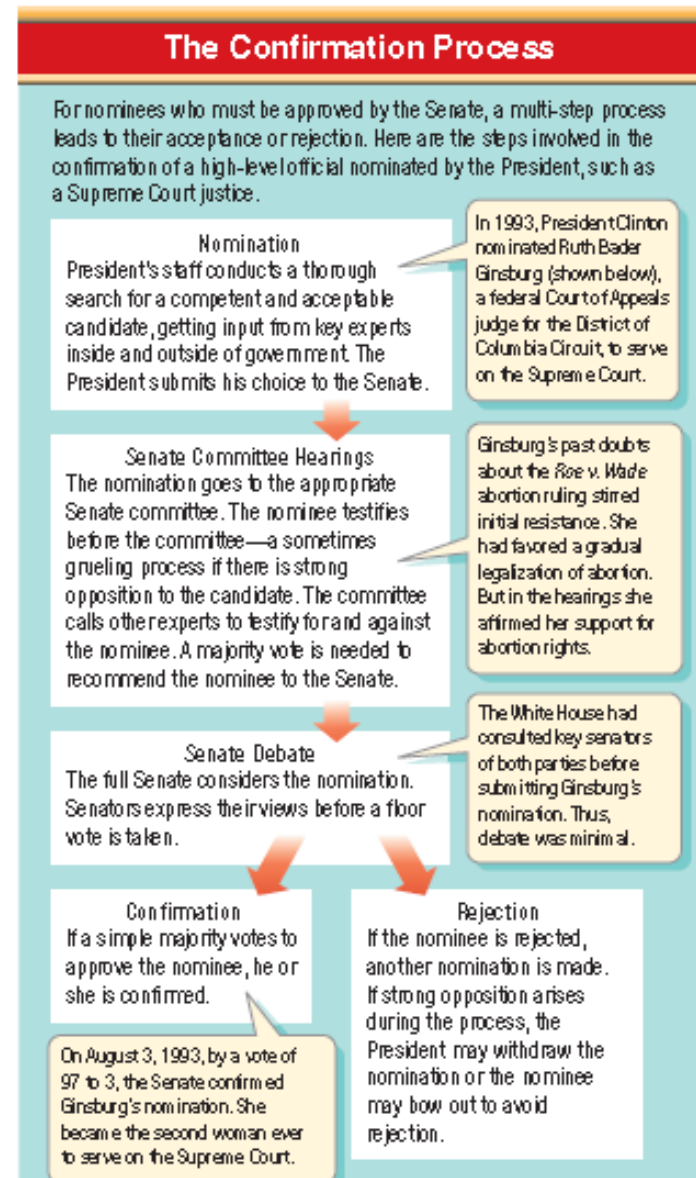
**Section 2.** This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

Ratified On December 5, 1933 Courtesy The People History



# Presidential Appointments and Process

- President has power to appoint ambassadors, Cabinet members, heads of independent agencies, all federal judges, US Marshals, US Attorneys, all officers of the armed forces (with SENATE approval)
- Process
  - President nominates
  - Senate Judiciary Committee Holds Hearings
  - Senate Debates
  - Senate Votes to Confirm or Reject



# Powers Granted to President

- Executive Powers
  - Enforce (carry out) federal law
- Ordinance Powers
  - Issue executive orders (directive, rule, or regulation that has the effect of law – without Congressional approval)
- Removal Powers
  - President can remove any appointed official EXCEPT federal judges



▲ During World War II, President Franklin D. Roosevelt issued executive orders requiring gasoline and other strategic war supplies to be rationed—sold in limited quantities. **Critical Thinking** Why is it important that the President have such a power, instead of Congress?

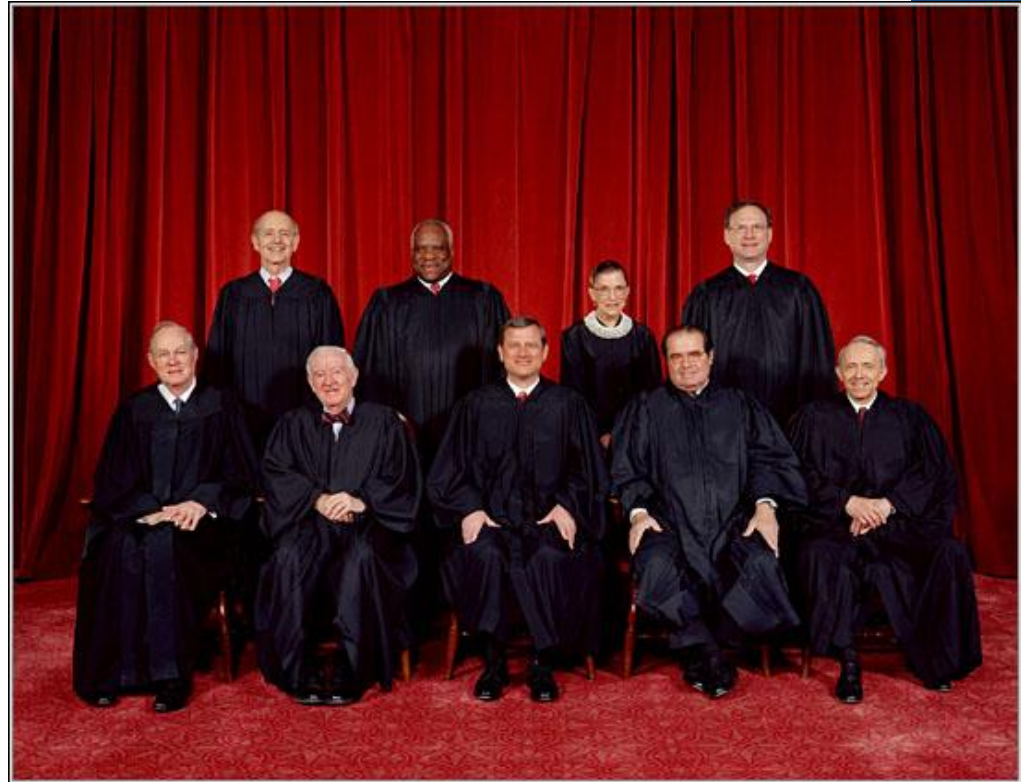
# Executive Branch: Foreign Policy (Diplomatic Powers)

- President may negotiate Treaties w/ foreign governments – must have 2/3 vote of Senate for approval
- President may negotiate an Executive Agreement with a foreign head of state (NO SENATE APPROVAL NEEDED)
- Commander in Chief of Armed Forces
- How foreign policy powers are shared with Congress
  - Treaties (requires Senate Approval)
  - Foreign aid (Congress controls spending)
  - War powers (Congress declares war and must approve any military action over 60 days – War Powers Resolution of 1973)
  - Appointment of Ambassadors to foreign nations (requires Senate approval)



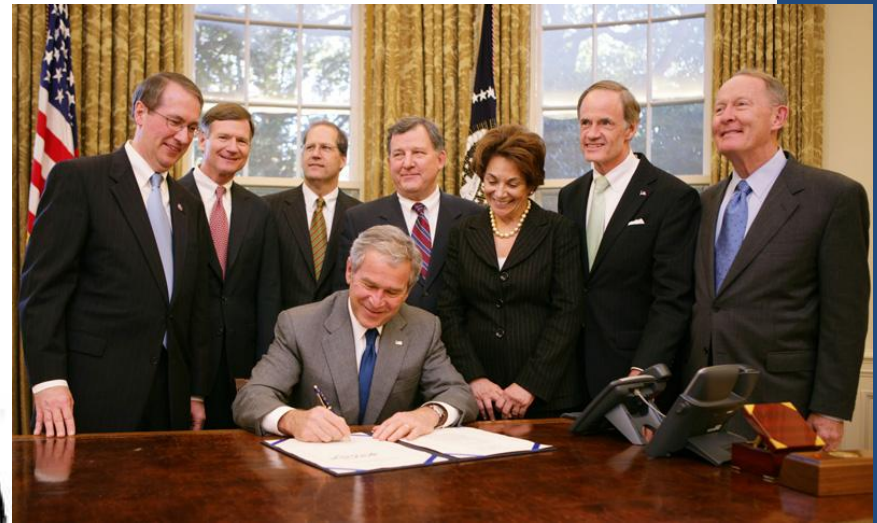
# President's Judicial Powers

- Appointment of Federal Judges
- Power to Grant Pardons, Reprieves, Commutations, Clemency, Amnesty
  - Pardon – legal forgiveness for a crime
  - Reprieve – delay of justice (ex./ delay of death penalty)
  - Commutations – shorten a sentence
  - Clemency – leniency
  - Amnesty – pardon of a large group of law violators



# President's Legislative Powers

- Recommend Legislation
- Sign or Veto Bills
- Propose Federal Budget
- Call Special Sessions of Congress



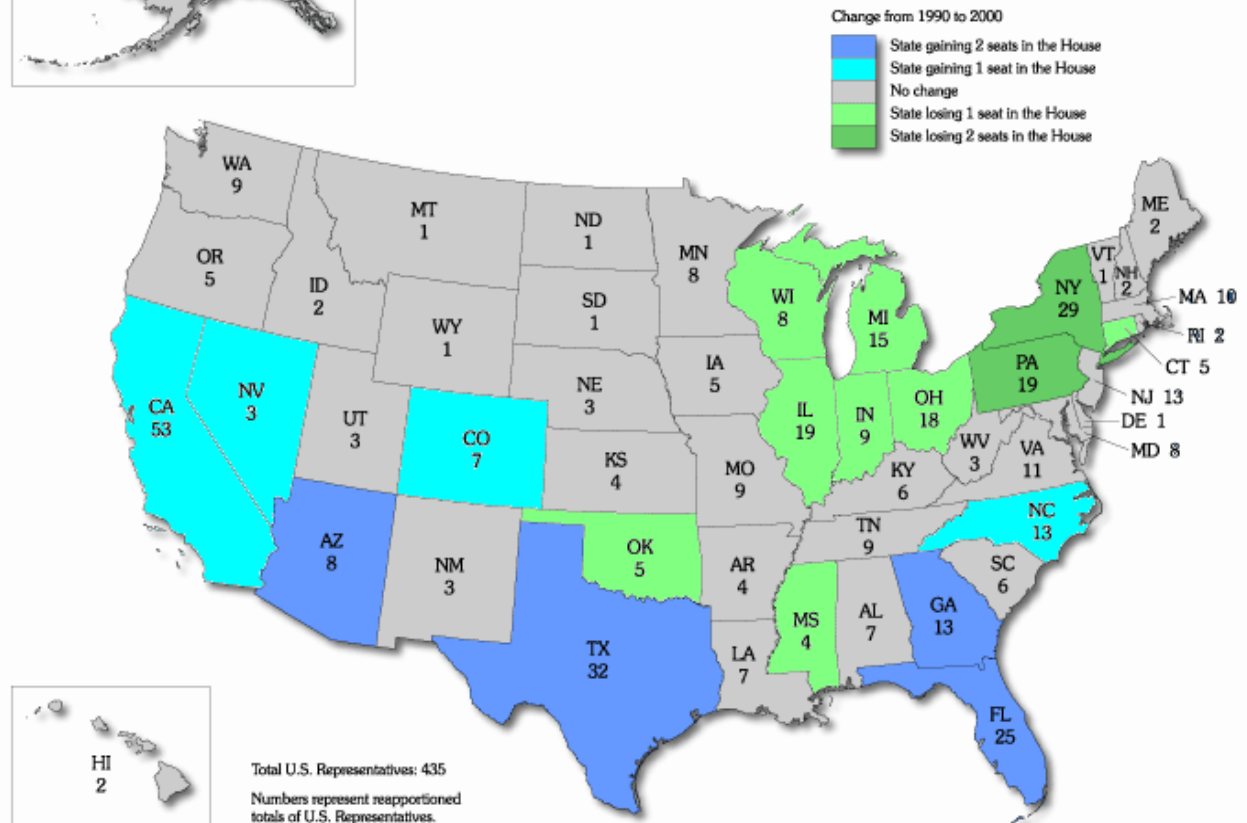


# Basis for Representation in House and Senate

- House of Representatives
  - Apportioned (distributed) to states based on population
- Senate
  - Each state receives 2 Senators

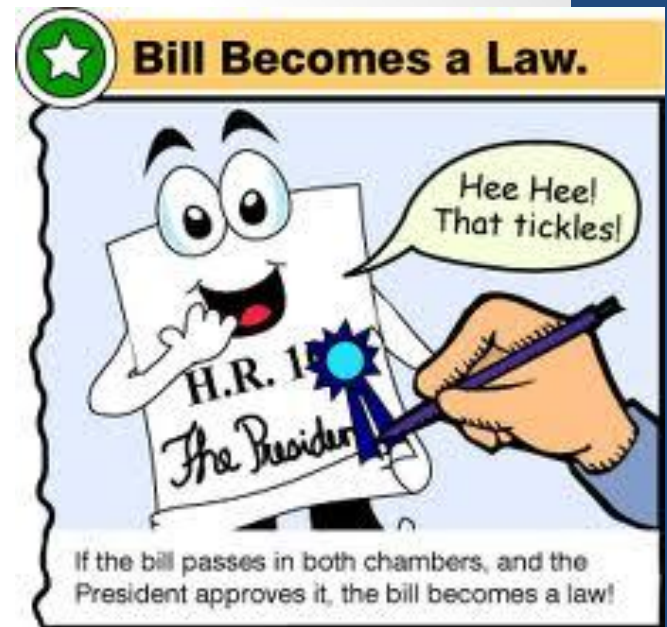


Figure 3. Apportionment of the U.S. House of Representatives for the 108<sup>th</sup> Congress



# Process of How a Bill Becomes a Law

- Bill is introduced in either house of Congress
- Referred to standing committee
- Referred to sub-committee hearings
- Debated on Floor
- Voted on
- If bill passes one chamber, it is sent to the other chamber where process starts over
- If bill passes both chambers, it is sent to conference committee to work out differences in bills, creating a new bill, which must be voted on again by both chambers of Congress (needs a simple majority to pass)
- Bill sent to President who can sign it into law, veto it and send it back (can be over-ridden with a 2/3 vote), not sign it within 10 days making it a law, or pocket veto (not sign and if Congress adjourns within 10 days the bill dies)



# Role of Committees in Law Making Process

- Divide up workload
  - Most of work done in Standing Committees (Budget Committee, Armed Services Committee, etc.)
- Inform voters
- Investigative Powers
  - Ex./ Steroids in Professional Sports



Permanent Committees of Congress		
HOUSE STANDING COMMITTEES	JOINT COMMITTEES OF CONGRESS	SENATE STANDING COMMITTEES
Agriculture	Economic	Agriculture, Nutrition, and Forestry
Appropriations	The Library	Appropriations
Armed Services	Printing	Armed Services
Budget	Taxation	Banking, Housing, and Urban Affairs
Education and the Workforce		Budget
Energy and Commerce		Commerce, Science, and Transportation
Financial Services		Energy and Natural Resources
Government Reform		Environment and Public Works
Homeland Security		Finance
House Administration		Foreign Relations
International Relations		Homeland Security and Governmental Affairs
Judiciary		Indian Affairs
Resources		Judiciary
Rules		Health, Education, Labor and Pensions
Science		Rules and Administration
Small Business		Small Business and Entrepreneurship
Standards of Official Conduct		Veterans' Affairs
Transportation and Infrastructure		
Veterans' Affairs		
Ways and Means		



**Interpreting Tables** Most legislation is considered in standing committees, and party politics can shape those panels. *What considerations might lead a member of Congress to want to serve on a particular committee?*

# US House of Representatives Leadership Positions

- Speaker of the House
  - Presides over House of Representatives
  - Decides which bills will be introduced and debated
- House Majority Leader
  - Leader of the Majority Party (Party which holds most seats in House)
- House Minority Leader
  - Leader of the Minority Party (Party which holds minority status in the House)
- House Majority Whip
  - Responsible for counting votes for the Majority Party
- House Minority Whip
  - Responsible for counting votes for the Minority Party

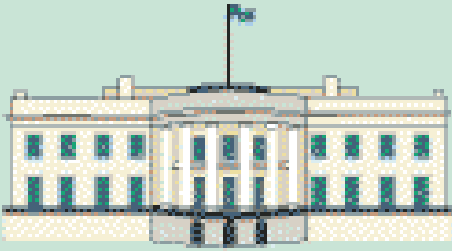
# US Senate Leadership Positions

- President of the Senate
  - Vice President of the United States
  - Votes to break a tie (cannot debate or vote otherwise)
- President pro Tempore of the Senate
  - Presides in absence of the President of the Senate
- Senate Majority Leader
  - Leader of the Party which has the most Senators
- Senate Minority Leader
  - Leader of the Party which has minority status in the Senate
- Senate Majority Whip
  - Responsible for counting the vote for the majority Party
- Senate Minority Whip
  - Responsible for counting the votes for the minority Party

# System of Checks and Balances

## Executive Branch

(President carries out laws)



### Checks on the Legislative Branch

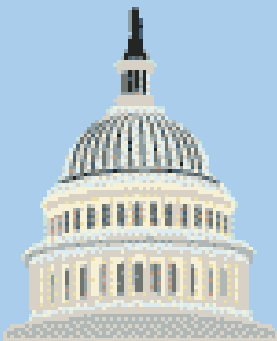
- Can propose laws
- Can veto laws
- Can call special sessions of Congress
- Makes appointments
- Negotiates foreign treaties

### Checks on the Judicial Branch

- Appoints federal judges
- Can grant pardons to federal offenders

## Legislative Branch

(Congress makes laws)



### Checks on the Executive Branch

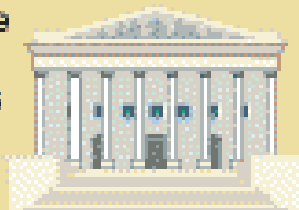
- Can override President's veto
- Confirms executive appointments
- Ratifies treaties
- Can declare war
- Appropriates money
- Can impeach and remove President

### Checks on the Judicial Branch

- Creates lower federal courts
- Can impeach and remove judges
- Can propose amendments to overrule judicial decisions
- Approves appointments of federal judges

## Judicial Branch

(Supreme Court interprets laws)



### Check on the Executive Branch

- Can declare executive actions unconstitutional

### Check on the Legislative Branch

- Can declare acts of Congress unconstitutional

# Powers Granted ONLY to US Senate

- Approval or Rejection of Presidential Appointments (federal judges, cabinet members, ambassadors, etc.)
- Approval or Rejection of Treaties



# Jurisdiction

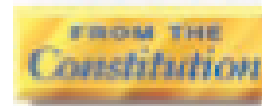
- Jurisdiction - authority to hear a case
  - Original Jurisdiction – authority to hear a case first
    - US District Court & US Supreme Court
  - Appellate Jurisdiction
    - US Court of Appeals & US Supreme Court





# Due Process of Law

- The government cannot arbitrarily deny your right to life, liberty, or property
  - Government must follow established rules and treat all people fairly
  - Found in 5<sup>th</sup> and 14<sup>th</sup> Amendments
  - Applies in Eminent Domain Cases (Government taking private property for public use)



*“No State shall . . . deprive any person of life, liberty, or property, without due process of law. . . .”*

—United States Constitution



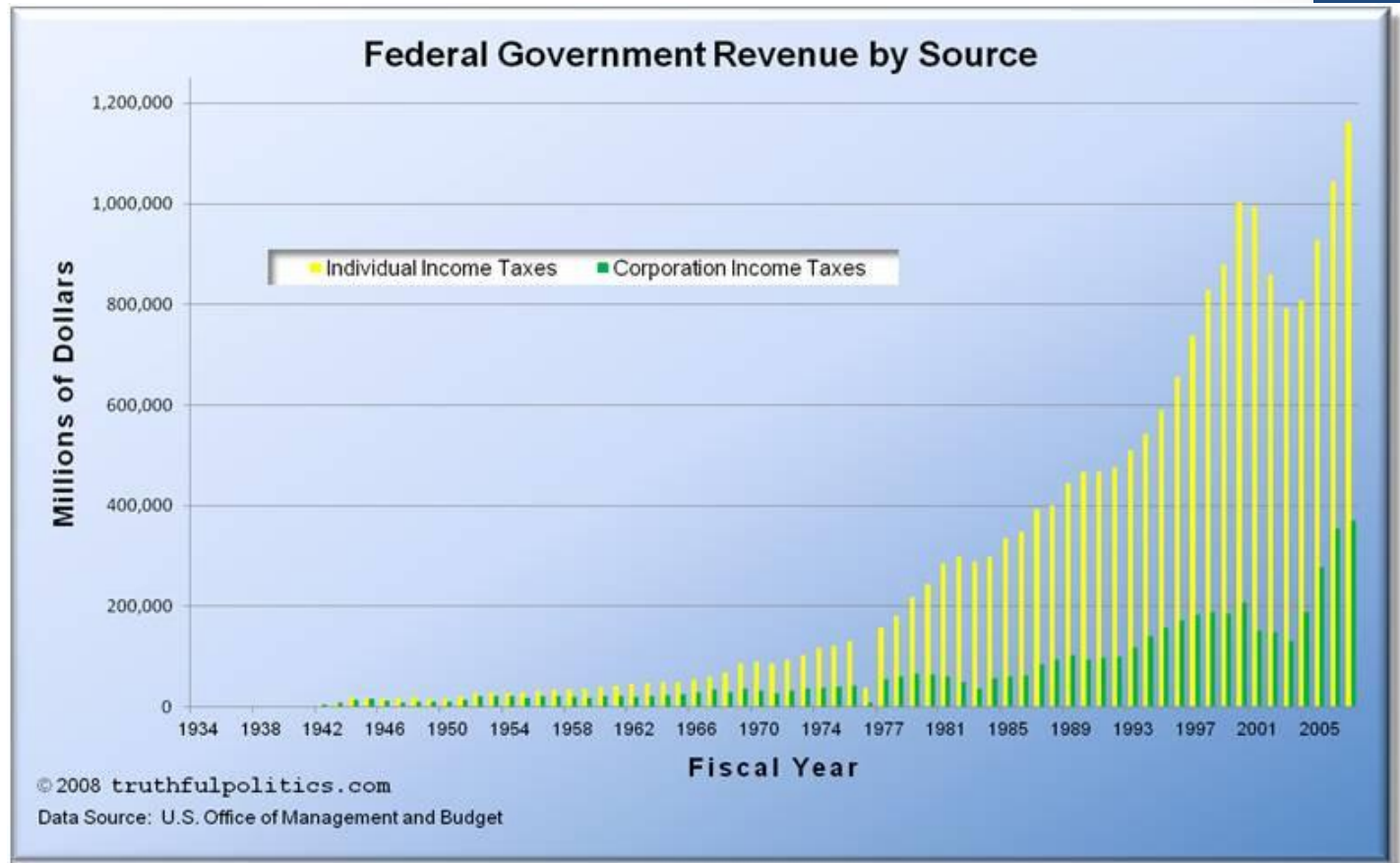
# Judicial Selection Process

- President appoints nominees
- Senate Judiciary Committee holds Hearings
- Senate Debates nominees
- Senate Votes to confirm or reject nominee



# Sources of US Government Revenue

- Individual Income Tax (Largest Source of US Government Revenue)
- Corporate Income Tax
- Sale of Government Lands



# Electoral System of Electing the President

- Presidential Election is decided by the vote of the Electoral College
  - Each states # of electors is determined by their number of Representatives + Senators
- Must have a majority of electoral votes (270 votes)

## The Framers' Plan for the Electoral College

- 1 Each State would have as many presidential electors as it has senators and representatives in Congress.
- 2 These electors would be chosen in each State in a manner the State legislature directed.
- 3 The electors, meeting in their own States, would each cast two votes—each for a different person for President.
- 4 These electoral votes from the States would be opened and counted before a joint session of Congress.
- 5 The person receiving the largest number of electoral votes, provided that total was a majority of all the electors, would become President.
- 6 The person with the second highest number of electoral votes would become Vice President.
- 7 If a tie occurred, or if no one received the votes of a majority of the electors, the President would be chosen by the House of Representatives, voting by States.
- 8 If a tie occurred for the second spot, the Vice President would be chosen by the Senate.

**Interpreting Charts** The Framers' Plan for the electoral college provided for a group of presidential electors to choose the President. *How was the Vice President to be chosen?*

# Flaws in the Electoral System of Electing the President



- Winner of popular vote can lose the election
- Electors are not required to vote in accord with the popular vote
- The House of Representatives would select the President in the case of a tie

# War Powers of the President

- President is Commander in Chief of Armed Forces
- War Powers Resolution of 1973
  - President must notify Congress within 48 Hours of committing troops abroad
  - President can send troops for 60 days (unless Congress authorizes an extended use of forces) – has 30 more days to bring troops home safely
  - Congress can end the use forces at any time by passing a concurrent resolution
  - President DOES NOT have the power to declare war (this power is held by Congress)



# Role of Congress in US Fiscal Policy

- Congress approves the United States Government Budget
- Congress authorizes appropriation of money (government funding)

# How May Individual Rights Conflict with the Common Good?

- Majority Rules / Minority Rights
  - Although the majority has enough power to pass laws, they must do so while respecting the rights of the minority group
    - Ex./ Although the majority of Americans are white, they cannot pass laws that discriminate against minority groups (African Americans, Hispanics, Native Americans, etc.)
- Limitations to your 1<sup>st</sup> Amendment Rights
  - You cannot exercise your rights in a way that infringes upon the rights of others
    - Ex./ Your freedom of religion would not protect a religious belief of human sacrifice



*“The most stringent [strict] protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic.”*

—*Schenck v. United States*, 1919



# Eminent Domain

- Government may seize private property for public use (must pay market value for property)
  - 5<sup>th</sup> Amendment

