Articles of Confederation
How was power divided between fed/state?

• Most power held by states, little power in federal government. **Big Gulp or Dixie Cup?**

**Articles of Confederation**
(1781-1787)

• Our 1st attempt at NATIONAL government
  • State governments existed as well

• Confederation: Power is concentrated in the states and not the national government
  • Bad experience under the strong central government of Britain 😞
  • Allowed states to do their own thing, but prohibited the states from acting as one nation to solve problems facing the young USA
Weakness of the Articles of Confederation
Copy this chart on notebook paper in your Unit 2 section of your notebook

<table>
<thead>
<tr>
<th>Weakness</th>
<th>Articles of Confederation—Result of Identified Weakness</th>
</tr>
</thead>
<tbody>
<tr>
<td>taxation</td>
<td>money requests not always honored by states; no predicable national income</td>
</tr>
<tr>
<td>trade &amp; commerce</td>
<td>US hurt by foreign competition; states competing with each other</td>
</tr>
<tr>
<td>no national military</td>
<td>states could ignore request for militia/troops; hard to coordinate national defense</td>
</tr>
<tr>
<td>one vote per state</td>
<td>populous states underrepresented; lack of equal access for citizens</td>
</tr>
<tr>
<td>unanimous vote to change</td>
<td>problems with Articles not easy to fix</td>
</tr>
<tr>
<td>no national courts</td>
<td>no way to enforce limited central power; no way to resolve disputes between states</td>
</tr>
<tr>
<td>no executive branch</td>
<td>enforcing and implementing acts passed by Congress was impossible</td>
</tr>
</tbody>
</table>
**ARTICLES OF CONFEDERATION**

<table>
<thead>
<tr>
<th>Government Structure</th>
<th>Powers of Congress</th>
<th>State Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Congress--1 branch</td>
<td>Make war and peace</td>
<td>Obey Articles and acts of Congress</td>
</tr>
<tr>
<td>Confederation</td>
<td>make treaties</td>
<td>provide funds and troops when requested by Congress</td>
</tr>
<tr>
<td>Congress</td>
<td>build navy and army</td>
<td>States regulated own trade and taxed each other</td>
</tr>
<tr>
<td>No executive branch or president...</td>
<td>settle disputes among states</td>
<td>States had their own currency</td>
</tr>
<tr>
<td>No judicial system....</td>
<td>set up monetary system</td>
<td></td>
</tr>
<tr>
<td>One vote per state regardless of size</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Major Problem:** Created a weak national govt that could not tax, regulate trade or enforce its laws because the states held more power than the National Government. 🌟
Strengths

- Governed the nation during the Revolution
- Negotiated the Treaty of Paris after the War ended.
- Passed two important American Laws,
- Passed the Land Ordinance of 1785
- Passed the Northwest Ordinance

Weaknesses

- Lacked the Power to enforce laws
- Lacked the power to collect taxes
- Lacked the power to regulate trade among the states.
- Needed all 13 states to make changes to the Articles of Confederation
Articles of Confederation

- Weaknesses: States had the power, did not have the power to tax, no leader, no courts, no army, couldn’t enforce laws

- Strengths: Created a congress, could declare war, could declare a peace treaty, coin money was used, post offices were invented and in use
Shays’ Rebellion
(1786-87)

Armed rebellion by Massachusetts farmers against unjust tax system and economic crisis.
Shays’ Rebellion --- Significance

► Shays' rebellion showed that the 'Articles of Confederation' was weak and could not protect the rights of the people.

• As a result, the national leaders wrote a more powerful Constitution with more protections built in for the interests of the people.
Virginia Plan vs. New Jersey Plan

**Virginia Plan**
- Supported by big states
- Bicameral (2 houses)
- 1-elected by people, 2-elected by first house
- # of congress determined by population

**New Jersey**
- Supported by small states
- Unicameral (1 house)
- Based on equality
- Each state same # of Representatives

**The Great Compromise**
- Bicameral (2 house)
  - House of Representatives determined by population
  - Senate (each state has 2)
The Great Compromise

The US Congress

The Senate
- 2 Senators Per State

The House
- More People, More Votes

Virginia Plan
- Gave more power to national government
- Bicameral legislature
- Number in both houses based on population

Great Compromise
- Bicameral legislature
- Number of representatives based on state populations in lower house
- Number of representatives equal from each state in upper house

New Jersey Plan
- Gave more power to state governments
- Unicameral legislature
- Number of representatives equal from each state
How were slaves counted toward representation in this new Constitution?
3/5 Compromise (1787)

- Southern states wanted more Representatives in Congress
- Wanted to count slaves as population
- Counted 3/5 of each slave for representation
- Paid 3/5 taxes on each slave

Result: Raises questions about the morality/legality of slavery
HOW IS THE POTUS ELECTED?

Purpose of the Electoral College

- Determines how the President of the U.S. is elected
- The Electoral College is only used for a presidential election – Congressional, Gubernatorial, Propositions are based on direct popular vote.
- Two reasons the electoral college was created
  - To give states with small population > influence
  - Didn’t trust common man
Anti-federalists

- Anti federalists were a group of people that wanted the government to have the least control over the people
- Feared a strong government
- Thomas Jefferson was the most significant anti federalist
- Opposed the adoption of the U.S constitution
- Most of Thomas Jefferson's followers were usually called anti federalist.
- Favored states rights and argued successfully for the Bill of Rights
Anti-Federalist Views

- Opposed the new Constitution
- Were against having a strong central government
- Feared government would serve interests of privileged minority
- Feared central government would ignore rights of majority
- Said a single government could not manage the affairs of such a large country
- The Constitution lacked any protection for individual rights
The Anti-Federalists

Anti-Federalists opposed ratification of the Constitution. They argued that although the Articles of Confederation needed to be improved, the proposed Constitution granted too much power to the national government. Some of the more famous Anti-Federalists included Patrick Henry, George Mason, George Clinton, and Thomas Paine. Other Anti-Federalists preferred to remain anonymous and used pseudonyms such as Centinel, Brutus, and Republicus.
How did Fed/Anti-fed debates ultimately construct our govt?

**Federalists:**
- Favored ratification of the Constitution
- Favored a powerful federal government
- Argued a Bill of Rights was not needed, as federal power was limited
- "The Federalist Papers"

**Anti-Federalists:**
- Opposed ratification of the Constitution
- Wanted a weak federal government that would not threaten states' rights
- Wanted a Bill of Rights to declare and protect the rights of the people

**RATIFICATION:**
- Federalists promise addition of a Bill of Rights
- Ratification succeeded, new government formed 1789
- James Madison drafts 10 amendments to the Constitution, these become the U.S. Bill of Rights
Arguments made by *The Federalist Papers*

A. Federalists 1-14 stressed importance of the **Union**

B. Federalists’ 15-22 stressed inadequacy of the **Articles of confederation**

C. Federalists 23-36 Explained arguments for the **Type of Government** Contained in the Constitution

D. Federalists 37-51 Explained the **Republican** Form of Government

E. Federalists 52-83 explained the **3 branches of government**.

F. Federalists 84-85 answers **questions** of objections to the Constitution
Federalist Papers

• Research your Federalist/Anti-Federalist Paper to create a poster.

Include:
• Name of Essay, Author(s), topic of essay
• 3 Powerful quotes
• Illustration and creativity
• Playlist to support ideals in essay (4 Tracks)
Montesquieu’s Influence in Constitution

- Preview your *Enlightened Thinker Graphic Organizer* from Unit 1 to define what Montesquieu believed about the govt.

- Find an excerpt in the Constitution that shows Montesquieu’s political ideology.
Voltaire’s Influence in Constitution

• Find an excerpt in the Constitution that shows Voltaire’s political ideology
Basic Constitutional Principles

• **Majority Rule**
  - Most votes wins (has power)

• **Separation of Powers**
  - 3 branches of gov't:
    - 1. Legislative, 2. Executive, 3. Judicial

• **Rule of Law**
  - Law applies to ALL, even those who govern. Ex: Magna Carta (1215)
• **Popular Sovereignty** --- Power lies with the people. Ex: Voting, Petitioning Gov't

• **Federalism** --- Creation of national, state, local gov't, and how they share powers and roles.

• **Checks and Balances**
  - Each branch is able to check, or restrain, the powers of the others
  - **Judicial Review** --- Judicial branch reviews laws to ensure they are fair and just.
Common Law

• Laws made by judges
• Originated in England
• Judges decide what’s right based on custom and tradition.
Stare Decisis

- Literally means, “Let the decision stand”
PRECEDENT

• A present-day court decision, based on a previous court case decision, based on a similar issue.

• Basically: An example set for the future.

• Ex. What happens if someone is tardy at NCHS?
PRECEDENT GRAPHIC

PAST

Case A
- fact 1
- fact 2
- fact 3

Judgement

Precedent

CURRENT

Case B
- fact 1
- fact 2
- fact 3

Judgement
Supremacy Clause

- Constitution is the Supreme Law of the land.
- No State can make a law higher than the Constitution.

Don't you try to tell ME what I can and cannot do!
The Supremacy Clause
(Article VI, Section 2)

If there is a conflict between a lower law and a higher one, the higher one "wins."

The U.S. Constitution is the "Supreme Law of the Land."

United States Constitution
Acts of Congress
State Constitutions
State Statutes (laws)
City and County Laws
Establishment Clause

• The government cannot establish a national church or require worship of any kind.

• **Free Exercise Clause**: The government cannot prevent you from attending a church of your choice as long as it follows the laws.
Elastic Clause

Definition:
Common nickname for the “necessary and proper” clause

Added Info:
Gives Congress the power to make all laws “necessary and proper” for carrying out its expressed powers

Examples:
The vagueness has allowed to Federal government to greatly increase its power in relation to the States

Picture: Mount Rushmore
"NECESSARY AND PROPER" does not mean "WHATEVER WE WANT"
Amend

• To CHANGE

• The process of amending the Constitution allows it to grow with the times
Amendment Proposal

Amendment proposed by a vote of two-thirds of both houses of Congress

Amendment proposed by national convention requested by two-thirds of the States

Amendment Ratification

Amendment proposed by a vote of two-thirds of both houses of Congress

Amendment proposed by national convention requested by two-thirds of the States

New Amendment to the Constitution

The ability to amend the Constitution helps it to adapt to changing times.
US Constitution Structure

- **Preamble** --- Introduction to US Constitution
- **Articles** --- 7 Articles:
  - Legislative
  - Executive
  - Judicial
  - States’ Rights/Powers
  - Amending
  - Debts, Supremacy, Oaths
  - Ratification
- **27 Amendments --- 1st Ten --- Bill of Rights**
The 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 defense, 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.'
BILL OF RIGHTS

- 1st Amendment
- R --- Religion
- A --- Assembly
- P --- Press
- P --- Petition
- S --- Speech
Bill of Rights

• **2nd 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.
Bill of Rights

• 3rd 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.

• My own words: No mandatory housing of soldiers
Bill of Rights

• 4th 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.

• My Words: No illegal search or seizure
Bill of Rights

- 5th Amendment
- G --- Grand Jury
- E --- Eminent Domain
- D --- Double Jeopardy
- D --- Due Process
- S --- Self-Incrimination

DOES THE FIFTH AMENDMENT APPLY TO REPORT CARDS?
• **G --- Grand Jury----** A group of citizens who look at evidence to decide if there is enough evidence to prosecute.

• **E --- Eminent Domain ----** govt taking property if determined to be for greater good of the public

• **D --- Double Jeopardy----** Can’s be charged for same crime twice

• **D --- Due Process ----** All processes and laws should be fair to all

• **S --- Self-Incrimination ---** We do not have to tell on ourselves (incriminate ourselves)
The Sixth Amendment states that a person accused of a crime...

- has the right to a "speedy and public trial"

- has the right to a lawyer to help them
The 6th Amendment guarantees a speedy trial (you can’t be kept in jail for over a year without a trial)
• an impartial jury (doesn’t already think you are guilty)
• the accused can confront witnesses against them
• the accused must be allowed to have a lawyer
The right to have a jury in a civil trial
7th Amendment

• The 7th Amendment guarantees the right to a speedy civil trial.

• A civil trial differs from a criminal trial. A civil trial is when someone sues someone else. A criminal trial is when the state tries to convict someone of a crime.
The 8th Amendment

• No excessive bail
• No excessive fines
• No cruel and unusual punishments
8th Amendment

- The 8th Amendment guarantees that punishments will be fair and not cruel, and that extraordinarily large fines will not be set.
9th Amendment

- The 9th Amendment states that the first 8 amendments to the Constitution are not the only rights that the people have. There are many rights that are not listed.
10th Amendment

• The 10th Amendment states that any power not granted to the federal government belongs to the states or to the people.
Types of Constitutional Powers

• **Enumerated Powers**
  - Powers given only to the **federal** government
  - A.K.A. - Delegated Powers

• **Reserved Powers**
  - Powers **reserved for state governments only**

• **Concurrent Powers**
  - Powers shared between the state and federal governments
• **Expressed Powers**
  - Powers of Congress that ARE specifically listed in the Constitution
  - Ex: Congress can declare war

• **Implied Powers**
  - Powers that Congress has that ARE NOT specifically listed in the Constitution
  - Ex: Create an Air Force
Rights of the Accused

• What rights do you think an accused person should have? You and a partner make a list!
Writ of Habeas Corpus

• Latin Translation: “Produce the body”

• Basic definition:
  – A legal term meaning that a prisoner has the right to know why he or she is in jail and the right to be brought before a judge
Due Process of Law

- Due process can be divided into two distinct categories:
  a. Substantive
  b. Procedural

- Substantive due process
  - Refers to the citizen’s right to be protected from criminal laws that may be biased, discriminatory, or otherwise unfair

- Procedural due process
  - Seeks to ensure that no person will be deprived of life, liberty, or property without proper and legal criminal process
Due process = procedural fairness at every stage
EXAMPLE OF DUE PROCESS

Procedural Due Process
- A citizen (Latino) in Walla Walla is convicted of robbery and is sentenced to 15 years
- A citizen (Caucasian) in Seattle is convicted of robbery and is sentenced to 5 years

Substantive Due Process
- A law is passed that revokes the drivers license of all red headed drivers
- A law is passed that revokes the drivers license of all drivers over the age of 70
Due Process

- 5th & 14th Amendment
  - no person shall be deprived of life, liberty, or property without due process of the law
- nor deny to any person within its jurisdiction the equal protection of the laws
Right to Counsel

• Counsel = Legal Advice

--- Accused persons have a right to legal (council) advice and representation.

Based on 6th Amendment
The 5th Amendment (Self Incrimination)

- The government bears the burden of proof.
- Defendants are not obliged to help the govt. prove they committed a crime or testify at their own trial.
- It protects against forcibly attained confessions or information.
- This amendment was later enforced more strongly when the Supreme Court ruled in Miranda v. Arizona and established the Miranda rights for questioning subjects.
Right to Trial by Jury

- 12 impartial people from general public
- Various people groups: gender, beliefs, socioeconomic, political interests, age
- Usually only for serious crimes
- The Sixth Amendment guarantees "an impartial jury of the State and district wherein the crime shall have been committed."
Double Jeopardy

- prosecution of a person twice for the same offense.
ARTICLES OF CONFEDERATION

STRENGTHS
- 1st constitution
- Central government
- Federalism – power divided between central (national) gov’t and individual state gov’t
- Congress could:
  - Declare war
  - Sign treaties
  - Deliver mail
  - Create money

WEAKNESSES
- Weak national gov’t
- State gov’t too strong
- Uni-cameral legislature (Congress)
- States only had 1 representative and 1 vote in Congress
- No executive branch or president
- No national court system
- Could not tax the states to raise money
- Could not regulate (control) trade
- Could not enforce laws
- Each state had its own currency and militia
- Too difficult to amend (change) the Articles
**Federalists and Antifederalists**

<table>
<thead>
<tr>
<th>FEDERALISTS</th>
<th>ANTIFEDERALISTS</th>
</tr>
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<tbody>
<tr>
<td>Supported removing some powers from the states</td>
<td>Wanted important political powers to remain with the states</td>
</tr>
<tr>
<td>and giving more powers to the national government</td>
<td></td>
</tr>
<tr>
<td>Favored dividing powers among different branches</td>
<td>Wanted the legislative branch to have more power than the</td>
</tr>
<tr>
<td>of government</td>
<td>executive</td>
</tr>
<tr>
<td>Proposed a single person to lead the executive</td>
<td>Feared that a strong executive might become a king or tyrant</td>
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<tr>
<td>branch</td>
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<tr>
<td></td>
<td>Believed a bill of rights needed to be added to the Constitution</td>
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<tr>
<td></td>
<td>to protect people’s rights</td>
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</tbody>
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**Skillbuilder: Interpreting Charts**

1. Which group wanted a stronger central government?
2. If you had been alive in 1787, would you have been a Federalist or an Antifederalist?

John Jay  
George Mason
FEDERALISM

NATIONAL
Supremacy Clause

STATE
Reserved Powers

LOCAL
Grassroots