

Is knowing the Constitution  
important?

# Joseph J. Ellis

- \* “Lincoln once said that America was founded on a proposition that was written by Jefferson in 1776. We are really founded on an argument about what that proposition means.”

# Bryan Fischer of American Family Radio

“... by the word ‘religion’ in the First Amendment, the founders meant Christianity.”

Founding Fathers pretty clearly meant all religion.

For example, both Benjamin Franklin and John Adams referred to Islam when discussing religious freedom.

# Keith Olbermann

- \* John Adams as president signed the Treaty of Tripoli as an "outreach to Muslims."

Downplayed the overriding purpose: to protect American ships from pirates that happened to be Muslim.

# U.S. Rep. Louie Gohmert, R-Texas

- \* 2<sup>nd</sup> Amendment
- \* Washington said that a free people "should be an armed people. It ensures against the tyranny of the government."

Washington was actually talking about developing a militia to protect the new nation -- on behalf of the government, not against it.

# Rush Limbaugh

- \* "You can't read a speech by George Washington ... without hearing him reference God."
- \* JUST not true.
- \* 2<sup>nd</sup> Inaugural – no mention of God

# Rush Limbaugh

- \* “We believe that the preamble to the Constitution contains an inarguable truth that we are all endowed by our creator with certain inalienable rights, among them life, liberty, freedom and the pursuit of happiness.”

NO – that’s the Declaration of Independence

# President Obama

- \* “...we find unity in our incredible diversity, drawing on the promise enshrined in our Constitution: the notion that we’re all created equal.”

Nope... that’s the Declaration of Independence... again.



# Is this in in the Constitution?

- \* “From each according to his ability, to each according to his need.”
- \* No – it’s Karl Marx

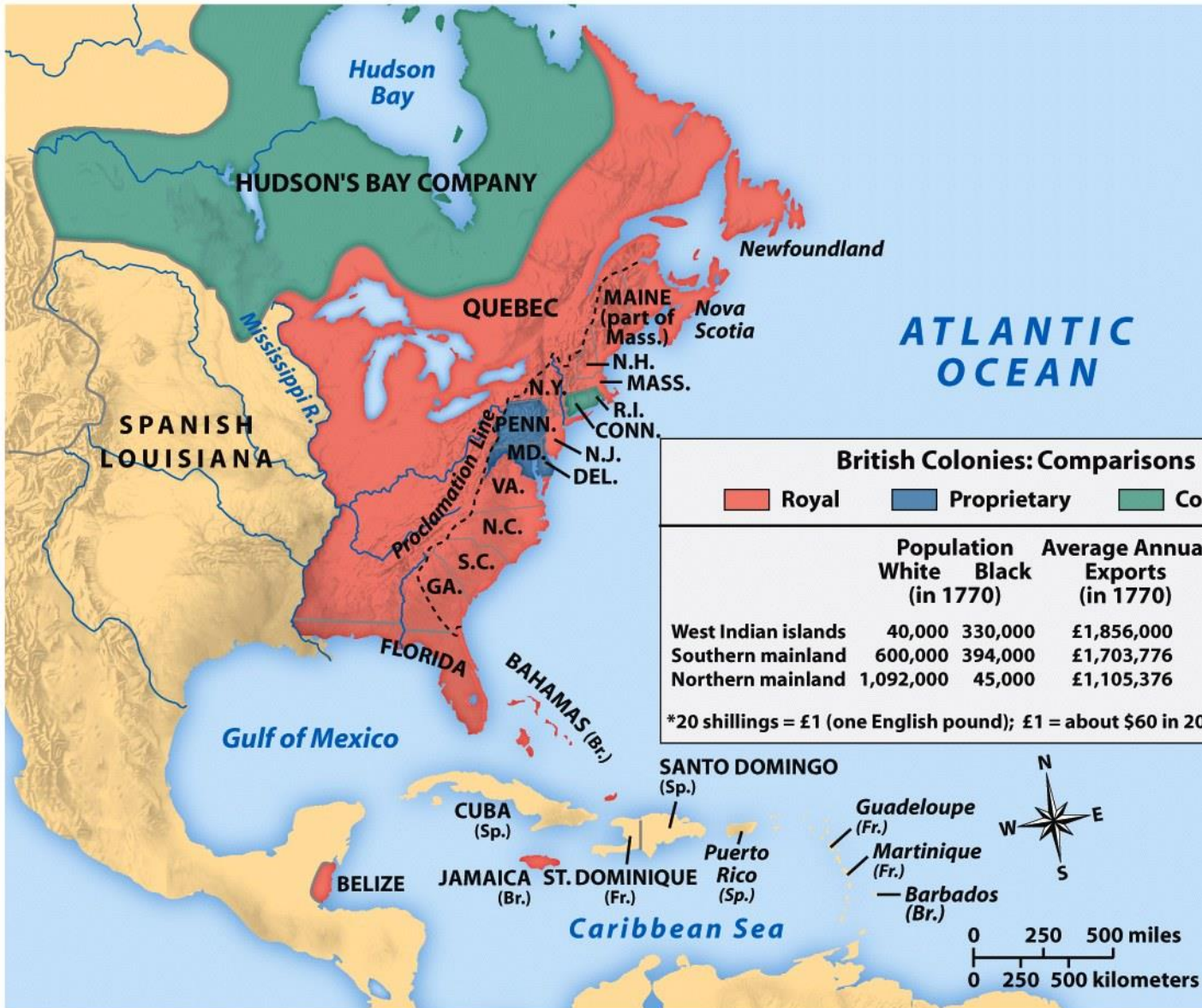
So, what do you remember  
about the Revolutionary Era?

Does it matter today?

# The American Revolution

# Some big questions...

- Why were the colonists glad to be in the British Empire?
  - What were the cultural differences between the colonists and the British?
- During the decade before the outbreak of war, what were the two major attitudes of the colonists toward Parliament and the British Empire?
- Was this about taxes or political principles? Can it be both?
- What could have prevented the colonists' declaring independence and going to war?
  - Who overreacts the most?
- What does Maier mean when she says the War is not the Revolution? Could one have happened without the other?



Map 5.2 Britain's American Empire in 1763

# **The Seven Years War – 1756-1763**

## **The Legacy of War**

- **Disputes over Trade and Troops**
- **The National Debt**

# Imperial Reform, 1763-1765

## George Grenville: Imperial Reformer

- **The Sugar Act**
- **Constitutional Conflict**
- **The Stamp Act**



# **The Dynamics of Rebellion, 1765-1770**

## **Politicians Protest and the Crowd Rebels**

- **The Stamp Act Congress**
- **The Motives of the Crowd**

## **The Ideological Roots of Resistance**

- **Intellectual Traditions**
- **The Enlightenment**



# **The Dynamics of Rebellion, 1765-1770**

## **Parliament Compromises, 1766**

- **Repeal of the Stamp Act**
- **The Declaratory Act**
- **Townshend Act, 1767**

# **The Dynamics of Rebellion, 1765-1770**

## **America Debates and Resists Again**

- **A Second Boycott and the Daughters of Liberty**
- **Britain Threatens Coercion**

## **Lord North Compromises, 1770**

- **Nonimportation Succeeds**
- **Sovereignty Debated**





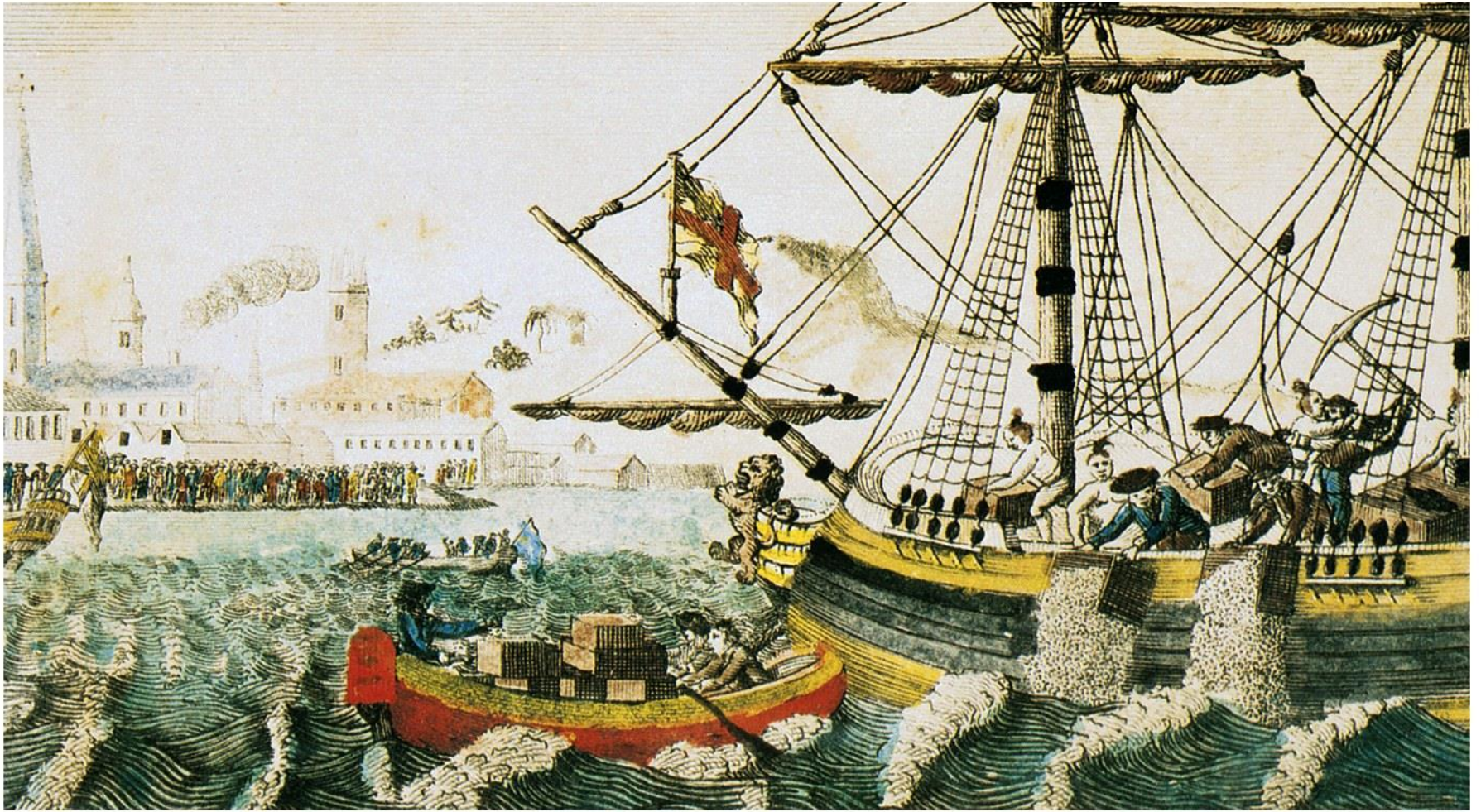
Patriot Propaganda  
Library of Congress

# **The Road to Independence,**

**1771-1776**

## **A Compromise Repudiated**

- **The East India Company and the Tea Act**
- **The Tea Party and the Coercive Acts**
-



The Boston Tea Party  
Library of Congress

# The Road to Independence, 1771-1776

## The Continental Congress Responds

- Meeting in Philadelphia 1774





Map 5.4 British Western Policy, 1763-1774

# **The Road to Independence, 1771-1776**

## **The Rising of the Countryside**

- **Rural Americans**

## **Loyalist Americans**

- **Supporters of the King**



# **The Road to Independence, 1771-1776**

## **Armed Resistance Begins**

- **Minutemen**

## **Second Continental Congress Organizes for War**

- **Congress versus King George**
- **Fighting in the South**
- **Thomas Paine's *Common Sense***
- **Independence Declared**

# **The Path to Victory, 1778-1783**

## **The Patriot Advantage**

- **British Mistakes**
- **Diplomatic Triumph**
  - **Treaty of Paris**

# Creating Republican Institutions, 1776-1787

## The State Constitutions: How Much Democracy?

- Republicanism
- Pennsylvania's Controversial Constitution

By 1780s, with exceptions of Va., Ma., and NY, the majority of male citizens could vote.

# **Creating Republican Institutions, 1776-1787**

## **The Articles of Confederation**

- **Approved in Congress Nov. 1777**
- **Continuing Fiscal Crisis**
- **The Northwest Ordinance**



Map 6.6 The Confederation and Western Land Claims, 1781-1802

# Creating Republican Institutions, 1776-1787

## Shays's Rebellion

- State Governments
- Rebellion in Massachusetts



# **The Constitution of 1787**

## **The Rise of a Nationalist Faction**

- **Money Debates**

## **The Philadelphia Convention**

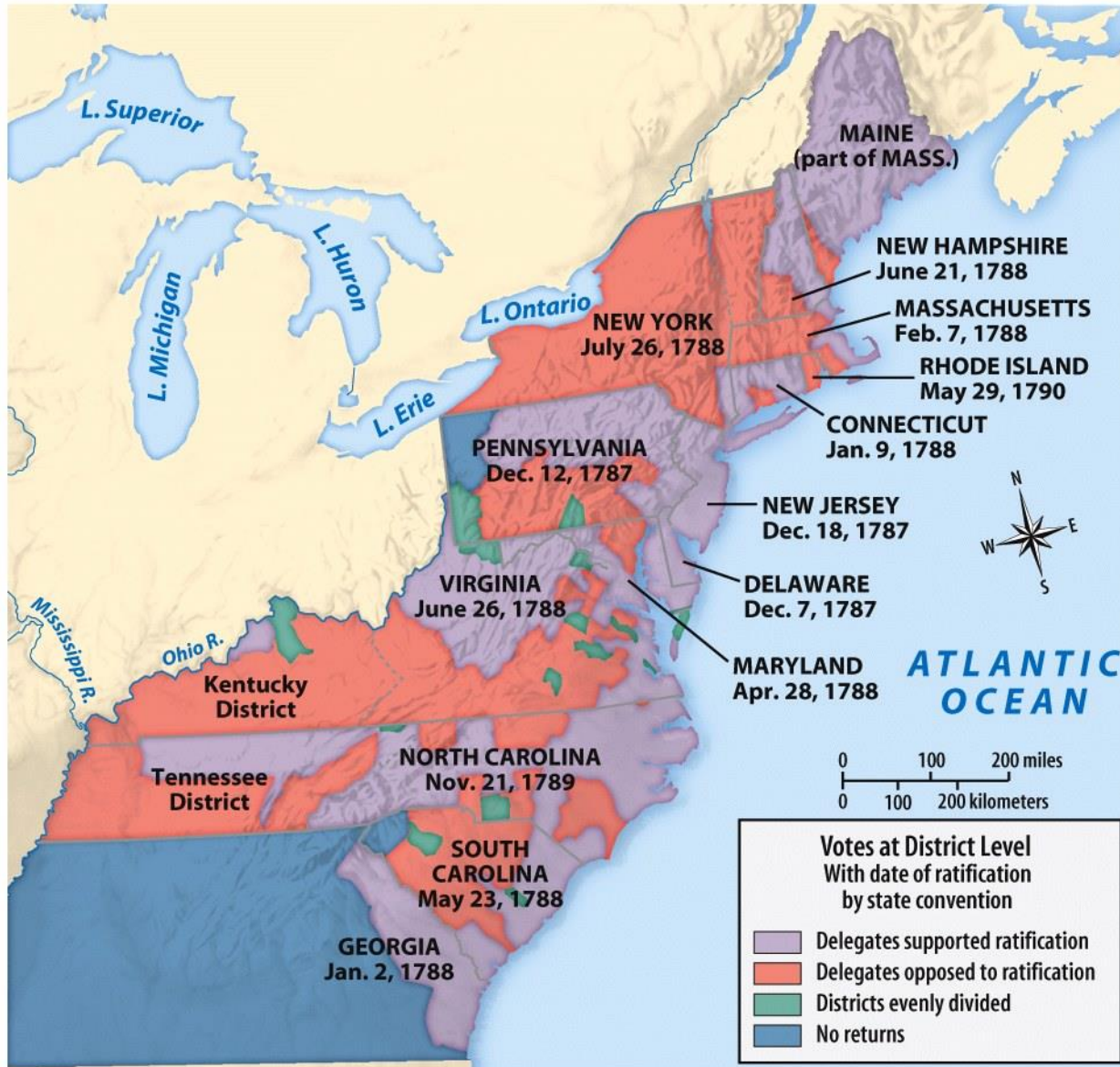
- **The Virginia and New Jersey Plans**
- **The Great Compromise**
- **Negotiations over Slavery**
- **National Authority**

# **The Constitution of 1787**

## **The People Debate Ratification**

- **The Antifederalists**
- **The Constitution Ratified**





Map 6.8 Ratifying the Constitution of 1787

# The US Constitution



# The Constitution of 1787



Shays's Rebellion and Money

The Philadelphia Convention

The Big Issues

The Virginia and New Jersey Plans

The Great Compromise

Negotiations over Slavery

National Authority

# The Constitution of 1787



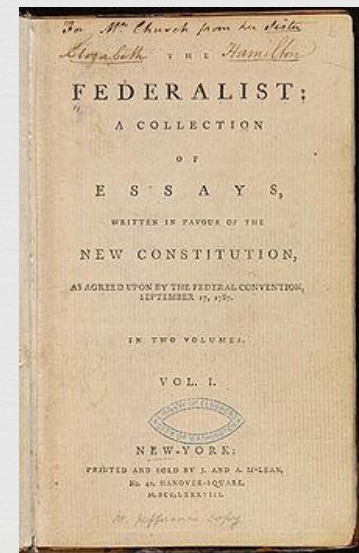
**The People Debate Ratification**

**The Antifederalists vs. the Federalists**

# The Federalist Papers



- ✧ Alexander Hamilton, John Jay, and James Madison
- ✧ Fed 10 – republican form of government and factions
- ✧ Fed 39 – Federal and a national government
- ✧ Fed 51 – Checks and balances
- ✧ Fed 70 – Strong executive



# Ratification



	Date	State	Votes		% Approval
			Yea	Nay	
1	December 7, 1787	Delaware	30	0	100%
2	December 12, 1787	Pennsylvania	46	23	67%
3	December 18, 1787	New Jersey	38	0	100%
4	January 2, 1788	Georgia	26	0	100%
5	January 9, 1788	Connecticut	128	40	76%
6	February 6, 1788	Massachusetts	187	168	53%
7	April 28, 1788	Maryland	63	11	85%
8	May 23, 1788	South Carolina	149	73	67%
9	June 21, 1788	New Hampshire	57	47	55%
10	June 25, 1788	Virginia	89	79	53%
11	July 26, 1788	New York	30	27	53%
12	November 21, 1789	North Carolina	194	77	72%
13	May 29, 1790	Rhode Island	34	32	52%
<b>Total:</b>			<b>1071</b>	<b>577</b>	<b>65%</b>



Map 6.8 Ratifying the Constitution of 1787

# After Ratification



The New Republic

# The Political Crisis of the 1790s



**The Federalists Implement the Constitution**

**Devising the New Government**

**The Bill of Rights**



# The Political Crisis of the 1790s

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Hamilton's Financial Program - Boring?  
No, way!!

- ❧ Public Credit: Redemption and Assumption
- ❧ Creating a National Bank
- ❧ Raising Revenue through Tariffs
- ❧ Creating a strong, viable, national government



# Hamilton's Financial Program

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- 1. establish the nation's creditworthiness**
- 2. Create new national debt**
- 3. Create a national Bank of the United States**
- 4. Raise revenue – tax on producers of whiskey**
- 5. Impose a tariff and provide government subsidies to spur industrial development**

## Hamilton's system of public credit (millions of dollars)

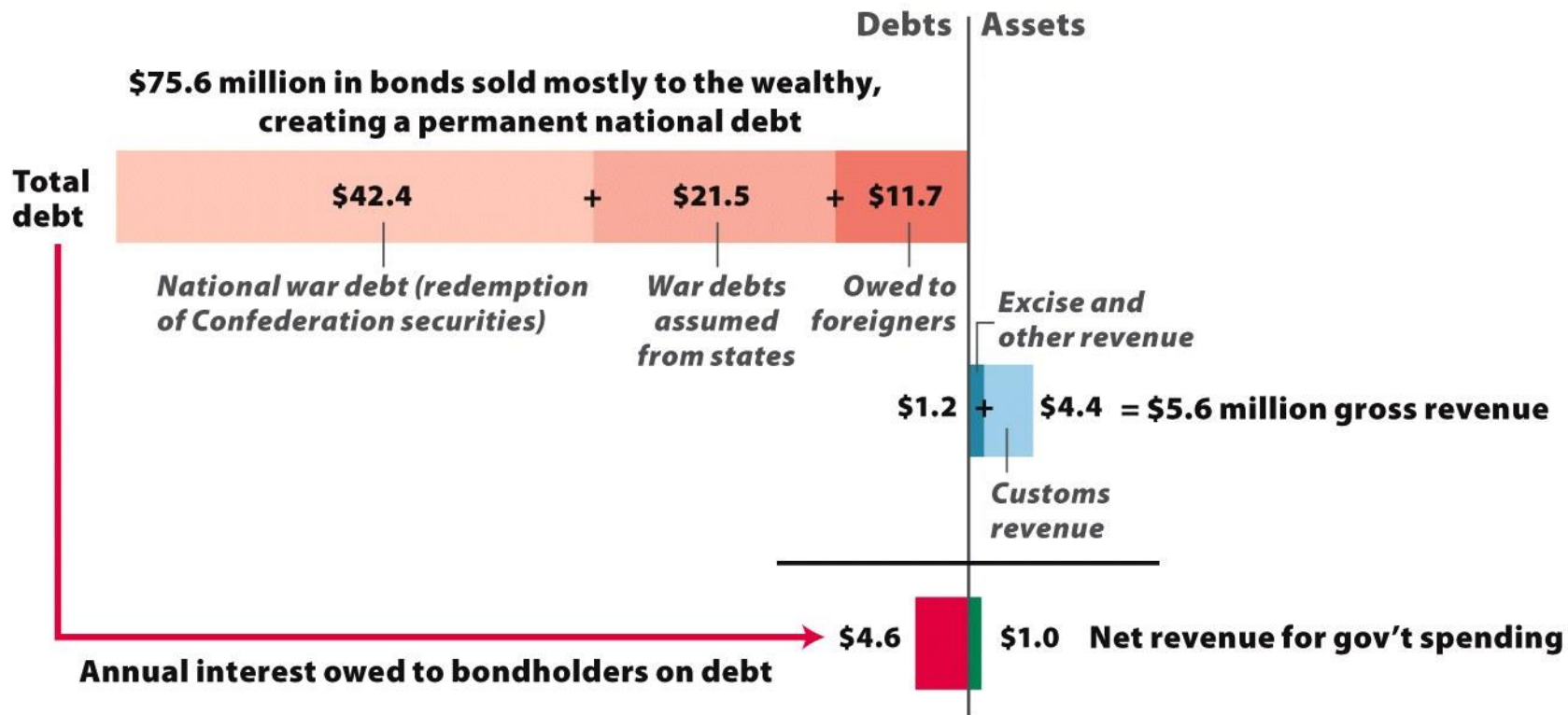


Figure 7.1 Hamilton's Fiscal Structure, 1792

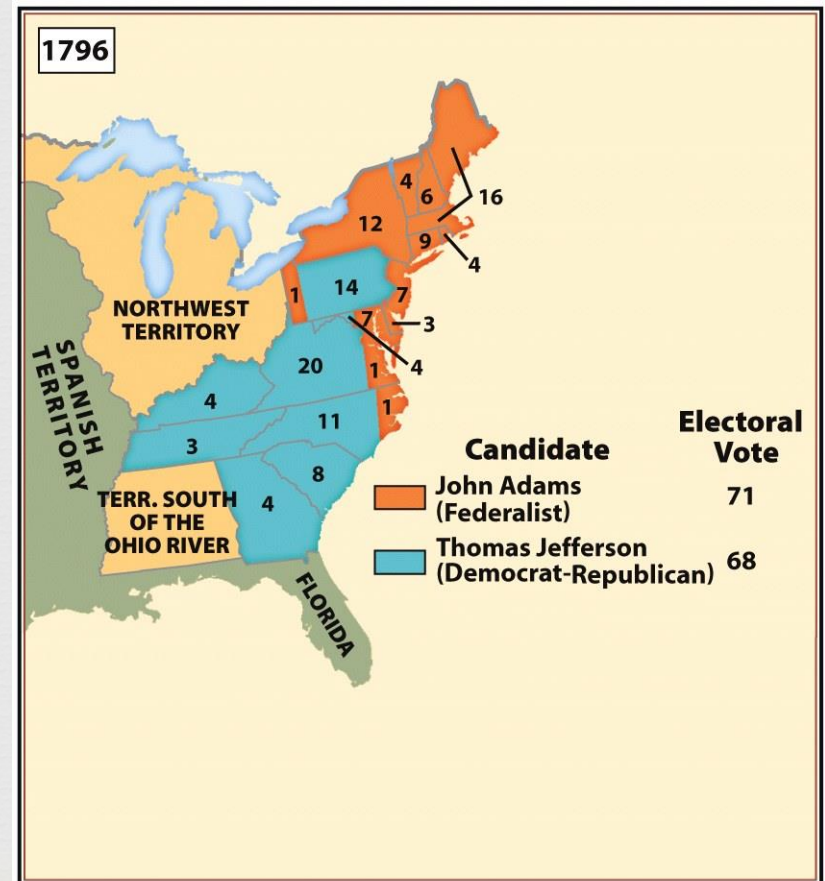
# The Political Crisis of the 1790s



## The Rise of Political Parties

Public Interest

The First Party System



Map 7.1 The Presidential Election of 1796

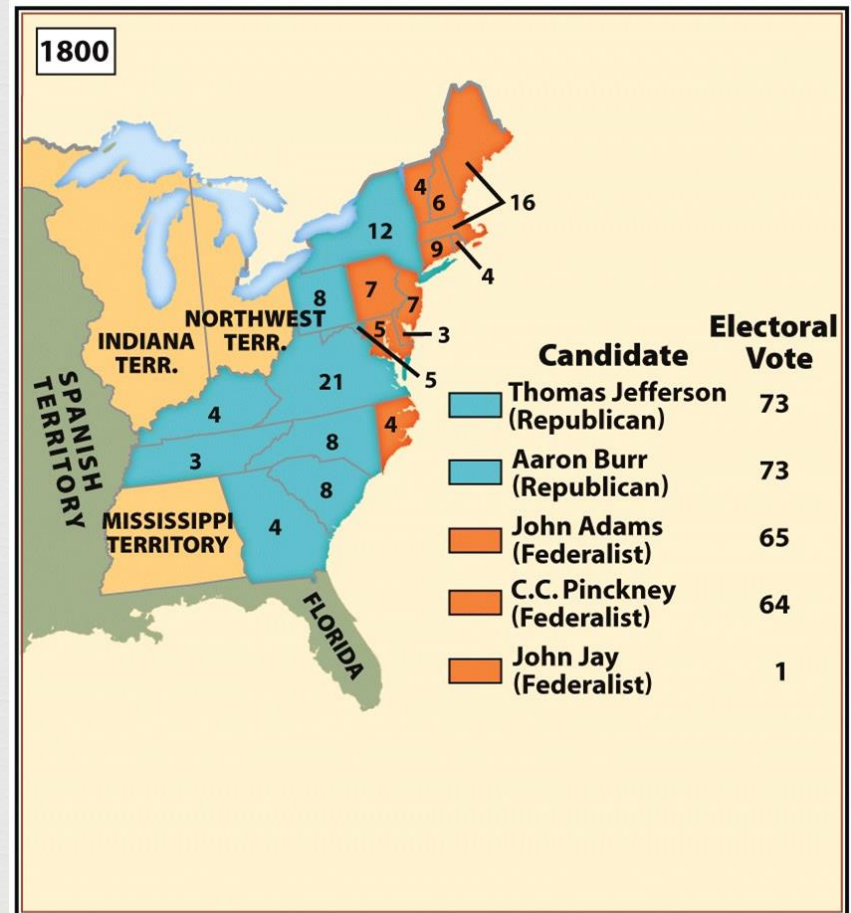
# The Political Crisis of the 1790s

## Constitutional Crisis and the “Revolution of 1800”

### The Election of 1800

- ✧ Role of John Adams
- ✧ Franco-American Accord
- ✧ Adams was competitive

### 12<sup>th</sup> Amendment



Map 7.1 The Presidential Election of 1800

# The Jeffersonian Revolution



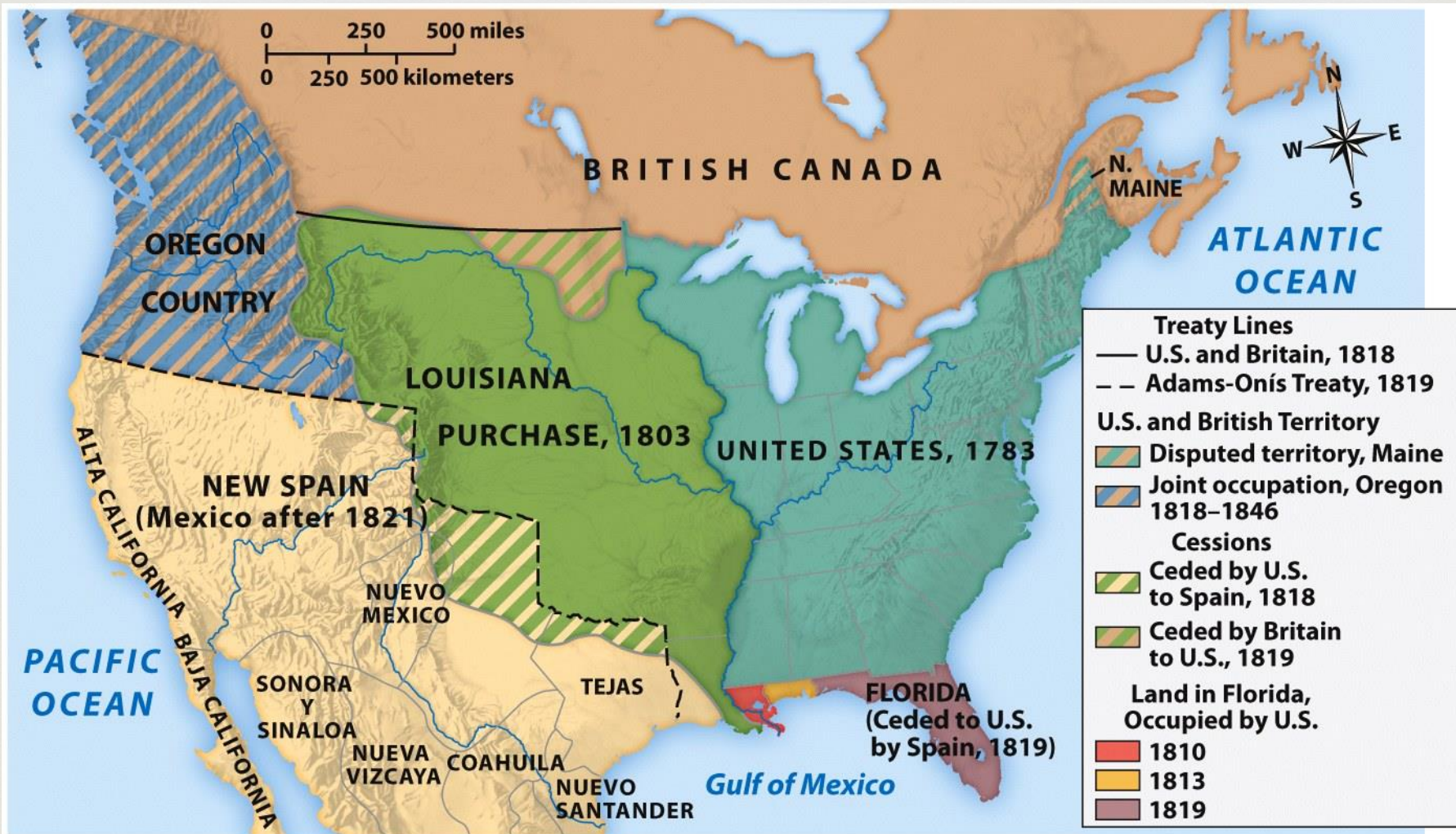
## Policies

- ❧ Bloodless Revolution
- ❧ Get rid of Federalists
- ❧ Agrarian Republic
- ❧ New governing style
- ❧ Smaller government

## Big Changes...

- ❧ Barbary Pirates
- ❧ Marbury V. Madison
- ❧ Louisiana Purchase
- ❧ Financial Reform
  - ❧ Albert Gallatin





Map 7.6 Defining the National Boundaries, 1800-1820



# The Bill of Rights

- Anti-Federalists vs. Federalists
  - Fear of government
  - Ratification process
  - Compromise
  - Specifically says that these are not the only rights
- 
- 3 main categories of rights
    1. Individual freedoms
    2. Protections against government abuse and power
    3. Rights of people accused of crimes



# Bill of Rights

## 1<sup>st</sup> Amendment

- Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances

# Bill of Rights

## 2<sup>nd</sup> Amendment

- A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed

## 3<sup>rd</sup> Amendment

- No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

# Bill of Rights

## 4<sup>th</sup> Amendment

- The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

# Bill of Rights

## 5<sup>th</sup> Amendment

- No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

# Bill of Rights

## 6<sup>th</sup> Amendment

- In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

# Bill of Rights

## 7<sup>th</sup> Amendment

- In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

## 8<sup>th</sup> Amendment

- Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

# Bill of Rights

## 9<sup>th</sup> Amendment

- The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

## 10<sup>th</sup> Amendment

- The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.



# Bill of Rights: Constitutional Protections

- 1<sup>st</sup> Amendment
- **Speech:** Free to say almost anything except that which is obscene, slanders another person, or has a high probability of inciting others to take imminent lawless action.
- **Assembly:** Free to assemble. Government may regulate the time and place for reason of public convenience and safety. Such regulations must be applied evenhandedly.
- **Religion:** Protected from have religious beliefs of others imposed on you and are free to believe what you like.

# Bill of Rights: Constitutional Protections

- 4<sup>th</sup> Amendment
- **Search and Seizure:** Protected from unreasonable searches and seizures. You can forfeit this right if you knowingly waive it.
- **Arrest:** You are protected from arrest unless authorities have probable cause to believe you committed an offense.

# Bill of Rights: Constitutional Protections

- 5<sup>th</sup> Amendment
- **Self-incrimination:** You are protected against self-incrimination – right to remain silent and are protected from coercion by law enforcement.
- **Double Jeopardy:** Cannot be tried twice for the same crime if your first trial results in not guilty verdict.
- **Due Process:** Cannot be deprived of life, liberty, or property without proper legal processes.
  
- ***Miranda v. Arizona* - 1966**

# Bill of Rights: Constitutional Protections

- 6<sup>th</sup> Amendment
- **Counsel:** Right to an attorney. Can demand to speak to your attorney prior to questioning.
- **Prompt and reasonable proceedings:** Prompt arraignment, must be informed of charges against you, you may confront witnesses against you, a speedy and open trial with an impartial jury.
- ***Gideon v. Wainwright* 1963**

# Bill of Rights: Constitutional Protections

- 8<sup>th</sup> Amendment
- **Bail:** protected against excessive fines or bail.
- **Cruel and unusual punishment:** does not cover the death penalty – currently – or from long prison sentence for minor offense.

# The Right to Privacy?

- Not explicitly listed
- 9<sup>th</sup> Amendment?
  
- *Griswold v. Connecticut*, 1965
  - “zone of [personal] privacy”
  
- *Roe v. Wade*, 1973

# The Constitution of the United States

- What is it?
- Why is it important?
- 4 pages, 4,500 words
- Preamble
- Seven Articles
- Bill of Rights (1<sup>st</sup> Ten Amendments)
- 27 amendments in total
- 33 proposed
- adopted on September 17, 1787
- Ratified March 4, 1789



# Preamble

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.



# Article 1 - Congress

- 10 sections
- Longest part of the constitution. Why?
- Section 1 – Creates Congress

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.

Why two houses in the legislature?

# Article I

- Section 2 – The House of Representatives
- Section 3 – The Senate
- Section 4 – Congressional elections
- Section 5 – Procedure
- Section 6 – Compensation, privileges, and restrictions on holding office
- Section 7 – Bills and Presidential veto
- Section 8 – Powers of Congress
- Section 9 – Limits on Congress
- Section 10 – Limits on the States

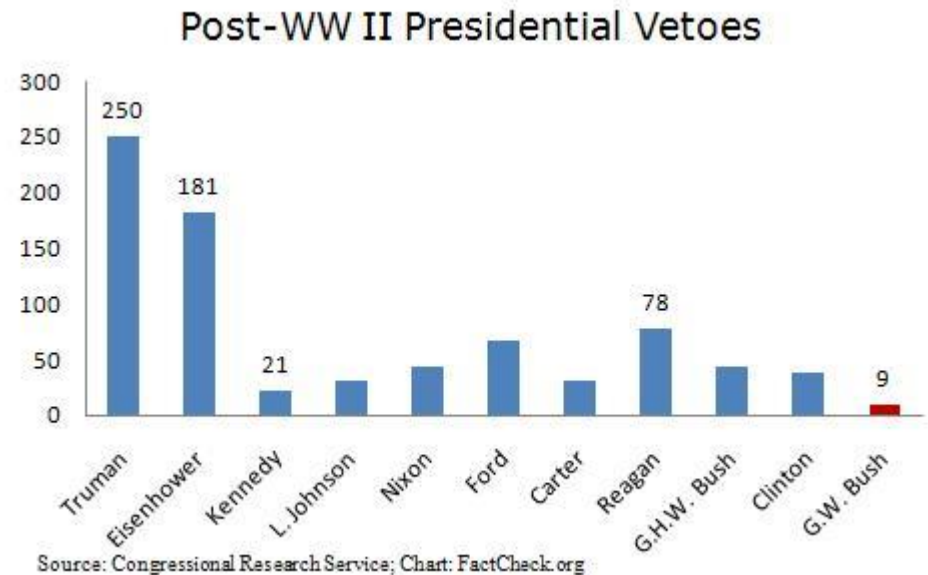


# House and Senate

	The Senate	The House
Qualifications	You must be at least 30 years old, been a U.S. citizen for at least 9 years, and live in the state you represent	You must be at least 25 years old, been a U.S. citizen for at least 7 years, and live in the state you represent.
Size	2 senators per state = 100	Number per state depends on population = 435 total (in 2011)
They represent...	the interests of the citizens in the entire state for 6 years per term.	the interests of the citizens who live in the district they represent within the state for 2 years per term
Special duties	The Senate acts as a court during impeachments.	All bills that raise money must start in the House of Representatives.
Role in Lawmaking	All bills must be approved by	both houses

# Section 7 - Bills and Presidential veto

- Money bills from the House
- President has 3 options
  - Sign
  - Don't sign
  - Veto
- Pocket veto
- Overriding the veto



# Section 8 – Powers of Congress

## Enumerated Powers

- Collect taxes
- Borrow money and pay debts
- Make rules for how to become a citizen
- Regulate commerce (trade) with other nations, between the states, and with Indian tribes
- Coin money and punish counterfeiters
- Establish post offices
- Give patents to new inventions
- Create the lower federal courts
- Punish pirates
- Declare war and support an army and navy
- **Make any other laws that are “necessary and proper” to carry out the powers in this list.**

## Section 8 – Necessary and Proper Clause

- The Congress shall have Power [...] 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.
- 1819 *McCulloch v. Maryland* – Could the US government start up a bank?

# Section 8 – Commerce clause

- The Congress shall have Power [...] To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;
- What is commerce? Does it include manufacturing?
- Regulation of industry

## Section 9 – Limits on Congress

- Slave trade, by another name, before 1808
- Habeas Corpus
- No Bills of Attainder or Ex Post Facto laws
- Limits on taxes
- No noble titles

## Section 10 – Limits on States

- States cannot act like independent nations – no coinage, no treaties, no import duties



# Your current Congress...



- **Current Congress:** 116<sup>th</sup>
- **Next Election:** November 2020

# Membership



- **House of Representatives**

435 Members

235 Democrats including 4 delegates

198 Republicans including 2 delegate

0 vacant seats

- **Senate**

100 Members

45 Democrats, 53 Republicans,

2 Independents

# Membership



- **Senate**

100 Members

47 Democrats

51 Republicans

2 Independents\*

\* Caucus with the Democrats

# Quick facts



- 112 women - a record – 23 in Senate
- 51 African Americans – 3 in Senate
- 46 Hispanic or Latino members
- 18 Asian Americans
- 18 House and 5 Senators – born outside US
  - Canada, Cuba, Guatemala, Japan, Peru, and India.

# Quick facts...



- 202 lawyers
- 20 members of house have no college degree
- 18.8% have active duty military service
- Average age: House – 57.8 Senate – 61.8
- Average length of service: House – 8.8 years, Senate – 9.7 years
- 50 Senators previously served in the House

# Quick facts



- 90.7 % identify as Christians
  - 55.9 % Protestant
- 5.6 % as Jewish
- 3 Buddhists, 3 Hindus, 2 Muslims
- 1 member of Congress unaffiliated with any religion
- 18 Representatives and 5 Senators (4.2% of the 115th Congress) - born outside the United States

# Quick facts



- 18 in House - no educational degree beyond a high school diploma;
- 100 in House and 21 Senators - master's degree as their highest attained degrees;
- 167 in House (37.8% of the House) and 55 Senators (55% of the Senate) hold law degrees
- 22 in House and 2 Senators have doctoral degrees;
- 18 in House and 3 Senators have medical degrees.

# Occupations



**Table 2. Most Frequently Listed Occupational Categories  
by Members, 115<sup>th</sup> Congress**

At the beginning of the 115<sup>th</sup> Congress

<b>Occupation</b>	<b>Representatives</b>	<b>Senators</b>
Public Service/Politics	194	44
Business	179	29
Law	168	50
Education	79	20



# Service



**Table 3. Average Length of Service for Members of Congress, 115<sup>th</sup>-111<sup>th</sup> Congresses**

Average (mean) at the beginning of the Congress, in years and numbers of terms

Congress	Representatives	Senators
115 <sup>th</sup>	9.4 years (4.6 terms)	10.1 years (1.7 terms)
114 <sup>th</sup>	8.8 years (4.4 terms)	9.7 years (1.6 terms)
113 <sup>th</sup>	9.1 years (4.6 terms)	10.2 years (1.7 terms)
112 <sup>th</sup>	9.8 years (4.9 terms)	11.4 years (1.9 terms)
111 <sup>th</sup>	10.3 years (5.2 terms)	13.4 years (2.2 terms)

# Who wins?



- Incumbents
  - 19<sup>th</sup> century – regular turnover – not a career
  - By the 1950s – career politicians
  - Safe Districts
  - Marginal districts fewer and fewer
- 1998-2006
  - House 96%
  - Senate 87%



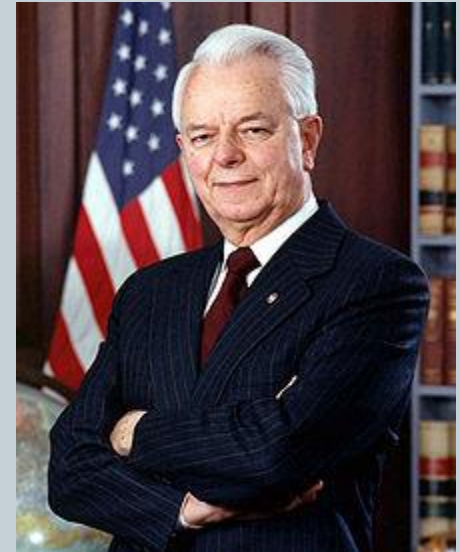
John Dingell (D)  
58 years, 263 days

(Succeeded by his wife...)

# Why does incumbency help?



- Service strategy
  - Cater to the constituency
  - Pork-barrel projects
- Use of congressional staff
  - House - \$800,000 – 18 staff max.
  - Senate - \$2-4 million – 30-50 staff
- The frank



Robert Byrd (D)  
57 years, 176 days

# Campaign fundraising



- Competitive House race = \$1 million +
- Senate race - \$3-20 million
  
- Individual contributions
  - \$100 or less = 60% of campaign funds
  
- PACs – Political Action Committees
  - Overwhelmingly support incumbents (85%)
  
- Political conditions can work in the favor of challengers fundraising

Citizens United



*Homework Help:  
Citizens United V. FEC*

**BILL *of* RIGHTS**  

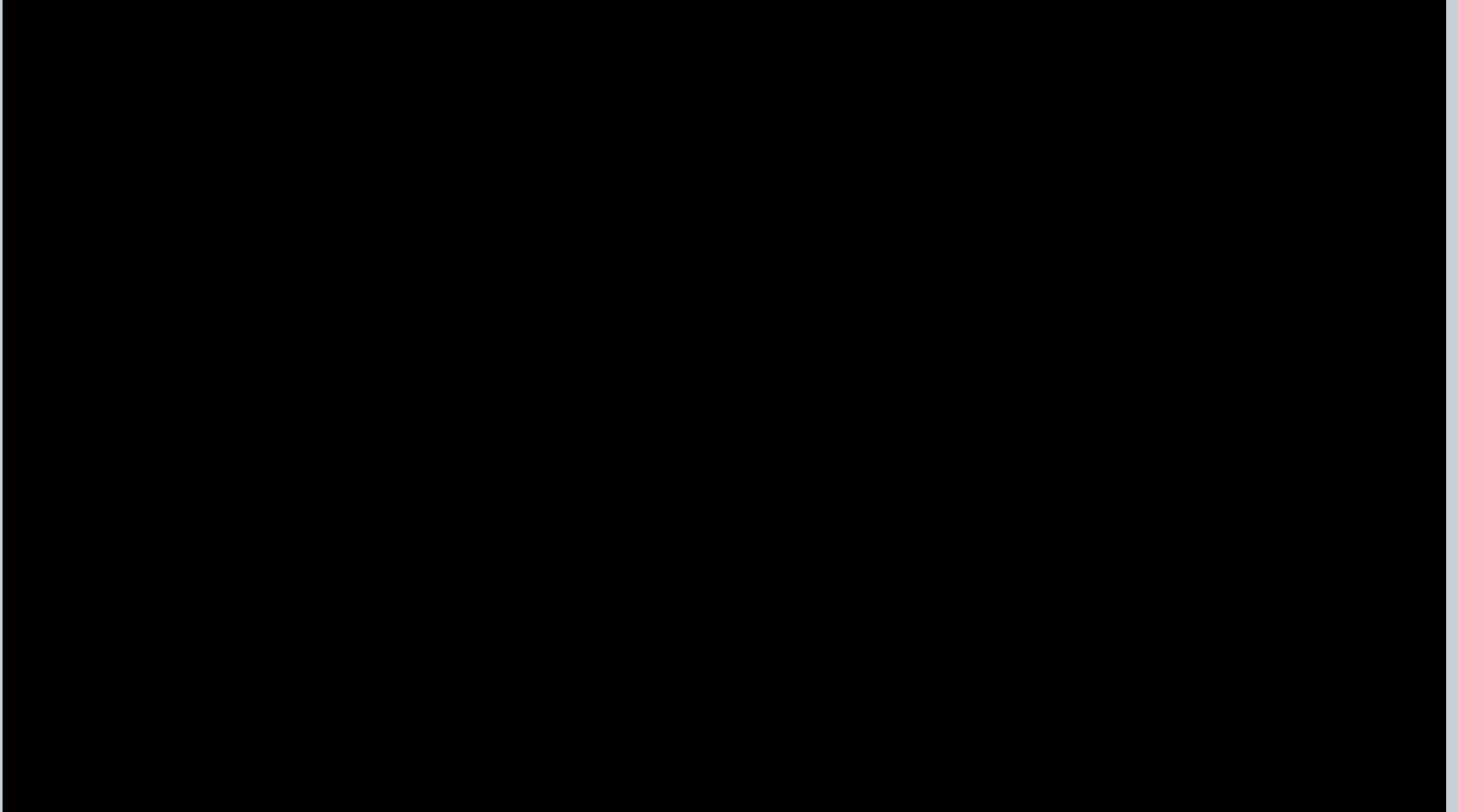
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**INSTITUTE**

# PACS and Super Pacs



# The Cost of Campaigns



# Redistricting: Favorable Boundaries



- The census – every 10 years
- 435 seats
- Reapportionment
- Redistricting
- Gerrymandering

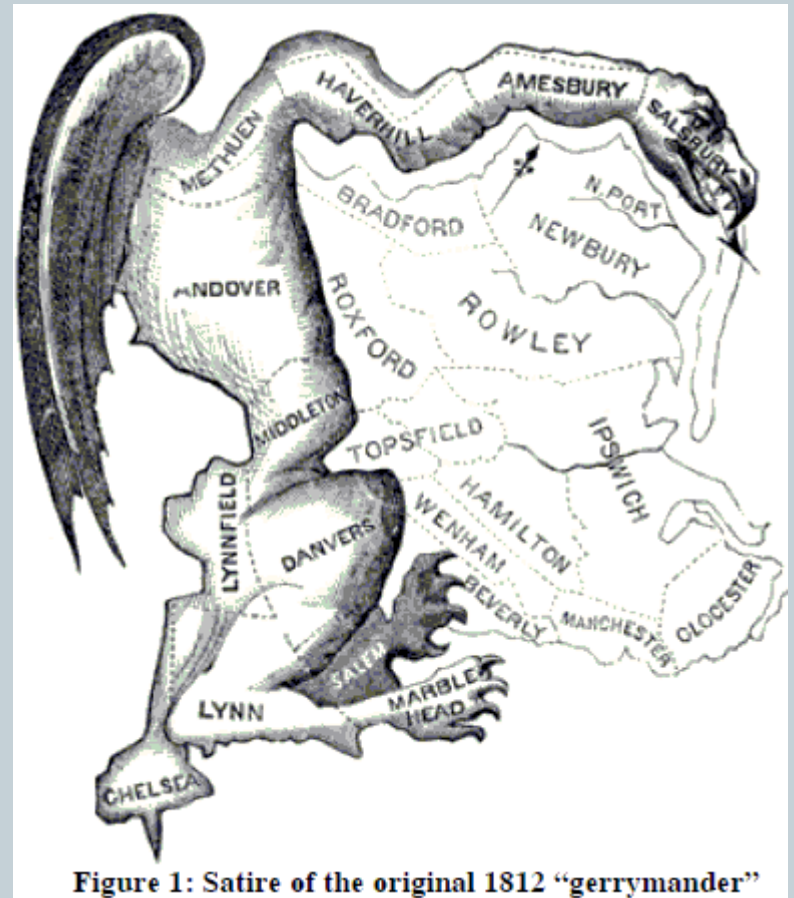


Figure 1: Satire of the original 1812 “gerrymander”



# Ohio 7th



- Bob Gibbs



# Pitfalls of Incumbency



- Disruptive Issues – getting the blame
- Personal Misconduct – Scandal!
- Turnout Variation – The Midterm problem
- Strong Challengers – Particularly in the Senate

# Congressional Leadership



- Party Caucus – Democratic or Republican
- House Leadership
  - Speaker of the House
  - House Majority Leader
  - Majority Whip
  - Minority Leader
  - Minority Whip



# Senate Leadership



- Majority Leader
- Majority Whip
- Vice President
- President Pro Tempore
- Unlimited debate...
  
- Formal powers weak – political prowess is important



# Congressional Leadership



- Committee Chairs
- The Seniority Principle
- Republicans have term limits, Democrats do not



# The Committee System



- Why Committees?
  - Division of Labor
  - Oversight
- House committees – 35-40 members



# Types of Committee



- Select Committees
- Joint Committees
- Conference Committees
- Subcommittees

# House Committees



- Agriculture
- Appropriations
- Armed Services
- Budget
- Education and the Workforce
- Energy and Commerce
- Ethics
- Events Surrounding the 2012 Terrorist Attack in Benghazi (Select)
- Financial Services
- Foreign Affairs
- Homeland Security
- House Administration
- Intelligence (Permanent Select)
- Judiciary
- Natural Resources
- Oversight and Government Reform
- Rules
- Science, Space, and Technology
- Small Business
- Transportation and Infrastructure
- Veterans' Affairs
- Ways and Means



# Senate Committees



- Aging (Special)
- Agriculture, Nutrition and Forestry
- Appropriations
- Armed Services
- Banking, Housing, and Urban Affairs
- Budget
- Commerce, Science and Transportation
- Energy and Natural Resources
- Ethics (Select)
- Environment and Public Works
- Finance
- Foreign Relations
- Health, Education, Labor, and Pensions
- Homeland Security and Governmental Affairs
- Indian Affairs
- Intelligence (Select)
- Judiciary
- Rules and Administration
- Small Business and Entrepreneurship
- Veterans' Affairs

# Committee Membership and Jurisdiction



- **Republicans and Democrats**
  - Majority party decides the ratio
- House members - 2 committees
- Senators – up to 4 committees
- **1946 Legislative Reorganization Act**
  - Bills must be sent to the relevant committee
- Turf wars – overlapping jurisdiction

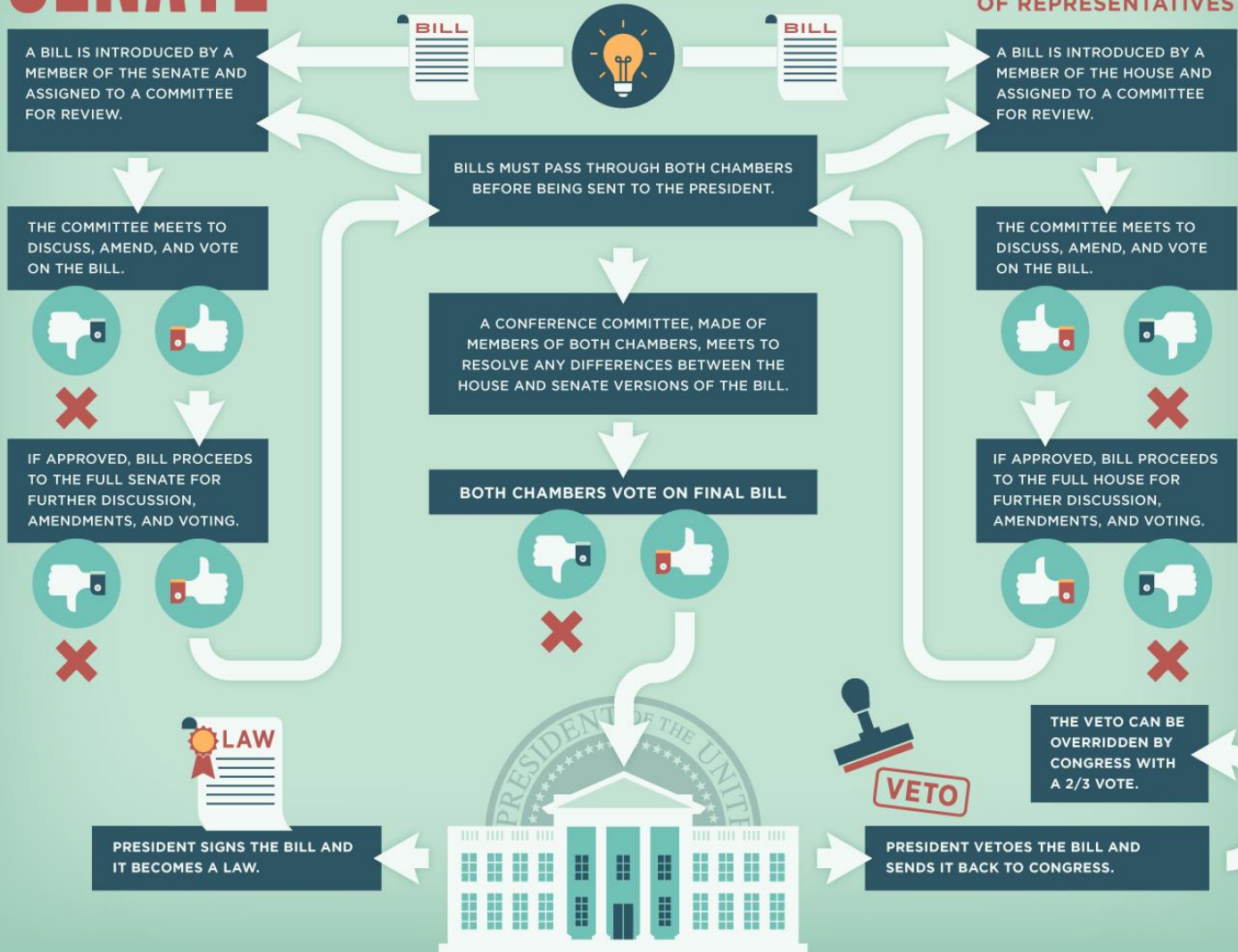


# THE US LEGISLATIVE PROCESS

## SENATE

## HOUSE OF REPRESENTATIVES

IT STARTS WITH AN IDEA...



# Legislative Quirks



- House Rules Committee
  - Closed Rule or Open Rule
- Senate
  - Filibuster
    - ✦ Cloture
    - ✦ Tradition remains strong
    - ✦ Threat of filibuster is often enough
  - Rider



**Jimmy Stewart in *Mr. Smith Goes To Washington*, 1939**

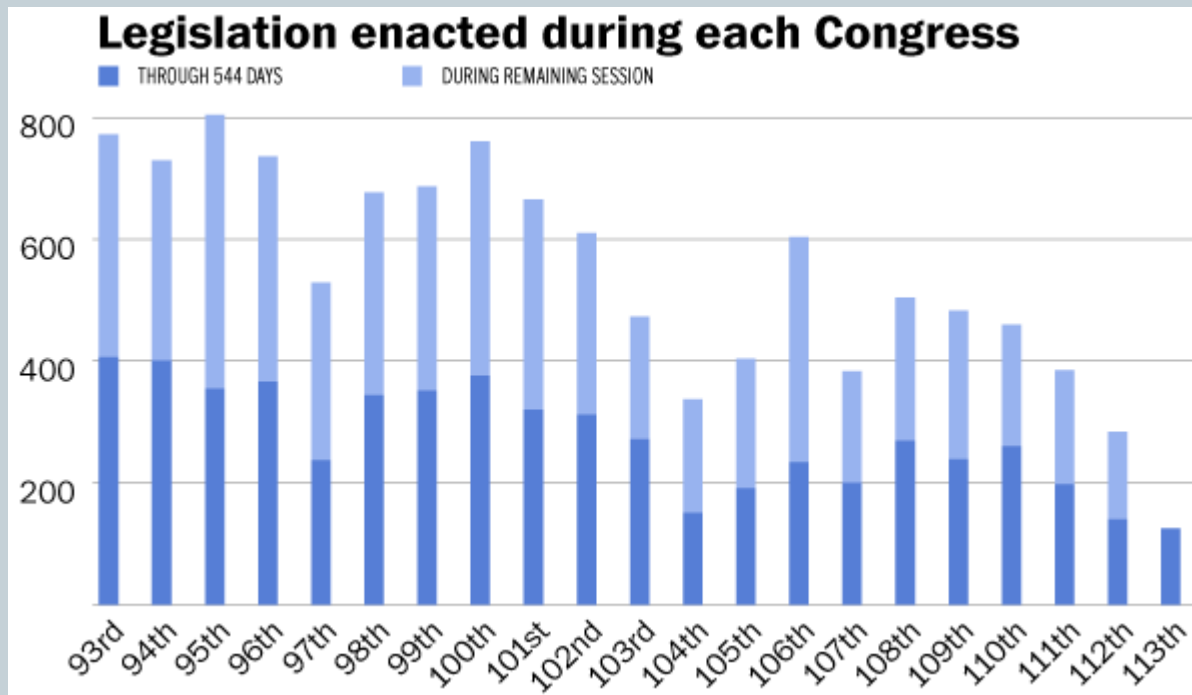
# Congress as a Lawmaking Body



- Often unwieldy – very large group of people
- Often divided along strict partisan lines
- Party leadership plays an important, but limited role
- Sectionalism – different interests from across the country
- Presidency better placed to take national leadership
- Most bills on very narrow issues



# The Do-Nothing Congress...



# Help?



- Congressional Budget Office (CBO)
- Government Accountability Office (GAO)
- Congressional Research Service (CRS)

# Questions about representation?



- Should members of Congress focus on national or local issues?
- Should a member of Congress vote based on the views of his constituents or on what he/she believes to be best for the state/district?
- What if national interests do not coincide with the electoral interests of your party?



# POTUS



# Article II – The Presidency

The overall job of the executive branch is to carry out and enforce laws, but Article II gives the president a list of specific duties:

- Act as the commander-in-chief of the armed forces
- Maintain a cabinet of advisors who run the 15 executive departments
- Grant pardons in federal criminal offenses, and reprieves (postpone punishments like executions)
- Negotiate treaties with other countries
- Appoint ambassadors, Supreme Court Justices and federal court judges, and Cabinet members
- Present a State of the Union address to Congress “from time to time”
- Make sure that laws are carried out (executed)



# Article II



## Section 1: President and Vice President

- 1.1 Clause 1: Executive Power
- 1.2 Clause 2: Method of choosing electors
- 1.3 Clause 3: Electors
- 1.4 Clause 4: Election day
- 1.5 Clause 5: Qualifications for office
- 1.6 Clause 6: Vacancy and disability
- 1.7 Clause 7: Salary
- 1.8 Clause 8: Oath or affirmation

## Section 2: Presidential powers

- 2.1 Clause 1: Command of military; Opinions of cabinet secretaries; Pardons
- 2.2 Clause 2: Advice and Consent Clause
  - 2.2.1 Treaties
  - 2.2.2 Appointments
- 2.3 Clause 3: Recess appointments

## Section 3: Presidential responsibilities

- 3.1 Clause 1: State of the Union
- 3.2 Clause 2: Making recommendations to Congress
- 3.3 Clause 3: Calling Congress into extraordinary session; adjourning Congress
- 3.4 Clause 4: Receiving foreign representatives
- 3.5 Clause 5: Caring for the faithful execution of the law
- 3.6 Clause 6: Officers' commissions

## Section 4: Impeachment

# The Presidency



- *Public expectations, national crises, and changing national and global conditions have required the presidency to become a strong office*
- *The modern presidential election campaign is a marathon affair in which self-selected candidates must plan for a strong start in the nominating contests.*
- *The modern presidency could not operate without a large staff of experts, and high-level managers, but the sheer size of this staff makes it impossible for the president to exercise complete control over it.*
- *The president's election by national vote and position as sole chief executive ensure that others will listen to the president's ideas; but to lead he must have the help of others and consider their interests.*
- *Presidential influence on national policy is highly variable.*

# The Modern Presidency



*“The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows...”*

- Article II – very general
- Powers have been extended
- Undeclared wars
- Executive agreements over treaties
- Administrative authority rather than appointive
- Active legislative role

# A more active President



- Foreign policy leadership
- Domestic policy leadership

# Choosing the President

Selection System	Period	Features
1. Original	1788-1828	<p>Party nominees are chosen in congressional caucuses.</p> <p>Electoral College members often acted independently.</p>
2. Party Convention	1832-1900	<p>Party nominees chose in national party conventions. Delegates to conventions chosen by state and local party organizations.</p> <p>Electoral College Members cast vote for winner of popular vote in their state.</p>
3. Party Convention, Primary	1904-1968	<p>As in system 2, but minority of national convention delegates chosen through primary elections.</p>
4. Party primary, open caucus	1972-present	<p>As in system 2, but a majority of convention delegates are chosen through primary elections.</p>

# The Electoral College

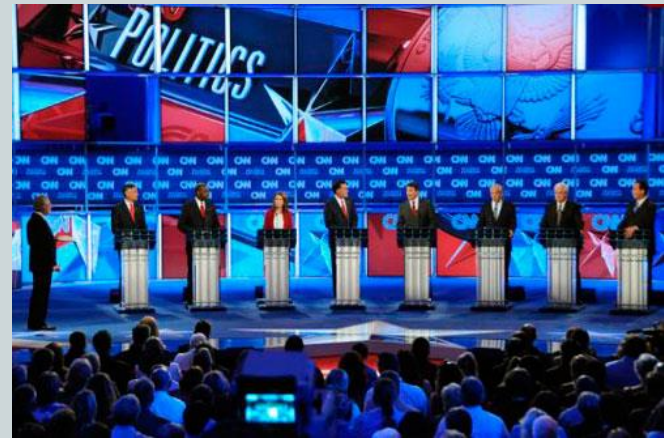




# What's a Primary?



- Voters choose the candidates
- Iowa and New Hampshire
- Federal funding



# National Party Convention



# The Campaign



- Election strategy
  - Unit Rule – all states except Maine and Nebraska
- Media and Money
- Televised debates
  - 1960 – Kennedy v. Nixon
  - Revived in 1976
- Federal Funding
  - Often declined



# The Winner



- Natural born citizen
- 35 years old
- US resident for at least 14 years
- 4 army generals
- Vice-presidents, members of Congress, State Governors, or top Federal Executives

# Who works for the President?



- Presidential appointees
- The Executive Office of the President (EOP)
  - The Vice President
  - The White House Office
  - Policy Experts
- The Cabinet
  - Secretary of State
- Other appointees
- A growing bureaucracy



# Relations with Congress



- Seeking cooperation
- Benefiting from partisan support
- Collision
  - Impeachments – “treason, bribery, or other high crimes and misdemeanors.”
  - Signing statements

# Approval Ratings



President	Years in Office	Average during Presidency	First-year average	Final-year Average
Harry Truman	1945-52	41%	63%	35%
Dwight Eisenhower	1953-60	64	74	62
John Kennedy	1961-63	70	76	62
Lyndon Johnson	1963-68	55	78	40
Richard Nixon	1969-74	49	63	24
Gerald Ford	1974-76	46	75	48
Jimmy Carter	1977-80	47	68	46
Ronald Reagan	1981-88	53	58	57
George H.W. Bush	1989-92	61	65	40
Bill Clinton	1993-2000	57	50	60
George W. Bush	2001-2008	49	62*	37*
			* First term average	* Second term average

# Illusion of Presidential Government



- Political scientist Hugh Heclo
  - “the illusion of presidential government”
  - President’s ability to shape events is limited
  - Thrusting themselves into the national spotlight adds to the effect
  - Can a president afford to retreat?



# The Court System



# Article III – The Courts

- Creates federal courts – the Judicial Branch
- creates the Supreme Court
- authorizes Congress to create federal courts below the Supreme Court.
- Matters of US or Federal Law – not state law
- Appointment of federal judges
  - Not elected
  - Lifetime appointments
  - Trial by jury
- Treason



# Can you name the members of the Supreme Court?

- Elena Kagan, 57
- Samuel Alito, 67
- Sonia Sotomayor, 63
- Neill Gorsuch, 50
- Ruth Bader Ginsburg, 84
- Anthony Kennedy, 81
- John Roberts, 62
- Clarence Thomas, 69
- Stephen Breyer, 79



- Which one is Chief Justice?
- Which one retired?

# Brett Kavanaugh



# Judicial Review

- Supreme Court as ultimate arbitrator of the Constitution
- Judicial Review
- Not specifically established in the document itself
- *Marbury v. Madison* 1803
- Controversial, but eventually accepted



# Role of Courts

- interpret and apply the law that the legislature enacts
- apply the law to specific controversies brought before them
- resolve disputes between people, companies and units of government
- Uphold limitations of government

# 2 Court Systems

## State

- **Each state creates its own court system**
- Ohio
- Supreme Court
- Court of Appeals
- Courts of Common Pleas
- Municipal and County Courts
- Mayor's Courts

## Federal

- US Supreme Court
- US Courts of Appeal
- US District Courts

# State Crimes and Federal Crimes

## State Crimes

- Homicide/murder
- Assault and battery
- Robbery
- Domestic violence
- Burglary
- Aggravated assault
- Drug trafficking
- Weapons offenses

## Federal Crimes

mail fraud  
aircraft hijacking  
Carjacking  
Kidnapping  
bank robbery  
child pornography  
credit card fraud  
identity theft,  
federal hate crimes  
violations of the Federal Racketeer Influenced  
and Corrupt Organizations Act (RICO),  
tax evasion  
Counterfeiting  
violations of the Espionage Act and Patriot Act  
illegal wiretapping  
electoral fraud  
assassinating or attempt assassination of the  
President or Vice President



# Trial Courts and Appellate Courts

## Trial

- Court where case begins
- Both sides present evidence
- Judge or jury

## Appellate

- Appeal of decision
- Panel of judges
- Usually odd number
- No testimony
- No new evidence
- Examining what happened in original trial
- Very difficult to win

# Civil vs. Criminal Law

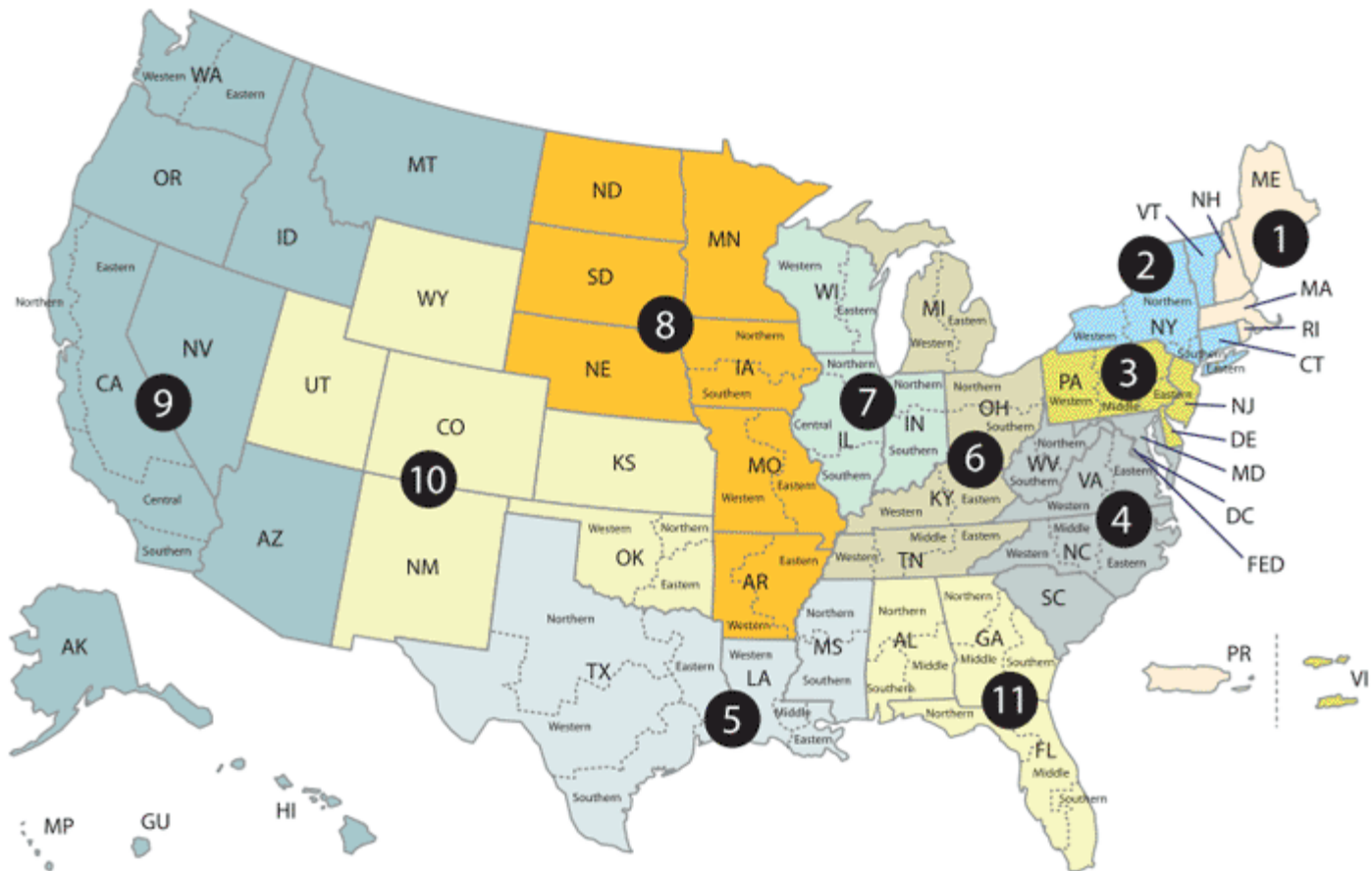
## Civil

- conflicts between people or institutions such as businesses
- Intervention of courts needed
- Suit filed
- Injunctive relief
- Burden of proof

## Criminal

- punishment for acts that have been deemed to be contrary to standards imposed by society
- Role of the state and United States
- Felonies
- Misdemeanors
- Burden of Proof
- Right not to testify

# US Circuit Courts of Appeal

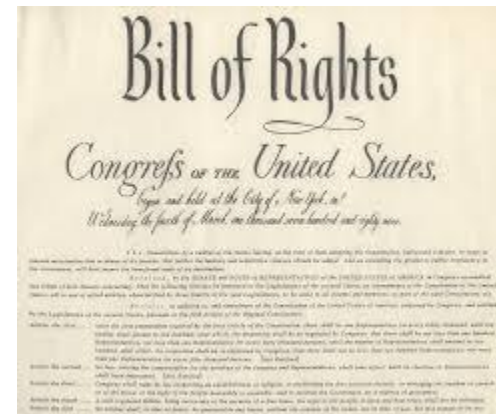


# Article IV – The States

- Each state has to respect the laws and court decisions of the other states.
- If a criminal flees from one state to another, the state where the crime was committed can request that the criminal be returned to face charges. This is called extradition.
- New states can be admitted to the Union with the authorization of Congress and the president.
- All states must have a republican, or representative, type of government.
- Fugitive Slave clause – made moot by 13<sup>th</sup> Amendment

# Article V – Amending the Constitution

- 33 proposed changes, 27 made it
- Bill of Rights
- 2 step process
- Proposal
- Ratification
- Process can take years



# Unratified amendments

Title	Subject	Status
Congressional Apportionment Amendment	Would strictly regulate the size of congressional districts for representation in the House of Representatives.	Pending since September 25, 1789
Titles of Nobility Amendment	would strip citizenship from any United States citizen who accepts a title of nobility from a foreign country.	Pending since May 1, 1810
Corwin Amendment	Would make "domestic institutions" of the states (which in 1861 implicitly meant <i>slavery</i> ) impervious to the constitutional amendment procedures enshrined within Article Five of the United States Constitution and immune to abolition or interference even by the most compelling Congressional and popular majorities.	Pending since March 2, 1861
Child Labor Amendment	Would empower the federal government to regulate child labor.	Pending since June 2, 1924
Equal Rights Amendment	Would have prohibited deprivation of equality of rights by the federal or state governments on account of sex.	Ratification period closed March 22, 1979/June 30, 1982; amendment failed
District of Columbia Voting Rights Amendment	Would have granted the District of Columbia full representation in the United States Congress as if it were a state, repealed the 23rd Amendment and granted the District full representation in the Electoral College plus participation in the process by which the Constitution is amended as if it were a state.	Ratification period closed August 1985; amendment failed

# Step 1 - Propose

- 2 options
- **Option 1 – Congress**
  - Member (or members) of Congress proposes a bill to amend the constitution
  - Both houses vote
  - 2/3 of members of both houses must approve
- **Option 2 – Constitutional Convention**
  - 2/3 of state legislatures pass resolutions (34)
  - Calling for creation of a convention
  - 0 amendments proposed this way, thus far

# Step 2 - Ratify

- 2 options
- **Option 1 – State Legislatures**
  - State legislatures vote on amendment
  - $\frac{3}{4}$  of states must approve (38)
- **Option 2 – State Conventions**
  - Special conventions in each state
  - $\frac{3}{4}$  must approve (38)
  - Only 1 amendment approved this way – 21<sup>st</sup> amendment, 1933



# Article VI – Old debts, law, and religious tests

- Laws and treaties passed in accordance with the constitution are supreme law of the land
  - Federal law supersedes state law
- Old national debts held under Articles of Confederation passed to new United States created with the constitution
- Senators and Congressmen must take an “oath of affirmation” BUT
- No religious test can ever be put in place to hold office

# Article VII – Putting it into play...

- Ratification of the constitution
- The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same

	Date	State	Votes		% Approval
			Yea	Nay	
1	December 7, 1787	Delaware	30	0	100%
2	December 12, 1787	Pennsylvania	46	23	67%
3	December 18, 1787	New Jersey	38	0	100%
4	January 2, 1788	Georgia	26	0	100%
5	January 9, 1788	Connecticut	128	40	76%
6	February 6, 1788	Massachusetts	187	168	53%
7	April 28, 1788	Maryland	63	11	85%
8	May 23, 1788	South Carolina	149	73	67%
9	June 21, 1788	New Hampshire	57	47	55%
10	June 25, 1788	Virginia	89	79	53%
11	July 26, 1788	New York	30	27	53%
12	November 21, 1789	North Carolina	194	77	72%
13	May 29, 1790	Rhode Island	34	32	52%
<b>Total:</b>			<b>1071</b>	<b>577</b>	<b>65%</b>

# The Bill of Rights

- Anti-Federalists vs. Federalists
  - Fear of government
  - Ratification process
  - Compromise
  - Specifically says that these are not the only rights
- 
- 3 main categories of rights
    1. Individual freedoms
    2. Protections against government abuse and power
    3. Rights of people accused of crimes



# Bill of Rights

## 1<sup>st</sup> Amendment

- Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances

# Bill of Rights

## 2<sup>nd</sup> Amendment

- A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed

## 3<sup>rd</sup> Amendment

- No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

# Bill of Rights

## 4<sup>th</sup> Amendment

- The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

# Bill of Rights

## 5<sup>th</sup> Amendment

- No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

# Bill of Rights

## 6<sup>th</sup> Amendment

- In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.



# Bill of Rights

## 7<sup>th</sup> Amendment

- In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

## 8<sup>th</sup> Amendment

- Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

# Bill of Rights

## 9<sup>th</sup> Amendment

- The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

## 10<sup>th</sup> Amendment

- The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

# Bill of Rights: Constitutional Protections

- 1<sup>st</sup> Amendment
- **Speech:** Free to say almost anything except that which is obscene, slanders another person, or has a high probability of inciting others to take imminent lawless action.
- **Assembly:** Free to assemble. Government may regulate the time and place for reason of public convenience and safety. Such regulations must be applied evenhandedly.
- **Religion:** Protected from have religious beliefs of others imposed on you and are free to believe what you like.

# Bill of Rights: Constitutional Protections

- **2<sup>nd</sup> Amendment**
- **Right to Bear Arms**
- **Collective or individual right to a gun?**

# History of 2<sup>nd</sup> Amendment

- Very little attention during debate on Constitution
- Concern about Federal power over states
- Guns were well-regulated

# What is a militia?

- Unclear in the past
- The National Guard
- Cincinnatus – Roman hero
- Collective rights model - → 1960
- Individual rights model

# Why the shift?

- The NRA changed in the late 1970s
- Cincinnati Revolt – 1977
- 1930s – changes in regulation
- National Firearms Act, 1934
- 1960s – change in danger
- Gun Control Act 1968

# The Black Panther Party





# The NRA and the 2<sup>nd</sup> Amendment

- Public supportive of gun control
- Harlon Carter
- 1977
- “Without an armed citizenry, the government will have an easier time suppressing people’s rights”



# NRA: Culture Warriors

- Linking gun issues to other issues
- late '70s on, it became increasingly difficult to pass federal gun laws
- self-defense
- the ability to use firearms to stand for liberty in the face of tyranny,
- futility of gun control began to spread
- the Second Amendment protects individual rights

# Congress?

- 1982 – Right to keep and bear arms
- Sanford Levinson – liberal scholar - endorsed individual rights model
- 1990s - Academics for the 2<sup>nd</sup> Amendment

# Public?

- should the law ban handguns except for the police and other authorized persons?
- 1959 - 60 percent
- 1980 – 38 percent
- 2016 – 23 percent

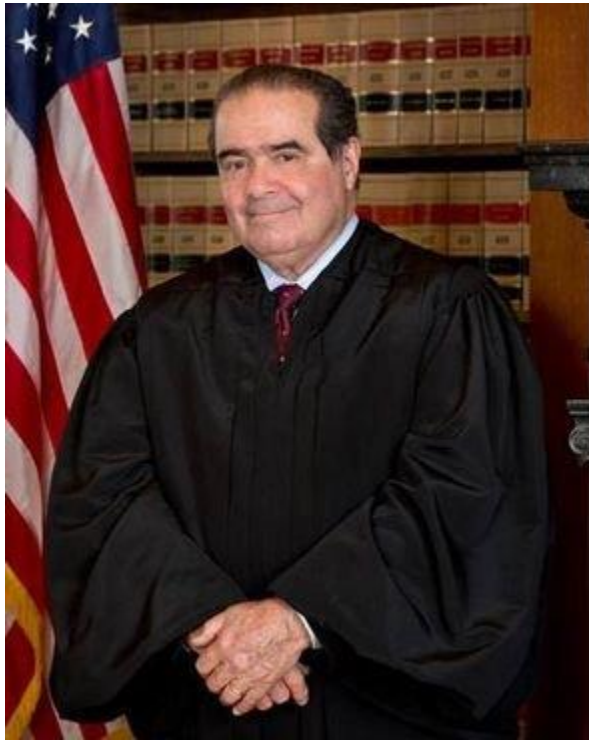
# Courts?

- Only 3 cases before 2008
- 1939 - ***United States v. Miller***
- Congress can ban sawed-off shotguns
- weapon was of no use in a well-regulated militia,
- right to bear arms was inseparable from the role of a militia.

# *Washington DC v. Heller*

- 2008 Supreme Court decision
- Justice Antonin Scalia
- “the Second Amendment conferred an individual right to keep and bear arms”
- Embraced individual right
- Popular constitutionalism - meaning of the Constitution can develop outside the courts by political and popular movements

# *Washington DC v. Heller*



*"Like most rights,  
the Second Amendment  
right is not unlimited.  
It is not a right to keep and  
carry any weapon whatsoever  
in any manner whatsoever and  
for whatever purpose."*

*-JUSTICE SCALIA (D.C. VS. HELLER)*

# Republican Party?

- Ronald Reagan
  - Appointment of pro individual rights interpretation
  - Vast amount of guns in circulation
  - Guns got cheaper
  - Other cultural factors
  - Jacksonian individualism
- NRA



# Bill of Rights: Constitutional Protections

- 4<sup>th</sup> Amendment
- **Search and Seizure:** Protected from unreasonable searches and seizures. You can forfeit this right if you knowingly waive it.
- **Arrest:** You are protected from arrest unless authorities have probable cause to believe you committed an offense.

# Bill of Rights: Constitutional Protections

- 5<sup>th</sup> Amendment
- **Self-incrimination:** You are protected against self-incrimination – right to remain silent and are protected from coercion by law enforcement.
- **Double Jeopardy:** Cannot be tried twice for the same crime if your first trial results in not guilty verdict.
- **Due Process:** Cannot be deprived of life, liberty, or property without proper legal processes.
  
- ***Miranda v. Arizona* - 1966**

# Bill of Rights: Constitutional Protections

- 6<sup>th</sup> Amendment
- **Counsel:** Right to an attorney. Can demand to speak to your attorney prior to questioning.
- **Prompt and reasonable proceedings:** Prompt arraignment, must be informed of charges against you, you may confront witnesses against you, a speedy and open trial with an impartial jury.
- ***Gideon v. Wainwright* 1963**

# Bill of Rights: Constitutional Protections

- 8<sup>th</sup> Amendment
- **Bail:** protected against excessive fines or bail.
- **Cruel and unusual punishment:** does not cover the death penalty – currently – or from long prison sentence for minor offense.

# The Right to Privacy?

- Not explicitly listed
- 9<sup>th</sup> Amendment?
  
- *Griswold v. Connecticut*, 1965
  - “zone of [personal] privacy”
  
- *Roe v. Wade*, 1973