

GREAT COMPROMISE



New Jersey Plan: equal representation for every state

Virginia Plan: representation based on population

Compromise Reached:

- House of Reps - based on population
- Senate - equal representation for each state

$\frac{3}{5}$ COMPROMISE

Issue: how to count
enslaved population for
purposes of
representation and
taxation

Compromise: Enslaved
Africans counted as $\frac{3}{5}$ of
a person for
representation and
taxation



TRADE COMPROMISE

The Constitution allows the federal government to interstate and foreign trade, but not to take action on the slave trade for 20 years.

DEFINITIONS

Ratification: Formal approval

Reserved Powers: Powers set aside or reserved for the states

Delegated Powers: Powers given to the federal government

Concurrent Powers: Powers shared by state and federal government

Federalism: Division of power between state and national government

Federalist Papers: Series of essays that argued for ratification of the Constitution

Preamble: Introduction

Separation of Powers: Division of powers between three separate branches: Legislative, Executive, and Judicial.

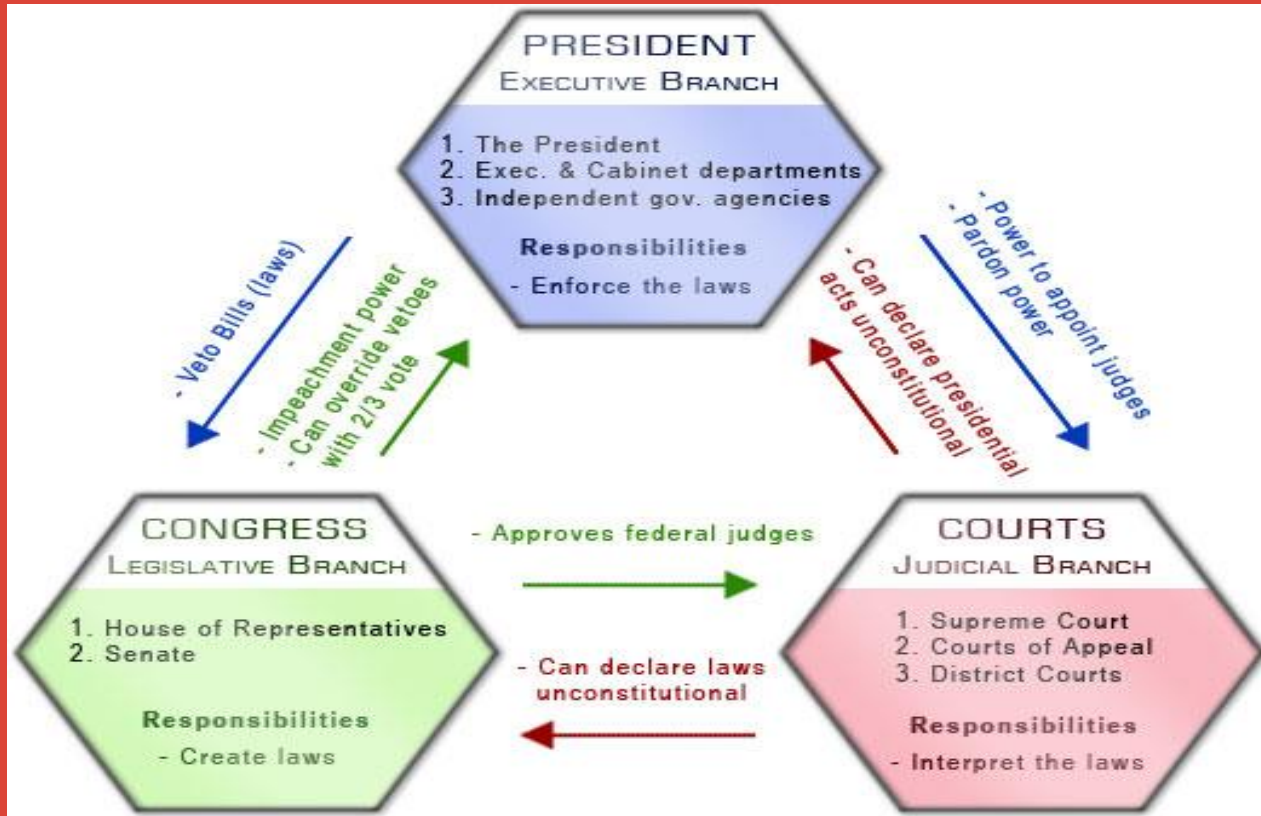
FEDERALISTS

- Argued for a strong, national government to protect people's rights and to provide stability and order.
- Said Bill of Rights was not necessary because the powers of the new government were limited by the Constitution

ANTI-FEDERALISTS

- Wanted a weaker national government so people's rights and states' rights were not threatened
- Wanted a Bill of Rights to protect people against abuse of power

CHECKS AND BALANCES



FLEXIBILITY IN THE CONSTITUTION

Elastic Clause

Allows Congress to stretch to adjust to changing times, "necessary and proper clause"

Amendment Process

Constitution can be formally changed, with approval of Congress and states

Judicial Review

Supreme court and lower courts review cases that involve possible conflicts with the Constitution

FEDERALISM

Delegated Powers (those powers specifically granted to the Federal Government by the Constitution)	Concurrent Powers (powers that are shared by both the Federal and State governments)	Reserved Powers (those powers not delegated to the Federal government or denied to the states are given to the states)
<ul style="list-style-type: none">• Regulate interstate and international trade	<ul style="list-style-type: none">• Power to tax	<ul style="list-style-type: none">• Regulate intrastate trade
<ul style="list-style-type: none">• Coin Money	<ul style="list-style-type: none">• Maintain courts	<ul style="list-style-type: none">• Establish schools
<ul style="list-style-type: none">• Declare war	<ul style="list-style-type: none">• Borrow money	<ul style="list-style-type: none">• Establish local governments
<ul style="list-style-type: none">• Maintain armed forces		<ul style="list-style-type: none">• Pass statewide laws
<ul style="list-style-type: none">• Establish a postal system		<ul style="list-style-type: none">• Run elections
<ul style="list-style-type: none">• Enforce copyrights		
<ul style="list-style-type: none">• Sign treaties		

FEDERALISM

Delegated Powers (National Gov't)

1. Power to declare war
2. There is one common currency in the U.S.

Concurrent Powers (both)

1. Power to tax
2. There are federal prisons and state prisons

Reserved Powers (states)

1. Education
2. Run elections



RESPONSIBILITIES OF THE PRESIDENT

Chief of State: symbolic head of the United States

Chief Executive: the president is “boss” for millions of government workers in the Executive Branch, deciding how the laws are to be enforced

Chief Diplomat: Makes treaties with permission of Senate, executive agreements, extend diplomatic recognition to nations

Commander in Chief: Broad military powers
shared with Congress

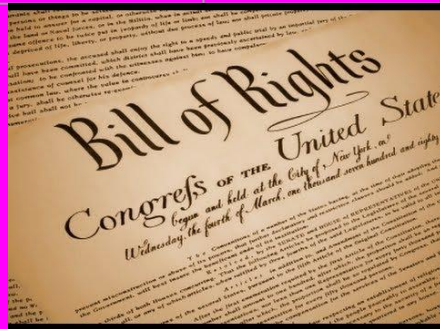
Chief of Party: leader of political party in
power



BILL OF RIGHTS

1st Amendment (Freedoms)	Freedom of Religion, press, speech, assembly, petition
2nd Amendment (Right to bear arms)	Right to keep and bear arms
3rd Amendment (No Quarter)	Right to protection from troops being quartered in homes during peacetime
4th Amendment (Search and Seizure)	Right against unreasonable search and seizure, warrants require cause and must be specific
5th Amendment (Rights of the Accused)	Grand Jury trial, no double jeopardy, no self-incrimination, right to due process, eminent domain
6th amendment (Rights of the Accused)	Right to be informed of charges, right to a speedy and public trial, right to a trial by jury, right to face witnesses against you, right to a lawyer, right to call witness in your defense

7th Amendment (Rights in a Civil Case)	Right to a trial by jury in civil case (non-criminal case)
8th Amendment (Cruel and Unusual Punishment)	Right to protection against cruel and unusual punishment, right to protection against excessive bails and fines
9th Amendment (Unenumerated Rights)	Guarantee rights not enumerated (listed) in the Constitution are still protected
10th Amendment (Reserved rights)	Guarantee that the people and the states have all of the powers not specifically delegated the federal government (reserved powers)



JUDICIAL REVIEW

The most important power of the Supreme Court is the ability to declare laws unconstitutional. The power of Judicial Review was a precedent set in the 1803 Marbury v. Madison decision. It also serves as a deciding factor on the laws passed by Congress and the actions and treaties of the President.



AMERICAN HISTORY THROUGH CONSTITUTIONAL LAW

Cases	Quick Summary	Outcome/Historical Significance	Constitutional Concepts/Enduring Issues
Marbury v. Madison (1803)	Appointment of midnight justices by John Adams rejected by Thomas Jefferson. Supreme Court must decide constitutionality of Judiciary Act	John Marshall declares Judiciary Act unconstitutional. The Supreme Court has the right of Judicial Review. This means that the court has the ability to look back at former cases and laws.	Judicial v. Executive and Congressional Power Judicial Review Separation of Powers
McCulloch v. Maryland (1819)	Maryland attempts to tax the National Bank of the United States. Court must decide whether Bank is legitimate under the elastic clause and whether Maryland can tax it.	John Marshall declares “the power to tax is the power to destroy.” The Supremacy Clause of the Constitution prohibits state taxation of a federal institution. Federal law takes precedent over State law.	States Rights Elastic Clause Judicial Review Federalism

Gibbons v. Ogden (1824)	Ogden receives exclusive right from New York to use steamboat to navigate in New York and to N.J. Gibbons gets right from Congress.	John Marshall declares that Congress has the exclusive authority to regulate Interstate Commerce. Federal law takes precedent over State law.	Judicial Review Federalism
Dred Scott v. Sanford (1857)	Dred Scott was a slave who was brought into free territory as defined by the Missouri Compromise.	The Supreme Court declared that slaves were property and therefore had no right to sue for his freedom. It also declared the Missouri Compromise unconstitutional.	Article III: citizenship rights v. 5th amendment property rights Civil War causes Federalism Equality Rights of Ethnic Groups
Impeachment Trial of Andrew Johnson (1868)	Andrew Johnson fired his Secretary of War Stanton in violation of the Tenure of Office Act and the House of Representatives voted to impeach the president.	The Senate by one vote found Johnson innocent. Johnson was able to finish his term in office. This event brings to light the major differences between the President and Radical Republicans in Congress regarding Reconstruction.	Article I: impeachment (power of Congress v. Article II appointment power of the president) Federalism Presidential Power Separation of Power

Plessy v. Ferguson (1896)	The state of Louisiana enacted a law that required separate railway cars for blacks and whites. In 1892, Plessy took a seat in the “whites only” car of a train. He refused to move to the car reserved for blacks and was arrested.	In this case, the Supreme Court ruled that segregation was constitutional. The case established the principle of separate but equal until it was overturned in 1954.	14th amendment (equal protection clause) Equality Federalism Jim Crow
Korematsu v. U.S. (1944)	During WWII, Executive Order 9066 and congressional statutes gave the military authority to relocate Japanese Americans to internment camps as a means of national defense.	The Supreme Court ruled that the President had the right to issue the Executive Order based on his power as Commander in Chief. In 1988, Congress passed a law giving \$20,000 to all ancestors of Japanese-Americans who were put in these camps.	14th amendment (equal protection clause v. Article II power of the President) Civil Liberties Rights of ethnic minorities WWII

Brown v. Board of Education	Linda Brown was denied access to all-white school in her neighborhood. Was segregation constitutional?	Segregation is inherently UNCONSTITUTIONAL. Overturned <i>Plessy</i> case and set the stage for Civil Rights Movement	Civil Rights 14th Amendment
Gideon v. Wainwright (1963)	Gideon was accused of a felony by Florida and did not have attorney representation because he could not afford one.	Based on his “pauper” appeal to the Supreme Court, it decided that regardless of the crime, Gideon had the right to a lawyer (counsel)	5th and 6th amendment Bill of Rights Due Process Right to an attorney
Mapp v. Ohio (1961)	Dollere Mapp was accused of harboring a dangerous criminal. The police searched her house without a warrant and found illegal pornographic material, which they used to prosecute Mapp.	Regarding the use of illegally obtained evidence in a trial, the Supreme Court ruled that evidence taken without a warrant can't be used in court.	4th amendment Bill of Rights Search and Seizure

Miranda v. Arizona (1966)	Ernesto Miranda was arrested, interrogated and confessed to rape without the police informing him of his right to remain silent or have an attorney after his arrest.	One of the most important cases decided by the Supreme Court, it directed police to give people their rights immediately after a person is arrested.	5th and 6th amendments Bill of Rights Due Process Right against self-incrimination Right to an attorney
New Jersey v. TLO (1985)	TLO was accused of smoking in the bathroom. The principal searched her pocketbook without her permission and discovers cigarettes as well as other illegal substances.	Court rules that schools can search students with reasonable cause. This case gave school officials greater latitude in disciplining students.	4th amendment Bill of Rights Due Process Search and Seizure
New York Times v. U.S. (1971)	The Nixon administration attempted to prevent the New York Times and Washington Post from publishing materials from a classified Defense Department study regarding the history of United States activities in Vietnam.	The Court ruled that the papers did not violate national security and therefore the newspapers had the right to publish them. The result was an embarrassment for the President of the United States.	1st amendment (free speech) v. Article II (power of the president) Cold War Vietnam Freedom of the Press

U.S. v. Nixon (1974)

President Nixon asserted that he was immune from the subpoena claiming “executive privilege”, which is the right to withhold information to preserve confidential communications or to secure the national interest and refused to hand over Watergate related tapes.

The Court ruled unanimously that the President must follow the law and that executive privilege could not be invoked in a potential criminal activity. Shortly after turning over the tapes, Nixon resigned from office.

Article I (power of Congress) v. Article II (power of the President)

Separation of powers

Watergate



CENSUS

- The census counts the population and helps to determine representation in Congress
- The number of electoral votes in each states is determined by the number of representatives in the House and Senate combined
- The main argument against the Electoral College is that it doesn't have to follow the vote of the people
- Two examples of when a presidential election demonstrated this was in 1876 and 2000

THE UNWRITTEN CONSTITUTION

The Unwritten Constitution refers to the ideas and processes that are accepted as a needed part of American government, regardless of the fact that they are not actually in the Constitution. These ideas and process came about through the custom and precedent.

Washington was the first President to have a cabinet. The purpose of the Cabinet was to give advice to the President.

Today, the president's cabinet consists of the secretaries/heads of the 15 major departments of the executive branch (ex: The Attorney General of the Justice Department, the Secretary of State of the State Department). The newest is the Department of Homeland Security, which was created following 9/11.

POLITICAL PARTIES

The first political parties arose from the debates over ratification of the Constitution.

Federalist Party (Alexander Hamilton)	Democratic-Republicans (Thomas Jefferson)
<ul style="list-style-type: none">- National government should have more power	<ul style="list-style-type: none">- State governments should have more power
<ul style="list-style-type: none">- Loose interpretation of the Constitution (constitution can stretch and adapt to changing times)	<ul style="list-style-type: none">- Strict interpretation of the Constitution (if the Constitution doesn't state it, it can't be done)

