



LESSON 1

The Constitutional Powers of Congress

OVERVIEW

The national legislature created by the Articles of Confederation lacked sufficient powers to govern the country properly. The Constitutional Convention of 1787 created a stronger Congress with adequate powers to govern. The legislative powers were enumerated, or listed, in Article I, Section 8, whereas Article I, Section 9 enumerated powers which Congress was constitutionally restricted from exercising. Article VI made constitutional congressional laws and treaties part of the supreme law of the land.

During the 1787-1788 ratification debate over the Constitution, the Federalists defended the strengthened, though limited, legislative branch and its relationship to the executive and judicial branches. The Anti-Federalists were critics of the Constitution including the Congress because they argued that it had unlimited powers and would destroy liberty.

OBJECTIVES

- Students will examine the principles of republican government, popular sovereignty, limited government and enumerated powers, and federalism through the study of Congress in the creation and ratification of the Constitution.
- Students will compare and contrast the powers of the Confederation Congress under the Articles of Confederation to the Congress created by the Constitution.
- Students will analyze the Federalist and Anti-Federalist debates over the powers of Congress during the ratification process.

THE DEBATES IN THE FEDERAL CONVENTION OF 1787, MAY 31, 1787

James Madison [Virginia]: “I had brought with me into the Convention a strong bias in favor of an enumeration and definition of the powers necessary to be exercised by the national Legislature; but had also brought doubts concerning its practicability. My wishes remained unaltered. But I should shrink from nothing which should be found essential to such a form of government as would provide for the safety, liberty, and happiness of the community. This being the end of all our deliberations, all the necessary means for attaining it must, however, be reluctantly submitted to.”

RECOMMENDED TIME

70 minutes

MATERIALS LIST

- **Handout A: Background Essay: The Constitutional Powers of Congress**
- **Handout B: Articles of Confederation: Legislative Powers**
- **Handout C: Powers of Congress in the U.S. Constitution**
- **Handout D: The Powers of the Articles of Confederation and U.S. Constitution Venn Diagram**
- **Handout E: Constitutional Convention Role-Play**
- **Handout F: Federalists and Anti-Federalists on the Powers of Congress**

CONSTITUTIONAL PRINCIPLES

- Limited Government
- Republican Government
- Consent of the Governed

STANDARDS

- **NCSS Framework:** D2.Civ.2.9-12, D2.Civ.4.6-8, D2.Civ.4.9-12, D2.Civ.5.6-8, D2.Civ.5.9-12, D2.Civ.8.6-8, D2.Civ.8.9-12, D.2.His.9.6-8, D.2.His.9.9-12, D2.His.12.6-8, D.2.His.12.9-12.
- **Center for Civic Education (CCE:** CCE I, B, 1; CCE I, C, 2; CCE I, D, 1; CCE I, D, 2; CCE I, D, 2; CCE II, A, 1; CCE III A, 1; CCE III A, 2; CCE III B, 1; CCE III, B, 3.
- **UCLA Department of History:** National Center for History in the Schools, United States History Content Standards (NCHS): Era 3, Standard 3

KEY TERMS

- Unicameralism
- Bicameralism
- Representation
- Proportional representation
- Enumerated powers
- Suffrage
- Federalism
- Interstate commerce
- Regulation
- Federal supremacy
- Ratification
- Federalists
- Anti-Federalists

Lesson Plan

Background/Homework » 15 minutes

Have students read **Handout A: Background Essay: The Constitutional Powers of Congress** and answer the critical thinking questions.

Activity I » 20 minutes

- A. Have students read **Handout B: Articles of Confederation: Legislative Powers** and **Handout C: The Powers of Congress in the U.S. Constitution**.
- B. Assign the students to groups of four. Have them briefly compare and contrast the respective legislative powers in the Articles of Confederation and the Constitution from **Handout B** and **Handout C**.
- C. Each group will complete **Handout D: The Powers of the Articles of Confederation and U.S. Constitution Venn Diagram** using the primary sources in **Handout B** and **Handout C**.

Activity II » 20 minutes

- A. Assign students parts for the Constitutional Convention Role-Play which is divided into six sections related to different debates on the powers of Congress at the Convention. One student each will play Edmund Randolph, William Paterson, Charles Pinckney, Pierce Butler, James Madison, Gouverneur Morris, James Wilson, Elbridge Gerry, George Mason, and Roger Sherman. The role of narrator can be played by one student or by several students who each read one section for the narrator.
- B. Have the members of each section stand and read the provided script from **Handout E: Constitutional Convention Role-Play**. After each section, briefly discuss with the class how that section of the role-play relates to the powers of Congress. Perform and discuss all six.
- C. After students have performed the role-play, discuss two important themes. First, the importance of deliberation at the Constitutional Convention and the need for debate to hear different points of view in order to come to a conclusion about a topic, in addition to persuading others to adopt your viewpoint. Second, discuss the themes that were raised during the Convention about the powers of Congress.

Wrap-Up » 15 minutes

- A. Assign the students into pairs and have the groups read the quote cards from **Handout F: Federalists and Anti-Federalists on the Powers of Congress** to each other. The pairs should then discuss whether the author of the quote is a Federalist or Anti-Federalist based upon the content of the quote and then place the card into a Federalist or Anti-Federalist pile on their desk.
- B. Once the groups have assigned all of their quote cards to the Federalists or Anti-Federalists, poll the class and ask different groups which pile they assigned the individual quote cards and their reasoning.

Homework

Have the students complete ONE of the following brief writing assignments:

1. Write a 5-7 sentence paragraph comparing and contrasting the powers of Congress under the Articles of Confederation with those of the Constitution. Students can use **Handout B: Articles of Confederation: Legislative Powers** and **Handout C: Powers of Congress in the U.S. Constitution**.
2. Write a journal entry of 5-7 sentences as if they were a delegate to the Constitutional Convention and describe a debate on the floor of the Convention related to a power of Congress. (Students can use **Handout E: Constitutional Convention Role-Play** to complete the journal entry.)
3. Write a newspaper editorial supporting either the arguments of the Federalists or the Anti-Federalists during the ratification debate on the powers of Congress and explaining why the editor defends the particular view. (Students can use **Handout F: Federalists and Anti-Federalists on the Powers of Congress** to complete the editorial.)
4. Write an exchange on a Twitter or Facebook feed about a debate on ONE of the following:
 - a. A supporter of the Articles of Confederation and a supporter of the new Constitution. (Students can use **Handout B: Articles of Confederation: Legislative Powers** and **Handout C: Powers of Congress in the U.S. Constitution**.)
 - b. Two delegates at the Constitutional Convention who disagreed on the powers of Congress. (Students can use **Handout E: Constitutional Convention Role-Play**.)
 - c. A Federalist and an Anti-Federalist. (Students can use **Handout F: Federalists and Anti-Federalists on the Powers of Congress**.)

Extension

Direct students to the House of Representatives website <http://history.house.gov/HistoricalHighlight/Search/> and have them create a timeline of five events related to the House of Representatives exercising its powers, and find the related constitutional clause for the exercise of those powers. Then go to the Senate website at http://www.senate.gov/history/chronology.htm#chronology=y1787_1800 and create a timeline of five events related to the Senate exercising its powers and list the related constitutional clause for the exercise of those powers.

Background Essay: The Constitutional Powers of Congress

Directions

Read the following essay on the constitutional powers of Congress and answer the “critical thinking” questions.

Articles of Confederation

The Articles of Confederation was ratified in 1781 and created a national legislature based upon the American experience under the British Parliament and taxation without consent. Because Americans were fearful that centralized power would lead to tyranny, they severely curtailed the powers of the Confederation Congress. This first experiment with setting up a national legislature proved to be a failure.

The Congress was a unicameral, or one house, legislature and therefore did not have the checks and balances that a bicameral, or two-house, legislature would have. Each state had only one vote regardless of the size of its population so Rhode Island had an equal vote to Virginia or Pennsylvania. Since laws or amendments to the Articles required a supermajority or unanimity in Congress, individual states such as Rhode Island often frustrated Congress from assuming adequate powers to govern the new nation.

The Congress also lacked the power to tax, regulate trade, and raise an army. The feebleness of Congress became especially problematic during the crises of the 1780s. States taxed each other’s trade and transportation and nearly fought several times. States routinely ignored the provisions of the 1783 Peace Treaty and requisitions of Congress for taxes. Most notably, Shays’ Rebellion demonstrated that the Congress

had difficulty raising an army to respond to national emergencies. The Congress could, however, declare war and make peace treaties.

The problems resulting from the weak powers of Congress led a group of nationalists including George Washington, Alexander Hamilton, and James Madison to revise the framework of government and strengthen the national Congress. When the Constitutional Convention met in Philadelphia in May, 1787, Madison’s Virginia Plan was immediately introduced with a proposed Congress that differed greatly from the Confederation Congress.

The Virginia Plan

The Virginia Plan proposed a bicameral Congress with both houses based upon proportional representation rather than the equality of states. Under the plan, the “first branch” of the legislature would be elected by the people, and the “second branch” elected by the first branch, from among those nominated by the state legislatures. The authors of the plan did not define the powers of Congress but made them more expansive than those of the Confederation Congress. Resolution 6 provided, “The National Legislature ought to be empowered to enjoy the Legislative Rights vested in Congress by the Confederation & moreover to legislate in all cases to which the separate States are incompetent.” The plan also gave the national legislature a power to veto

state laws that conflicted with the Constitution, a provision which James Madison particularly favored.

Several delegates, especially from smaller states, objected to the vague powers of the Virginia Plan for two reasons. One, they feared that the national government would have unlimited powers. Two, they worried that the national government would assume the powers of the states and upset the proper federal relationship between national and state governments.

The New Jersey Plan

The shape of the national legislature was subject to rancorous deliberation that bogged down the Convention in May and June. The deadlock ensued because of the fears about granting the Congress too many powers which would result in tyranny. The debate often split the large and small states and became even more acrimonious when William Paterson of New Jersey presented an alternative framework called the New Jersey Plan. Paterson offered a plan to preserve the unicameral legislature with equal suffrage that characterized the Confederation Congress. He simply wanted to grant Congress additional powers to tax and regulate trade that it lacked under the Articles.

Paterson proposed that, “The articles of Confederation ought to be so revised, corrected & enlarged, as to render the federal Constitution adequate to the exigencies of Government, & the preservation of the Union.”

The Great Compromise

In late June, Roger Sherman of Connecticut accurately told his fellow delegates, “We are now

at a full stop.” Unless they devised a solution, the debate over the shape and powers of the Congress would destroy the Convention. Finally, in July, a committee proposed a compromise that narrowly passed over significant opposition especially by larger states.

The Great Compromise resulted in the Convention creating a House of Representatives with proportional representation elected by the people and a Senate with equal representation selected by state legislatures. The House would be more directly representative of the people and with more members, while the Senate would represent the people indirectly, be the safeguard of federalism and have fewer members. The legislative powers of the Congress were still not defined as the Convention moved on to discuss the executive branch.

The Powers of Congress

The powers of Congress were later enumerated in early August by a committee and included in Article I, Section 8. An “elastic clause” was included to allow Congress to make all “necessary and proper” laws related to specific powers that were listed. Article I, section 9 specifically prohibited Congress from exercising certain powers. Both the enumerated and restricted powers supported the principle of limited government. The House and Senate had similar legislative powers, though tax bills could not originate in the Senate because of the fear of an aristocracy. Finally, Article VI made the laws made by Congress, as well as treaties approved by the Senate, part of the supreme law of the land if they were consistent with the Constitution. In September, the Constitution was signed and eventually sent to state ratifying conventions. Supporters of the Constitution called “Federalists” and opponents

called “Anti-Federalists” quickly wrote essays that appeared in newspapers to influence the public debate.

Federalists and Anti-Federalists

Anti-Federalist objections to congressional powers were numerous but centered on a few main arguments. First, they feared the enumerated powers granted to Congress. An Anti-Federalist writing anonymously under the pseudonym of Brutus warned in his first essay that “the power to lay taxes [is] unlimited.” He also warned that the power to raise armies would lead to standing armies and the “destruction of liberty.”

The “necessary and proper” clause caused several Anti-Federalists to raise a warning that this “indefinite” clause, as they termed it, would lead to greatly consolidated power in the new national government. This was particularly worrisome because of the federal supremacy clause of Article VI which made the national laws binding on all states. Many Anti-Federalists were keen to ensure that the rights of the states were not overshadowed by the national government’s new powers. Brutus later admitted in a fifth essay that the powers of Congress were constricted in Article I, Section 9, but feared the “restrictions are very limited” and would not restrain Congress from exercising unlimited powers.

The Federalists responded and explicated the powers and limits on Congress in several of their essays. They reminded readers of the feebleness of the Confederation Congress and the need for greater powers especially over taxation and regulation of interstate commerce. A weak government, they argued, would lead to more frequent acts of coercion against the states

to compel obedience of federal law. Therefore, weakness actually caused tyranny.

The Federalists averred that the powers of government were limited and defined because the powers of Congress were enumerated in Article I, section 8. Alexander Hamilton argued in *Federalist No. 33* that the “necessary and proper” clause was an essential means for carrying laws into execution. In other words, the laws of Congress must be necessary and proper according to its enumerated powers. It was not a grant to Congress to do whatever it wanted.

Finally, the Federalists disagreed that a legislature should mirror the people, being composed of the same interests, feelings, and opinions that the people have at large. They wanted a legislature where the wisest and most virtuous citizens could resist the will of the majority when it was in error. As James Madison famously proclaimed in *Federalist No. 10*, representation should “refine and enlarge the public views” by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation, it may well happen that the public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves, convened for the purpose.”

Continuing Debate

The Constitution was ratified and went into effect with the First Congress in 1789. Within a few years, Secretary of the Treasury Hamilton’s financial plan including a national bank caused a heated feud over the meaning of the “necessary

and proper” clause when Thomas Jefferson and James Madison thought the national government was acting beyond its constitutional powers. In the mid-nineteenth century, a continuing debate occurred over whether “internal improvements” or infrastructure spending by the national government was constitutional. Throughout

the twentieth century, clashes over the scale, scope, and constitutionality of congressional laws animated political discussion. The debates of the American Founding about the powers of Congress endured for centuries after the Constitution was made the law of the land.

CRITICAL THINKING QUESTIONS

1. What were the weaknesses of the powers of the Congress under the Articles of Confederation?
2. Why was there a debate over the powers of Congress at the Constitutional Convention?
3. What parts of the Constitution explained the powers of Congress?
4. Compare and contrast the views of the Anti-Federalists and Federalists related to the powers of Congress during the ratification debate.

Articles of Confederation: Legislative Powers

Directions

Read the following primary source and answer the critical thinking questions.

Article VIII. All charges of war, and all other expenses that shall be incurred for the common defense or general welfare, and allowed by the United States in congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states in proportion to the value of all land within each state The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several states within the time agreed upon by the United States in Congress assembled

Article IX. The United States in congress assembled, shall have the sole and exclusive right and power of determining on peace and war

The United States in congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective states—fixing the standard of weights and measures throughout the United States—regulating the trade and managing all affairs with the Indians....establishing or regulating post-offices from one state to another, throughout all the United States....making rules for the government and regulation of the said land and naval forces, and directing their operations...

CRITICAL THINKING QUESTIONS

1. Did Congress have the power to tax or was it dependent upon the states? Explain your answer.
2. What powers did Congress have under the Articles?

Legislative Powers of Congress in the U.S. Constitution

Directions

Read the following primary source and answer the critical thinking questions.

Article I, Section 1 All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Article I, Section 8 The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the

Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings; — And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Article I, Section 9 The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

Article VI

... This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land ...

CRITICAL THINKING QUESTIONS

1. What were some of the important powers of Congress in Article I, Section 8?
2. What powers was Congress restricted from exercising in Article I, Section 9?
3. What was the supremacy clause in Article VI?

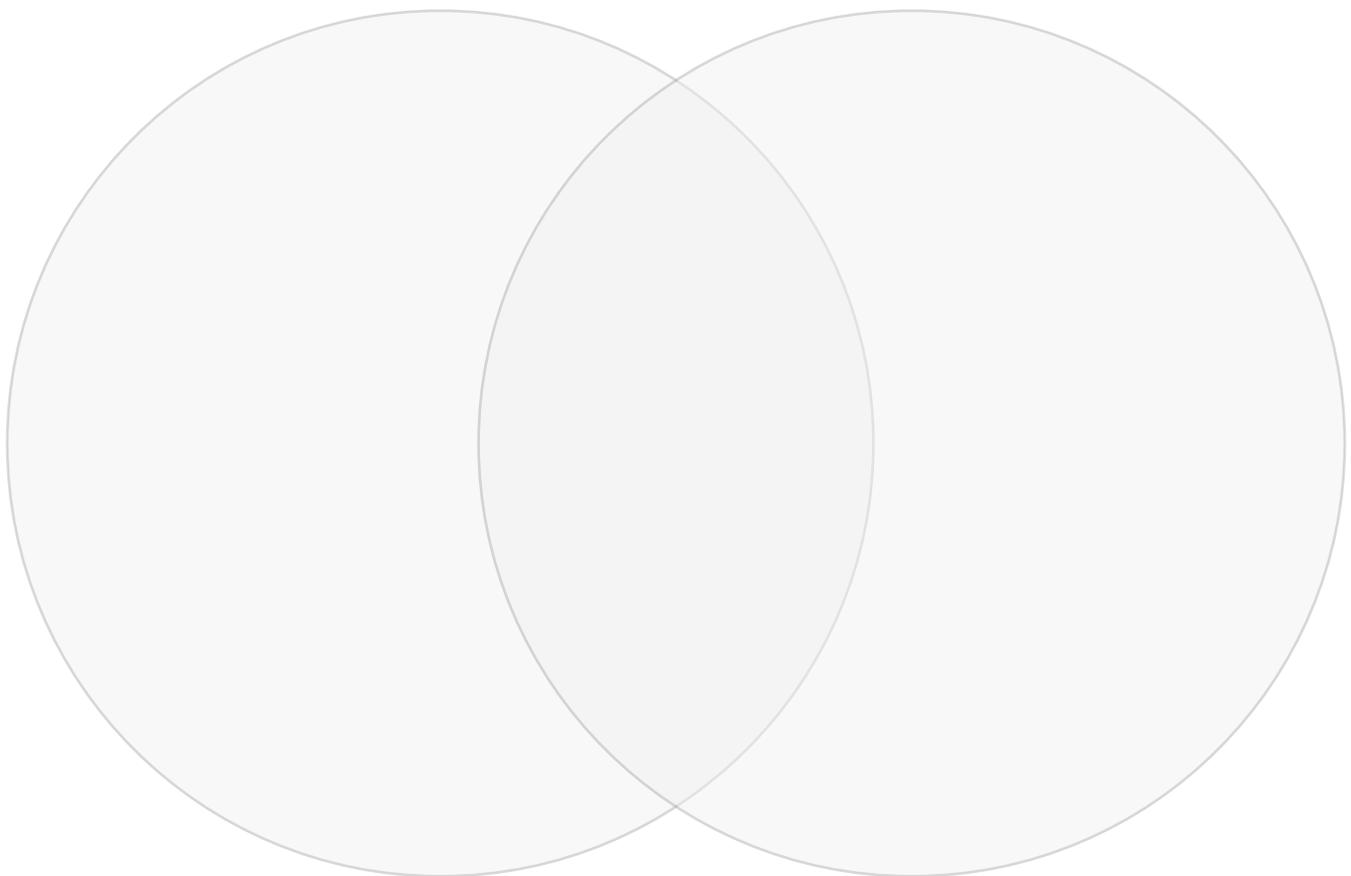
The Powers of the Articles of Confederation and the U.S. Constitution Venn Diagram

Directions

For the Venn Diagram below, make a list of the different powers of the Articles of Confederation and the U.S. Constitution in their respective circles, and the powers they had in common in the space between.

Articles of Confederation

U. S. Constitution



Constitutional Convention Role-Play

Directions

Teachers will assign students roles to play while simulating debates at the Constitutional Convention of 1787. Students will read the following scripts assigned to their character.

Note: Passages from Madison’s *The Debates in the Federal Convention of 1787* reflecting the debates of individual speakers are modified only to modernize spelling and punctuation and to provide for first-person presentation in this role play.

Part I: Proposing a New Government: Edmund Randolph introduces the Virginia Plan

Mr. Edmund Randolph [Virginia]: (May 29, 1787)

“Resolution Six: Resolved that each branch ought to possess the right of originating Acts; that the National Legislature ought to be empowered to enjoy the Legislative Rights vested by Congress by the Confederation & moreover to legislate in all cases to which the separate States are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual Legislation; to negative all laws passed by the several States, contravening in the opinion of the National Legislature the articles of Union; and to call forth the force of the Union against any member of the Union failing to fulfill its duty under the Articles thereof.”

Part II: Federalism: Congressional Powers and the States (May 31, 1787)

Narrator: (May 31, 1787)

“On the resolution stating the cases in which the national Legislature ought to legislate was next taken into discussion: On the question whether each branch should originate laws, there was an unanimous affirmation without debate. On the question for transferring all the Legislative powers of the existing Congress to this Assembly, there was also a silent affirmation. On the proposition for giving ‘Legislative power in all cases to which the State Legislatures were individually competent.’”

Mr. Charles Pinckney [South Carolina] (supported by Mr. John Rutledge, from South Carolina):

“I object to the vagueness of the term incompetent, and I could not well decide how to vote until I should see an exact enumeration of the powers comprehended by the definition.”

Mr. Pierce Butler [South Carolina]:

“I repeat my fears that we are running into an extreme in taking away the powers of the States, and called on Mr. Randolph for the extent of his meaning.”

Mr. Edmund Randolph [Virginia]:

“I disclaim any intention to give indefinite powers to the national Legislature, and declare that I am entirely opposed to such an inroad on the State jurisdictions, and that I did not think any considerations whatever could ever change my determination. My opinion is fixed on the point.”

Mr. James Madison [Virginia]:

“I had brought with me into the Convention a strong bias in favor of an enumeration and definition of the powers necessary to be exercised by the national Legislature; but had also brought doubts concerning its practicability. My wishes remained unaltered. But I should shrink from nothing which should be found essential to such a form of government as would provide for the safety, liberty, and happiness of the community. This being the end of all our deliberations, all the necessary means for attaining it must, however, be reluctantly submitted to.”

Narrator:

“On the question for giving powers, in cases to which the States are not competent . . . nine states vote aye, and Connecticut is divided.”

Part III: Defending the Articles of Confederation: William Paterson introduces the New Jersey Plan

Mr. William Paterson [New Jersey] (June 15, 1787)

“I lay before the Convention the plan which several of the delegations wish to be substituted in place of that proposed by Mr. Randolph [the Virginia Plan].

“Resolved that the articles of Confederation ought to be so revised, corrected & enlarged, as to render the federal Constitution adequate to the exigencies of Government, & the preservation of the Union.

“Resolved that in addition to the powers vested in the United States in Congress, by the present existing articles of Confederation, they be authorized to pass acts for raising a revenue, by levying a duty or duties on all goods or merchandizes of foreign growth or manufacture, imported into any part of the U[nited] States. Also, to pass Acts for the regulation of trade & commerce as well with foreign nations as with each other.”

Part IV: Gouverneur Morris on the Need for More Congressional Power at the National Level

Mr. Gouverneur Morris [Pennsylvania]: (July 5, 1787)

“It [a system such as that of the Confederation] is no Government at all. It is altogether dependent on the States, and will act over again the part which Congress has acted. A firm Government alone can protect our liberties.

“Returning to the Report I cannot think it in any respect calculated for the public good. As the 2nd branch is now constituted, there will be constant disputes & appeals to the States which will undermine the General Government & control & annihilate the 1st branch. State attachments, and State importance have been the bane of this Country. We can not annihilate; but we may perhaps take out the teeth of the serpents. I wish our ideas to be enlarged to the true interest of man, instead of being circumscribed within the narrow compass of a particular Spot.”

Part V: Debate on the Need for Checks and Balances over the Legislature by the Judiciary and Executive

Mr. James Wilson [Pennsylvania]: (July 21, 1787)

“The Judiciary ought to have an opportunity of remonstrating against projected encroachments on the people as well as on themselves. Laws may be unjust, may be unwise, may be dangerous, may be destructive; and yet may not be so unconstitutional as to justify the Judges in refusing to give them effect. Let them have a share in the Revisionary power, and they will have an opportunity oftaking notice of the character of a law, and of counteracting, by the weight of their opinions the improper views of the Legislature.”

Mr. James Madison [Virginia]:

“It is much more to be apprehended that notwithstanding this co-operation of the two departments, the Legislature would still be an overmatch for them. Experience in all the States had evinced a powerful tendency in the Legislature to absorb all power into its vortex. This was the real source of danger to the American Constitutions; [I think it necessary to give] every defensive authority to the other departments that was consistent with republican principles.”

Mr. Elbridge Gerry [Massachusetts]:

“The Executive [who] will best know and be ready to defend his rights ought alone to have the defense of them. The motion is liable to strong objections. It is establishing an improper coalition between the Executive and Judiciary departments. It is making Statesmen of the Judges; and setting them up as the guardians of the Rights of the people. I rely for my part on the Representatives of the people as the guardians of their Rights & interests.”

Mr. Gouverneur Morris [Pennsylvania]:

“It has been said that the Legislature ought to be relied on as the proper Guardians of liberty. The answer was short and conclusive. Either bad laws will be pushed or not. On the latter supposition no check will be wanted. On the former a strong check will be necessary: And this is the proper supposition.”

Mr. George Mason [Virginia]:

“I wish the further use to be made of the Judges, of giving aid in preventing every improper law. Their aid will be the more valuable as they are in the habit and practice of considering laws in their true principles, and in all their consequences.”

Part VI: Congressional Powers and the Separation of Powers

Narrator: (August 17, 1787)

“A debate on a resolution for giving Congress the power ‘to make war.’”

Mr. Charles Pinckney [South Carolina]:

“I oppose vesting this power in the Legislature. Its proceedings are too slow. It would meet but once a year. The House of Representatives would be too numerous for such deliberations.”

Mr. Pierce Butler [South Carolina]:

“I am for vesting the power in the President, who will have all the requisite qualities, and will not make war but when the Nation will support it.”

Mr. James Madison [Virginia] (supported by **Mr. Elbridge Gerry** from Massachusetts):

“I move to insert ‘declare,’ striking out ‘make’ war; leaving to the Executive the power to repel sudden attacks.”

Mr. Roger Sherman [Connecticut]:

“I concur. The Executive should be able to repel and not to commence war.”

Mr. Elbridge Gerry [Massachusetts]:

“I am shocked! I never expected to hear in a republic a motion to empower the Executive alone to declare war.”

Mr. George Mason [Virginia]:

“I am against giving the power of war to the Executive, because [he is] not safely to be trusted with it. I am for clogging rather than facilitating war; but for facilitating peace. I prefer ‘declare’ to ‘make.’”

Narrator:

“On the motion to insert declare – in place of make, it is agreed to. Seven states to two with Massachusetts absent.”

Federalists and Anti-Federalists Debate Congressional Powers

Directions

Work with an assigned partner and place the quote cards into “Federalist” and “Anti-Federalist” piles. Be prepared to explain why you chose your answer for each card.

Document One

“With regard to direct taxes; these include poll taxes, land taxes, excises, duties on written instruments, on everything we eat, drink, or wear; they take hold of every species of property, and come home to every man’s house and pocket.”

Document Two

“Was it not an acknowledged object of the convention, and the universal expectation of the people, that the regulation of trade should be submitted to the general government, in such a form as would render it an immediate source of general revenue?”

Document Three

“How far the clause in the eighth section [“necessary and proper” clause] of the first article may operate to do away all idea of confederated states and to effect an entire consolidation of the whole into one general government, it is impossible to say. The powers given by this article are very general and comprehensive, and it may receive a construction to justify the passing almost any law.”

Document Four

“That standing armies may be established, and appropriation of money made for their support for two years, that the militia of the most remote state may be marched into those states situated at the opposite extreme of this continent.”

Document Five

“Shall the union be constituted the guardian of the common safety? Are fleets, and armies, and revenues, necessary to this purpose? The government of the union must be empowered to pass all laws, and to make all regulations, which have relation to them. The same must be the case in respect to commerce, and to every other matter to which its jurisdiction is permitted to extend.”

Document Six

“It is expressly to execute these powers, that the sweeping clause, as it has been affectedly called, authorizes the national legislature to pass all necessary and proper laws. If there be any thing exceptionable, it must be sought for in the specific powers, upon which this general declaration is predicated.”

Document Seven

“They propose to lodge in the general government very extensive powers, powers nearly, if not altogether, complete and unlimited, over the purse and the sword . . . And therefore, unless the people shall make some great exertions to restore to the state governments their powers in matters of internal police; as the powers to lay and collect, exclusively, internal taxes, to govern the militia . . . the balance cannot possibly continue long. But the state governments must be annihilated, or continue to exist for no purpose.”

Document Eight

“The convention thought the concurrent jurisdiction preferable . . . and it is evident that it has at least the merit of reconciling an indefinite constitutional power of taxation in the federal government, with an adequate and independent power in the states to provide for their own necessities.”

Handout A: Background Essay: The Constitutional Powers of Congress Answer Key

1. The most notable weaknesses in the Confederation Congress were the lack of real powers to regulate interstate commerce, raise tax revenue, or raise armies.
2. The debate at the Constitutional Convention divided those who wanted merely to increase the powers of the Congress under the existing Articles of Confederation and those who wanted to increase the powers significantly in a new framework of government in order to strengthen the national government.
3. Article I, Section 8 enumerated, or listed, the powers of Congress, and Article I, Section 9 listed the powers that Congress was prohibited from exercising. The “supremacy clause” of Article VI stated that all laws Congress passed that were consistent with the Constitution, as well as all treaties approved by the Senate, were the law of the land.
4. The Federalists argued that the powers of the Congress were expanded but still limited by constitutional principles of bicameralism, federalism, separation of powers, and checks and balances. The Anti-Federalists argued that the national government would become a tyranny because of the consolidation of powers in the Congress.

Handout B: Articles of Confederation: Legislative Powers Answer Key

1. The Congress under the Articles of Confederation had to requisition tax revenue from the states and was therefore dependent upon the states. The sovereign states often ignored the requisitions of the Congress and left it with little revenue.
2. The Confederation Congress had the power to requisition taxes from the states, power to determine war and peace, coin money, fix standard weights and measures, establish post offices, regulate trade with the Native American tribes, and direct the operations of land and naval forces.

Handout C: Powers of Congress in the U.S. Constitution Answer Key

1. Among the several powers of Congress are the power to lay and collect taxes, borrow money, declare war, regulate interstate trade, coin money, establish post offices, and make all “necessary and proper” laws.
2. Among the powers that Congress was prohibited from exercising are banning the external slave trade until 1808, suspending the writ of habeas corpus except in times of war or rebellion, passing an ex post facto law, passing an income tax, and granting a title of nobility.

3. The “supremacy clause” asserted that all laws Congress made, as well as treaties approved by the Senate, that were consistent with the Constitution were the “supreme law of the land.”

Handout D: The Powers of the Articles of Confederation and the U.S. Constitution Venn Diagram Answer Key

The powers in the Venn Diagram that are held in common are the power to declare war, coin money, fix weights and measures, establish post offices, and regulate trade with the Native Americans. The powers held only by the Confederation Congress would be requisitioning taxes and directing the land and navy forces. The powers held only by the Constitution Congress would be regulating interstate trade, lay and collect taxes, and pass necessary and proper laws.

Handout F: Federalists and Anti-Federalists Debate Congressional Powers Answer Key

1. Card #1: Anti-Federalist (Brutus No. 5)
2. Card #2: Federalist (Federalist No. 40)
3. Card #3: Anti-Federalist (Brutus No. 1)
4. Card #4: Anti-Federalist (Cato, No. 5)
5. Card #5: Federalist (Federalist No.23)
6. Card #6: Federalist (Federalist No. 23)
7. Card #7: Anti-Federalist (Federal Farmer No. 2)
8. Card #8: Federalist (Federalist No. 34)

Congress: Beginnings and Today

by Joseph Postell, Assistant Professor of Political Science, University of Colorado–Colorado Springs

Establishing a government in which laws are made by an assembly of elected representatives is one of the great achievements in the last several centuries of human history. Yet most people today have a low regard for our legislative branch. Congress has become more democratic since the Founding, and yet today people think their representatives care about their opinions less than ever. The Constitution places the lawmaking power in Congress, yet people look more to the president as our chief legislator. What accounts for these contradictions? Examining the ideas that inspired the creation of our legislative branch and the history of its development helps us to answer these questions.

Constitutional Convention

At the Constitutional Convention, the structure of the legislative branch was the most contentious issue that the delegates faced. The amount of representation that would be granted to the large and the small states nearly tore the Convention apart. One side favored equal representation in the legislature – an arrangement befitting a league or confederacy of equal and independent sovereign states where each distinct sovereignty gets a single vote. Others advocated for proportional representation based on the idea of a republican government. After much debate, the issue was settled by a compromise which exists to this day: one house of Congress provides proportional, the other, equal representation.

Ratification Debate

During the ratification debate over the Constitution, other aspects of the legislative branch prompted criticism. Opponents of the Constitution, known as Anti-Federalists, objected that the legislature would be too far removed from the people, and would become an aristocracy that would betray the people the legislators were supposed to serve. The term lengths were too long. The lack of term limits would allow representatives to serve for very long periods of time, becoming removed from the day-to-day concerns of their constituents. There would be too few representatives (the Constitution allowed *no more* than one representative per 30,000 inhabitants) and each representative would have too large a district, detaching the representative from personal contact and intimacy with his constituents. These arrangements, Anti-Federalists feared, would produce a legislative body that is aristocratic, elitist, and out of touch.

Federalists, those who supported the Constitution, responded by pointing to the problems occurring in the states during the 1780s as evidence that representatives needed time and space in order to “refine and enlarge the public views,” not simply reflect them. Sometimes majorities are tyrannical and representatives must protect the people from themselves. Longer term lengths would provide this space, and the opportunity for indefinite re-election would ensure the people get to decide, at intervals,

whether to keep their legislators in office. A smaller representative body would prevent the legislature from turning into mob rule. The Federalists' vision for Congress differed significantly from the Anti-Federalists', and the debates they had are still part of today's debates over how our legislators should behave and be held accountable.

In one of his most famous writings, *Federalist No. 10*, James Madison described an additional benefit of having a Congress covering a large territory and divided into local districts. This would prevent a majority faction from taking over the government and infringing the rights of the minority. By representing all of the different districts throughout the country, the diversity of the country would be brought into the deliberations in the legislative branch. This view of Congress would ensure that disagreement, and hopefully compromise, would be part of the legislative process. Individual members of Congress are *supposed* to represent the interests of their local constituencies. No single member is elected by the whole country, yet through bringing together all of the various interests some sort of compromise that advances the common good can be reached.

Federalists ultimately won the debate and the people ratified the Constitution through their state ratifying conventions. Federalists rejected the Anti-Federalists' view that the powers of the new Congress would be broad and expansive, focusing on the limited nature of Congress's powers under the Necessary and Proper Clause and the General Welfare Clause. They barely mentioned the Commerce Clause because, at the time of the Founding, nobody believed that power to be very broad. As Madison explained in *Federalist No. 45*, "The regulation of commerce, it is true, is a new power, but that seems to be an

addition which few oppose, and from which no apprehensions are entertained."

Federalists also advanced a new theory of separation of powers that included checks and balances. Prior to 1787, most people thought separation of powers would be preserved by simply laying out the three branches and mandating that no branch trample on the others. However, experience demonstrated that such "parchment barriers" would not be very effective. In a republic, the strongest branch of government is the legislature, and the Federalists were concerned that it would gradually usurp the powers of the other branches. Their remedy was to divide the legislature into two chambers and check each against the other. The House and the Senate, in other words, were designed to work against each other, not together. This would be accomplished by (to quote *Federalist No. 51*) giving each house "different modes of election and different principles of action" in order to make them "as little connected with each other" as possible. The internal division of Congress, the Federalists argued, would maintain the checks and balances needed to preserve separation of powers.

While Federalists won the major debates about Congress, the Constitution said very little about how Congress would function in practice. Many of the rules of Congress were left to be worked out through experience. As a result, Congress has been shaped by historical developments that have changed how it operates, resulting in the "Three Congresses" we have experienced throughout American history.

The First Congress

The "First Congress" was in place during the early decades of American history. From today's perspective it probably looks chaotic,

unpredictable, and disorganized. In these years Congress didn't use committees to specialize in specific policy areas. Most bills were worked out collectively on the floor of the chamber, then referred to a special committee to be written and sent back to the whole assembly for passage. There were advantages and disadvantages to this arrangement. Everyone had an equal opportunity to contribute to every bill. This encouraged deliberation and ensured that every representative, reflecting the views of each part of the country, could influence the laws. Debate was extensive, and the speeches made during debates affected the outcome and were enlightening to the citizens who read them. Since strong and disciplined parties had not yet developed, legislators changed their minds frequently and were free to bargain and compromise. On the other hand, this setup was extremely inefficient, and leadership was lacking to coordinate policies. Because every legislator was a generalist, policy expertise was absent.

The Second Congress

This arrangement worked while Congress was small. After the 1800 census there were 142 representatives in the House and even as late as 1833 there were only 48 senators. But as the nation grew, the Congress expanded and its business became more complex. These changes produced a new kind of Congress by the middle of the nineteenth century, very different from what came before. Two main parties had developed with extensive tools to ensure party discipline. Representatives were nominated by their parties, and therefore had to follow the party leadership to stay in office. Party platforms were carefully constructed and widely read, so that citizens knew where each party stood on

the major questions of the day. Permanent standing committees were created to ensure policy specialization, and these committees were supervised by the leaders in each chamber to ensure that the committees pursued the priorities of the party.

Especially in the House, party leaders became the most powerful members of the government. The Speaker of the House – not the president – was the center of power in the late nineteenth century. Speakers became so powerful that they were called “czars,” and the epitome of the strong Speaker was Joseph Cannon of Illinois. The Speaker's power over the House ensured that the party set the agenda in Congress. Today most are skeptical of party leadership and control, but there were significant advantages. Parties prevented Congress from becoming too fragmented, where all of the local interests simply clashed with each other and gridlock ensued. Because they were elected by a majority of the whole country, these parties reflected the will of the majority, were efficient in implementing that will, and ensured that elections mattered. Congress became a highly coordinated and responsive institution as a result of party leadership – at the expense of independent members representing their constituents' local interests.

The Third Congress

This “Second Congress” came to a sudden end in 1910. In a dramatic sequence of events the Speaker was stripped of most of his powers over members. Similar events occurred in the Senate. This produced a very different, “Third Congress.” Just as power became centralized under party leaders during the “Second Congress,” it filtered back down in this new setup. But the committee

structure remained in place, so committee leaders, rather than all of the legislators, controlled the legislative process. Because committees could refuse to send bills to the floor for votes, the chairs of these committees could ensure (or prevent) the passage of a proposed law. If power was exercised collectively in the “First Congress” and by party leaders in the “Second Congress,” the “Third Congress” is characterized by committee leadership. Power was dispersed from party leaders, but centralized in the hands of the committee chairs.

At the same time, Congress changed the very nature of its functions. Originally designed as a legislative body, Congress began to transfer that power to administrative agencies by delegating its powers over to these agencies. But, just as Madison had predicted, legislators did not want to relinquish control over public policy. Therefore, Congress organized itself to maintain oversight and control over the programs it was delegating to administrative agencies. It did this by maintaining its organization into numerous committees whose members had the specialized knowledge to oversee these programs.

Challenges for Today and Tomorrow

Today, we live in the world of the “Third Congress” that was set in place back in 1910. Some important changes have occurred, but the basic dynamic is the same. Power became even more decentralized in the 1970s, as reformers seized control from conservative Southern Democratic senators who used their powers to block important civil rights laws. They succeeded in placing more power and autonomy into subcommittees, which now can set their agendas without permission from the chairs of the committees that oversee them. More recently,

leaders of both parties have tried to regain control of the agenda in Congress by reclaiming powers to control debate and which bills are voted on. Their efforts have met with limited success, and it is an open question whether Congress will remain a decentralized, committee system where party leadership is weak, or whether party leaders can regain leadership and influence over their members.

Some of the aspects of Congress we dislike so much are rooted in these recent developments. The lack of party leadership and control, for example, has produced a Congress where representatives have more to gain by asserting their own districts’ interests than by bargaining and compromising. Because of the arrangement of Congress into districts, as Madison described in Federalist No. 10, there are very few incentives for members to work together without strong party leadership. The decentralization of power, moreover, has provided more access points for lobbyists and more checkpoints where an individual can stop even the majority in Congress from acting. The “Second Congress” was a responsive, majoritarian institution because of its centralized structure, but today Congress is decentralized, fragmented, and vulnerable to special interest influence.

There is no simple way to think about Congress. It is a complicated institution which raises critical questions about the nature of a republican form of government, and ultimately whether and under what conditions self-government is possible. Congress is the centerpiece of this American experiment in self-government. For that experiment to succeed, it is imperative that citizens understand how their legislature was meant to function, and how it actually functions today.

CRITICAL THINKING ACTIVITY

1. Read the essay and underline the main sentence or two in each paragraph.
2. Next, use those main sentences to write a summary of the essay.
3. Finally, work with a partner or two to discuss the essay, compare your summaries and team-write an outline that traces the changes in Congress from its beginnings to the present.

Founding Principles

Checks and Balances: Constitutional powers are distributed among the branches of government allowing each to limit the application of power of the other branches and to prevent expansion of power of any branch.

Consent of the Governed/Popular Sovereignty: The power of government comes from the people.

Due Process: The government must interact with all people according to the duly-enacted laws and apply these rules equally with respect to all people.

Federalism: The people delegate certain powers to the national government, while the states retain other powers; and the people, who authorize the states and national government, retain all freedoms not delegated to the governing bodies.

Liberty: Except where authorized by citizens through the Constitution, government does not have the authority to limit freedom.

Limited Government: Citizens are best able to pursue happiness when government is confined to those powers which protect their life, liberty, and property.

Majority Rule/Minority Rights: Laws may be made with the consent of the majority, but only to the point where they do not infringe on the inalienable rights of the minority.

Natural/Inalienable Rights: Rights which belong to us by nature and can only be justly taken away through due process. Examples are life, liberty, property, and the pursuit of happiness.

Private Property: The natural rights of all individuals to create, obtain, and control their possessions, beliefs, faculties, and opinions, as well as the fruits of their labor.

Representative/Republican Government: Form of government in which the people are sovereign (ultimate source of power) and authorize representatives to make and carry out laws.

Rule of Law: Government and citizens all abide by the same laws regardless of political power. Those laws are justly applied, consistent with an ethos of liberty, and stable.

Separation of Powers: A system of distinct powers built into the Constitution, to prevent an accumulation of power in one branch.

Virtues

Virtue is conduct that reflects universal principles of moral and ethical excellence essential to living a worthwhile life and to effective self-government. For many leading Founders, attributes of character such as justice, responsibility, perseverance, respect, and others were thought to flow from an understanding of the rights and obligations of human beings. Virtue is compatible with, but does not require, religious belief. One's thoughts and words alone do not make a person virtuous. According to Aristotle, virtue must be based on a just objective, it requires action, and it must become a habit.

Private Virtue: The idea that, in order to sustain liberty, individuals must be knowledgeable and must conduct themselves according to principles of moral and ethical excellence, consistent with their rights and obligations.

Civic Virtue: A set of actions and habits necessary for the safe, effective, and mutually beneficial participation in a society.

Civil Discourse: Reasoned and respectful sharing of ideas between individuals is the primary way people influence change in society/government, and is essential to maintain self-government.

Contribution: To discover your passions and talents, and use them to create what is beautiful and needed. To work hard to take care of yourself and those who depend on you.

Courage: The ability to take constructive action in the face of fear or danger. To stand firm in being a person of character and doing what is right, especially when it is unpopular or puts you at risk.

Honor: Demonstrating good character, integrity, and acting honestly.

Humility: To remember that your ignorance is far greater than your knowledge. To give praise to those who earn it.

Integrity: To tell the truth, expose untruths, and keep your promises.

Initiative: Exercising the power, energy, or ability to organize or accomplish something.

Justice: Upholding of what is fair, just, and right. To stand for equally applied rules that respect the rights and dignity of all, and make sure everyone obeys them.

Moderation: The avoidance of excesses or extremes.

Perseverance: To continue in a task or course of action or hold to a belief or commitment, in spite of obstacles or difficulty. To remember how many before you chose the easy path rather than the right one, and to stay the course.

Essential Virtues: Page 2

Respect: Honor or admiration of someone or something. To protect your mind and body as precious aspects of your identity. To extend that protection to every other person you encounter.

Responsibility: Acting on good judgment about what is right or wrong, or deserving the trust of others. To strive to know and do what is best, not what is most popular. To be trustworthy for making decisions in the best long-term interests of the people and tasks of which they are in charge. Individuals must take care of themselves and their families, and be vigilant to preserve their liberty and the liberty of others.

Resourcefulness: Taking constructive action in difficult situations quickly and imaginatively.

Self-Governance: To be self-controlled, avoiding extremes, and to not be excessively influenced or controlled by others.

Vigilance: Being alert and attentive to take action to remedy possible injustices or evils.

Glossary

Administrative State: The idea that government agencies should be part of an efficient, planned bureaucracy in which legislative, executive, and judicial powers are combined in specific agencies organized according to scientific management, headed by experts, and empowered to solve social, economic, and political problems. This approach to government eliminates separation of powers, checks and balances, and removes most limits on government power.

Agrarian: The cultivation of land; agriculture; a person who favors equitable distribution of land.

Agricultural Adjustment Act of 1933: An act of Congress passed in 1933 as part of New Deal legislation to help relieve the economic emergency of the Great Depression by increasing agricultural purchasing power and provide emergency relief.

Antebellum: Before the war; in particular, the period before the American Civil War.

Anti-Federalists: A faction of Founders who supported amending the Articles of Confederation and opposed the Constitution of 1787, were concerned about a strong central government, wanted to maintain strong state governments, and fought for the Bill of Rights as a way to protect citizens from a strong central government.

Antiquated: Something that is no longer useful; old; out-of-date.

Apothegm: A short, witty, instructive saying.

Appropriations Committee: A legislative panel that is responsible for passing appropriations, or spending, bills.

Articles of Confederation: The original governing document of the United States that was written in 1777 and was in force until the ratification of the Constitution by nine of the thirteen states in 1788. Under the Articles, states retained sovereignty and created a firm league of friendship in which the national government held little power.

Bicameral/Bicameralism: A legislative body composed of two chambers; in the United States, the Congress is composed of the House of Representatives and the Senate.

Brutus: An Anti-Federalist writer, thought to be Robert Yates of New York. Brutus asserted that it was impossible to provide fair and true representation in such a large republic as the United States.

Bureaucracy: The administration of government through departments and subdivisions; the concentration of authority in a complex structure of administrative bureaus.

Casework: The work done by congressional staffers to assist constituents by contacting government agencies on behalf of the constituent to attempt to resolve problems.

Cato: An Anti-Federalist writer, thought to be George Clinton of New York, who believed that the legislature would not be able to respond to the needs of people from all walks of life and would end up representing the interests of only the wealthy and influential few.

Caucus: A meeting of supporters of a specific political party who gather to elect delegates to choose whom they believe should be the candidate in a given election that is organized by political parties. In the modern congress unit, *caucus* is not used in the electoral sense, but in the sense of a body of individuals belonging to the same faction —“a meeting of the members of a legislative body who are members of a particular political party, to select candidates or decide policy. *Synonyms:* meeting, assembly, gathering, congress, conference, convention, rally, convocation” - Webster’s

Chief Executive: The leader of the executive branch of government. In the British system, the Prime Minister is part of the legislative branch, whereas in the American system, the president is the head of the executive branch.

Clayton Antitrust Act of 1914: An act of Congress that prohibited mergers, interlocking directorates, and other forms of monopolistic business organization.

Cloture: the parliamentary procedure by which debate is closed and the measure under discussion is put to an immediate vote.

Coalition: An alliance of people who come together for a specific purpose.

Coincide: To occur at the same time; to occupy the same place.

Commerce: The economic system that constitutes the working environment for business including the legal, economic, political, social, cultural and technological systems that are in operation in any nation-state.

Commerce Clause: Article I, Section 8, Clause 3 of the U.S. Constitution states, “Congress shall have the power...to regulate commerce with foreign Nations, and among the several States, and with the Indian Tribes.”

Competing Interests: Members of Congress are simultaneously expected to be lawmakers, representatives of the people, and members of a political party. As representatives of the people, they are expected to act for the benefit of both their particular district and for the nation as a whole. Passing laws frequently requires compromise among members, which necessitates sacrificing some constituent desires in hopes of achieving others.

Comply: To act in accordance with a request or order.

Confederation: A league or alliance of independent states, nations, or political organizations.

Congressional Support Staff: Employees of representatives or senators who assist members in their daily work including constituent communication and advocacy, drafting legislation, or research.

Consent: To give permission, approval, or assent.

Constituent: Being a voting member of a community or organization and having the power to appoint or elect.

Contemptible: Despicable; dishonorable; disgraceful.

Contentious: Being argumentative or causing controversy.

Co-opt: To cause or force someone to become part of your group or movement; to use or take control of something for your own purposes.

Delegate: A person designated to represent others.

Deliberative: Carefully weighing or considering.

Democratize: To make or become democratic.

Disappearing Quorum: The refusal to vote on a measure though physically present during a meeting of a deliberative body.

Divisive: Forming or expressing division or distribution.

Dupe: A person who is easily deceived.

Dysfunction: Any malfunctioning part or element.

Economic Opportunity Act of 1964: An act passed by Congress to combat poverty in the United States through work-training programs, urban and rural community action programs, adult education programs, and assistance to needy children under the Office of Economic Opportunity in the executive branch.

Electoral College: The Electoral College is the system used by the United States to elect its chief executive. The College is outlined in Article II, Section 1 and in the Twelfth and Twenty-Third Amendments to the United States Constitution. It calls for each state to be designated a number of electors that is equal to the number of senators and representatives in each state. To win the presidency, a candidate must receive an absolute majority of votes, currently 270 electoral votes.

Enlightened Administrator: A member of the government with specialized knowledge or education about a specific issue who acts as an administrator for government programs.

Enumerated Powers: The powers set forth by the Constitution to each branch of government.

Excess of Democracy: The idea that if there is too much democracy, governing decisions will reflect a mob mentality rather than the long-term best interests of the people.

Executive: The president leads the executive branch of the United States government; the executive is tasked with enforcing the laws, acting as commander in chief of the military, and making treaties and appointing officers with the advice and consent of the Senate.

Federal Farmer: An Anti-Federalist writer, thought to be Melancton Smith of New York, who believed that “a full and equal representation, is that which possesses the same interests, feelings, opinions, and views the people themselves would were they all assembled.”

Federal Pyramid: When James Wilson referred to the federal pyramid, he was arguing for a central government of a “considerable altitude,” or powerful enough to address the injustices and inadequacies that the union had experienced under the Articles of Confederation. A stable structure required a broad and deep foundation, and to Wilson, that meant a high level of participation by the people themselves in choosing their representatives. Wilson believed the new government must be both energetic and popular.

Federal Supremacy: Under the Supremacy Clause of Article VI of the Constitution, the Constitution, laws, and treaties of the federal government are the supreme law of the land.

Federal Trade Commission (FTC): An office under the executive branch created by the Federal Trade Commission Act in 1914 to promote consumer protection and anticompetitive business practices.

Federalists: A group of Founders that believed the central government was not strong enough under the Articles of Confederation and advocated for the new Constitution. They believed a bill of rights was not needed because the Constitution itself limited the government’s powers.

Filibuster: The use of obstructive tactics, especially long speeches, by a member of a legislative body to prevent the adoption of a measure or force a decision.

Food and Drug Administration (FDA): the oldest consumer protection regulatory agency in the federal bureaucracy. It began with the Pure Food and Drug Act of 1906, which prohibited interstate commerce in contaminated food or drugs.

Free State: A state that had banned slavery prior to the Civil War and the ratification of the Thirteenth Amendment.

Gridlock: A situation in which nothing can move or proceed in any direction.

Hepburn Act of 1906: An act by Congress that increased the power of the Interstate Commerce Commission by allowing it to set rates for railroad shipping.

Impartial: Not biased; fair; just.

Impasse: A position or situation from which there is no escape.

Impeachment: The presentation of formal charges against an elected official.

Imperialism: The policy of extending the rule or authority of an empire or nation over foreign countries.

Impetuous: Sudden or rash action, emotional; impulsive.

Implied Powers: Powers of Congress that are said to be implied by the Necessary and Proper Clause in Article I, Section 8 of the Constitution even if they are not listed under the enumerated powers in that section.

Insurgent: A person who rises in opposition to lawful authority, especially one who engages in armed resistance to a government or the execution of its laws.

Interpose: To put a barrier or obstacle in between or in the way of action.

Interstate Commerce: The movement of goods or money from one state to another. Congress has the power to regulate interstate commerce through Article I, Section 8 of the Constitution.

Interstate Commerce Act of 1887: An act passed by Congress that regulated interstate commerce including transportation of goods between states and established the Interstate Commerce Commission.

Interstate Commerce Commission (ICC): An executive agency created under the Interstate Commerce Act of 1887 to regulate trade practices.

Joseph Cannon: A member of the Republican Party and Speaker of the House of Representatives from 1903 to 1911. Cannon was considered to be one of the most dominant Speakers of the House in United States history.

Laissez-faire: The practice of noninterference in the affairs of others; the theory or system of government that upholds the autonomous character of the economic order, believing that the government should intervene as little as possible in economic affairs.

Lame Duck: An elected official or group of officials who continue in office during the period between an election defeat and the new officers' assumption of the office.

Legislation: A law that is made or enacted by a legislature.

Legislature: A deliberative body of persons, usually elected, who make, change, or repeal laws of a nation or state; the branch of government that has the power to make laws.

National Industrial Recovery Act of 1934 (NIRA): An act of Congress to encourage national industrial recovery, foster fair competition, provide for public works, and other purposes as part of New Deal legislation to combat the Great Depression.

National Recovery Administration (NRA): An executive agency created by the National Industrial Recovery Act of 1934 that set production quotas, prices of goods, and wages for each industry. The NRA regulated commerce between the states and within states.

Nationalism: Devotion or loyalty to one's country.

New Jersey Plan: A plan introduced by the New Jersey delegation to the Constitutional Convention that provided for equal representation of the states in a unicameral legislature—in essence just tweaking the Articles of Confederation to revise and strengthen the existing system.

Nullification: The failure or refusal of a U.S. state to enforce a federal law within its limits, usually on constitutional grounds.

Oversight: Supervision or care of a task or governmental agency.

Parliament: A legislative body; the legislature of Great Britain made up of the House of Lords and the House of Commons.

Parliamentary: Formal rules governing the methods of procedure, discussion, and debate in deliberative bodies.

Parliamentary System: A system of government in which there are two chambers of the legislative body, but which lacks separation between the executive and the legislative branch. Under a parliamentary system, the chief executive, usually called a prime minister, is a member of parliament.

Patronage: The power to make appointments to government jobs or the power to grant political favors.

Perpetual Union: A union in which members are not allowed to withdraw or overthrow the government. The Articles of Confederation purported to be a government document in which all members agreed to be members of a perpetual union.

Political Party: A group of people who agree on major policies, programs, and practices of government.

Pork-barrel: A government appropriation, bill, or policy that supplies federal funds for local improvements designed to allow legislators to establish favor with their constituents by benefitting local interests even though the project has little or no broader benefit.

Prime Minister: The head of the government in parliamentary systems.

Privileged: Favored; entitled.

Procedural: The course or mode of action in conducting legal, parliamentary, or other business proceedings.

Progressive/ Progressivism: A person who advocates for progress, change, improvement, or reform; the movement of the people who advocate for progress. As the term is often used in the United States, Progressives see the Constitution as a living document whose limits on the federal government's powers are obsolete.

Proportional representation: A method of voting by which political parties are given legislative representation in proportion to their popular vote.

Quarrel: An angry argument, dispute or altercation.

Quorum: The minimum number of members needed to conduct business in a deliberative body.

Ratify/Ratification: formal approval. With respect to the U.S. Constitution, the process required that nine of the thirteen original states had to approve the Constitution in order for it to become law.

Reform: To change by alteration, substitution, or abolition.

Regulation: A law, rule, or order prescribed by authority.

Reins: The controlling or directing of power.

Repeal: To officially revoke or withdraw.

Representation: The state, fact, or right of having one's interests expressed by delegates in the government.

Republic: A state in which the supreme power resides with the citizens who choose government representatives directly or indirectly through voting.

Revolt: To break away from or rise against authority.

Rules Committee: A committee of the House of Representatives that is in charge of determining which laws will come to the House floor based on the rules of the House.

Schechter Poultry Corp. v. United States (1935): A unanimous Supreme Court case that ruled that the National Industrial Recovery Act was unconstitutional because the federal government could not regulate intrastate trade and because the Congress could not delegate its legislative authority to the executive branch.

Sectionalism: Regard for sectional, or local, interests.

Select Committee: A legislative panel made up of a small number of legislators who were appointed to deal with a specific issue.

Seniority: Priority, precedence, or status obtained as a result of a person's length of service or relative prestigiousness or authority of their position.

Slave State: A state that had not outlawed slavery prior to the Civil War and the ratification of the Thirteenth Amendment.

Sovereign: The supreme power or authority.

Speaker of the House: The leader of the majority party in the U.S. House of Representatives and presiding officer of the House.

Special Interest Groups (SIGs): A group of people with shared interests who seek support of their interests from politicians through legislation, appropriations, or other means.

Stalwarts/Radical Republicans: A wing of the Republican Party whose platform was an opposition to slavery prior to and during the Civil War, fighting for the rights of freed slaves during Reconstruction, and punishing the South for the Civil War.

Stamp Act: An act passed by the British Parliament in 1756 that required colonists pay a tax on every piece of printed paper in order to help pay debts accumulated during the French and Indian War. The act was repealed in 1766.

Standing Committee: A permanent legislative panel in the House of Representatives or Senate that considers bills, recommends measures, or oversees programs and activities.

Suffrage: The right to vote.

Tariff: A bill, cost, or charge imposed by the government on imports or exports.

Tenure of Office Act: An act of Congress, in place from 1867 to 1887, which restricted the power of the president to remove officials from office without the advice and consent of the Senate.

***The Jungle* by Upton Sinclair (1906):** A novel that portrayed the harsh conditions of the meatpacking industry in the early twentieth century and led to the passage of the Meat Inspection Act and the Pure Food and Drug Act, also in 1906.

Three-Fifths Clause: A compromise regarding representation determined in the Constitutional Convention that counted three-fifths of the enslaved individuals in calculating representation and taxation. The clause was adopted as part of the Constitution.

Transformative: To change in form, appearance, structure, condition, or character.

Trustee: A person who administers the affairs of others.

Unicameral/Unicameralism: A legislative assembly consisting of one chamber.

Vetting: To appraise or verify validity or accuracy.

Virginia House of Burgesses: The first representative colonial assembly in the British American colonies.

Virginia Plan: A plan introduced by the Virginia delegation to the Constitutional Convention that recommended not just a revision of the existing confederation of sovereign states but the creation of a powerful national government that would be supreme over the states. The plan included a bicameral legislature in which the lower house was elected by the people of each state and the upper house was elected by the members of the lower house. In each chamber, the number of the state's delegates would be based on state population.

Virtue: Conduct that reflects universal principles of moral and ethical excellence essential to leading a worthwhile life and to effective self-government. For many leading Founders, attributes of character such as justice, responsibility, perseverance, etc., were thought to flow from an understanding of the rights and obligations of men. Virtue is compatible with, but does not require, religious belief.

War Industries Board: An executive agency that directed the wartime economy during World War I.

Ways and Means Committee: A legislative panel that reviews and makes recommendations for government budgets, usually involving taxation.

Whip: A party manager in a legislative body who secures attendance for voting and directs other members.