

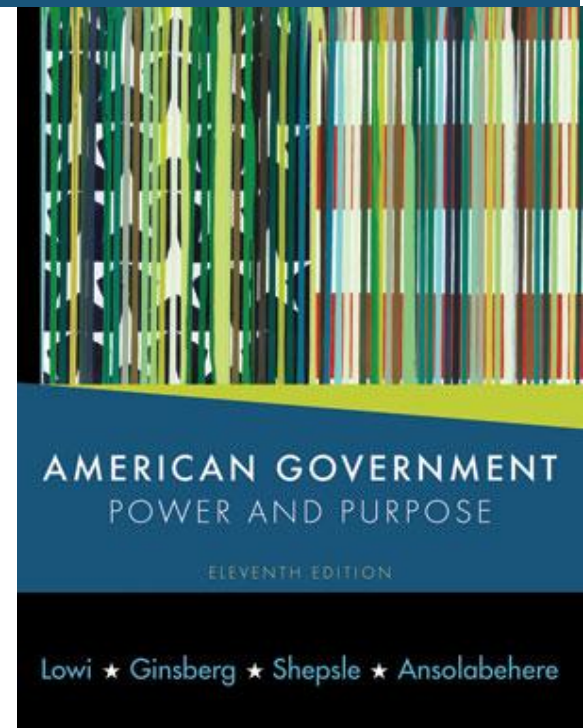
# 2

## Constructing a Government: The Founding and the Constitution

### AMERICAN GOVERNMENT

#### POWER AND PURPOSE

Lowi ♦ Ginsberg ♦ Shepsle ♦ Ansolabehere



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# Political Interests and Political Ideas: A Reciprocal Relationship



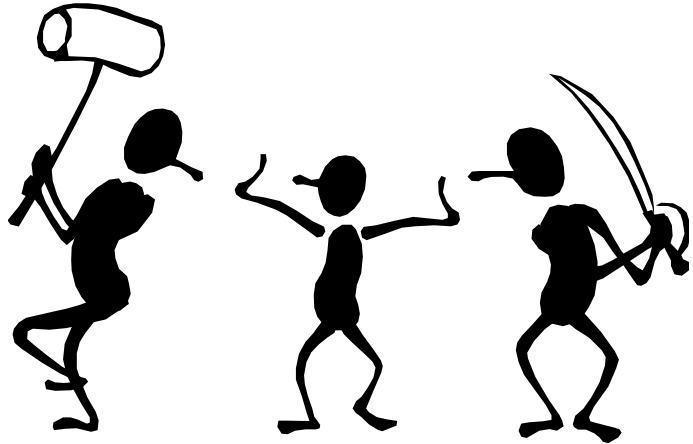
“Where you stand depends on  
where you sit.”

or,

People tend to construct ideas  
and ideologies around their  
individual interests.

# Ideas, Interests, and the Principles of Politics

***Institution Principle: Institutions structure politics.***



***Collective-Action Principle: All politics is collective action.***

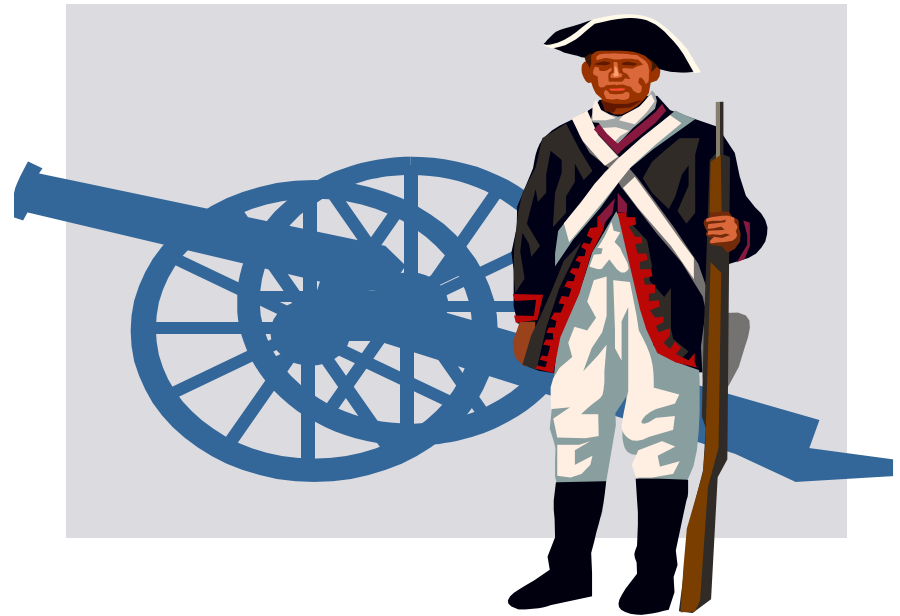
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1. Institutions can be formed around common ideas to ameliorate collective-action problems.
  2. Ideas allow for the recognition and communication of common interests.

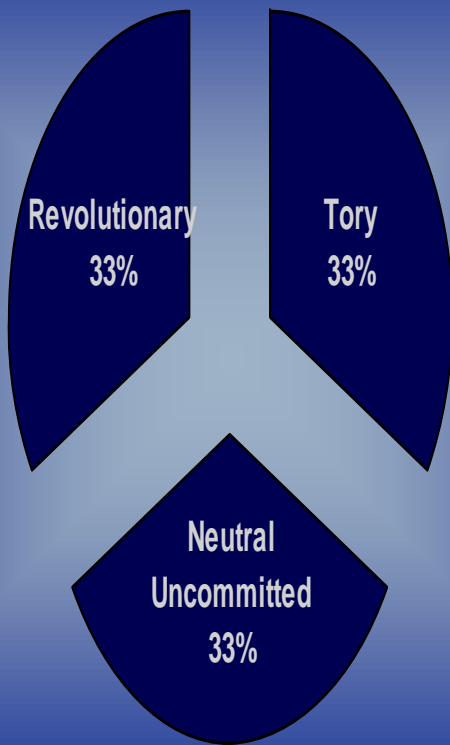
The absence of strong institutions to express common interests and overcome collective-action problems can allow and even promote increased conflict.



# Organizing for Collective Action: The American Revolution

Whereas views of the American Revolution often exaggerate the unity of Americans, different interests in colonial society had different ideas and views about independence from the British.





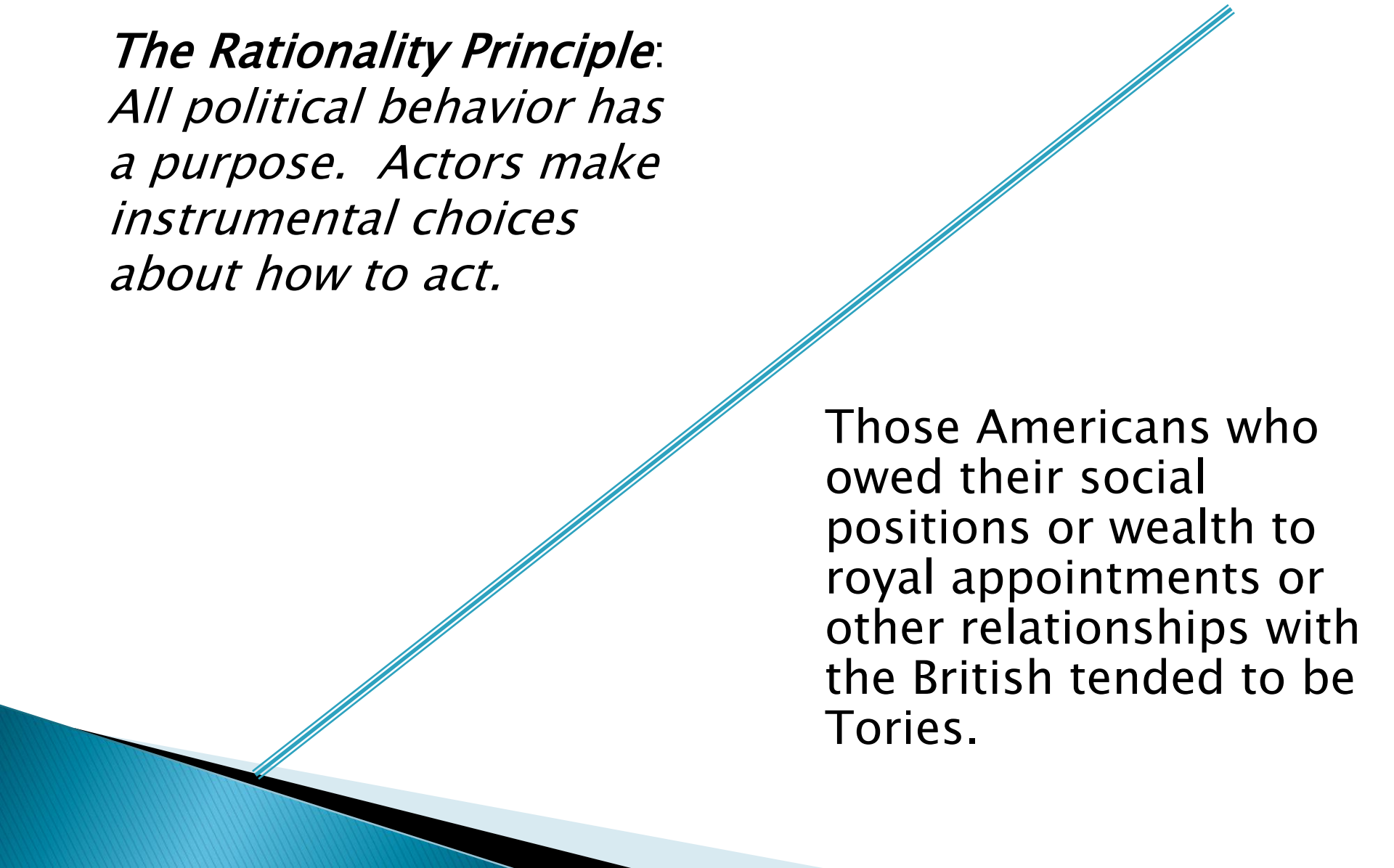
Colonists were deeply divided on the question of independence. A good rule of thumb is that:

- One-third were revolutionaries;
- One-third were neutral;
- One-third were Tories, loyal to the British.

Colonial American society can be broken down into five distinct elements, each having its own *interests* and *ideas* regarding independence.

### *Colonial Interests*

1. New England merchants
2. Southern planters
3. Royalists (Tories)
4. Shopkeepers, artisans, and laborers
5. Small farmers



***The Rationality Principle:***  
*All political behavior has  
a purpose. Actors make  
instrumental choices  
about how to act.*

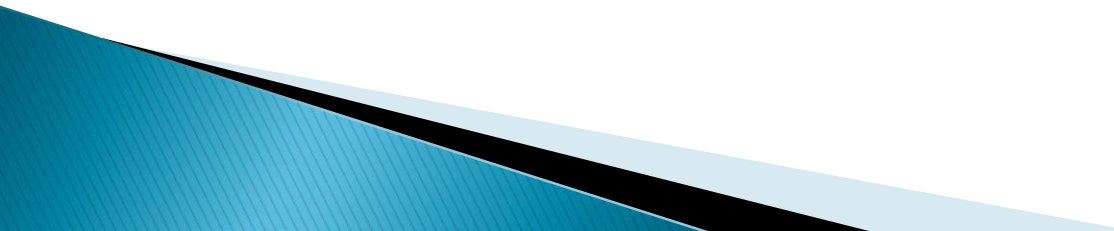
Those Americans who  
owed their social  
positions or wealth to  
royal appointments or  
other relationships with  
the British tended to be  
Tories.



***The Collective–Action Principle: All politics is collective action.***

The remaining Americans—merchants, planters, shopkeepers, artisans, laborers, and small farmers—followed their disparate interests. As a result, they tended to remain unorganized throughout most of the eighteenth century.

British taxation policies helped to unify the colonists against British rule.

- ▶ Increased duties on tea, for example, hurt the interests of New England merchants.
  - ▶ The Sugar Act harmed the interests of southern planters and small farmers.
  - ▶ Other taxes (the Stamp Act, for example) helped confirm for many colonists that British rule threatened their economic interests and rights as citizens.
- 



British taxation policies harmed the colonies' disparate interests, and the British conduct of the war helped to radicalize many colonists and solidify their perception of their collective interests.



- ▶ The fact that British policies backfired is not to say that they were not rational.
- ▶ Rationality refers to the fact that political actors pursue their goals as they understand them.
- ▶ Political actors do, however, make mistakes, particularly when acting in the context of uncertainty.

# The United States Constitution: Mistaken Popular Conceptions

## *Myth*

The Constitution was a democratic document.

## *Reality*

Much of the document aimed at curbing “excessive” democracy.

Rather than a *democratic* document, the Constitution is more properly understood as a *republican* one.

## *Myth*

As with any constitutional government, the U.S. Constitution limited government power.

## *Reality*

Although there are many limitations on the government in the Constitution, its ratification actually represented a “power grab” that increased the strength of the central government.

## *Myth*

The Constitution was a popular document and there was widespread consensus on its principles and the need for its ratification.

## *Reality*

The Constitution was the result of many conflicts and compromises, and the fight over its ratification was an intense ideological and political battle between Federalists and Antifederalists.

# The Constitution as a Solution



*The Institution Principle:  
Institutions structure politics.*

The Constitution, like institutions generally, was designed to overcome the problems with the Articles of Confederation and in the “critical period” generally.



“Each state retains its sovereignty, freedom and independence, and every Power, Jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled.”

—*Articles of Confederation*

By allowing individual states to retain too much independent authority, the Articles of Confederation left the central government too weak to meet the demands of governance.

Under the Articles of Confederation, the central government:

1. lacked an executive branch;
2. lacked coercive power over the states (even in the areas of taxation and conscription).

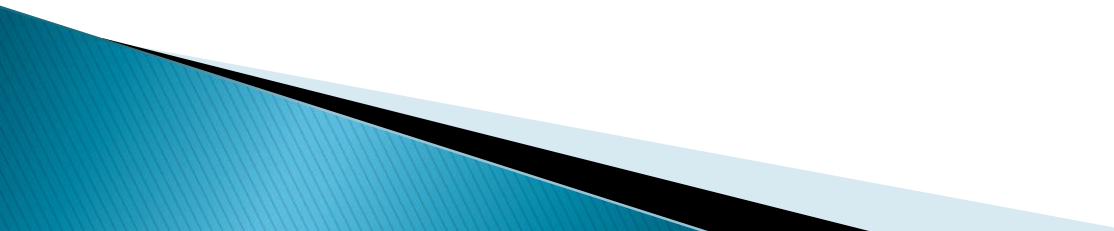
Under a booming economy the states were more able, and thus more likely, to contribute to their collective efforts in the central government.

An economic downturn in the critical period revealed that the central government was too weak:

1. to address existing economic troubles;
2. to adequately promote interstate commerce.

In addition to problems of governance and economics, the critical period also revealed societal problems that the framers of the Constitution sought to address.

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- ▶ Economic troubles produced a great deal of uncertainty and general anxiety in society.
  - ▶ The spirit of the Revolution sparked pressures for greater democracy challenging existing social hierarchies.
  - ▶ Social elites worried about a general decline in the character and “virtue” of American citizens.
- 



The Constitution increased the power of the central government.

- ▶ It established a strong executive branch.
- ▶ The central government was given coercive power over the states to aid in collective action.



A strong central government could now address the common economic troubles of the states through the establishment of a common currency and the power of the central government to promote interstate commerce.



By establishing a system of representative government, the Constitution aimed to peel back “excessive democracy.”

Rather than seek to solve the problem of a lack of a virtuous citizenry, the Constitution sought to pit self-interest against self-interest.

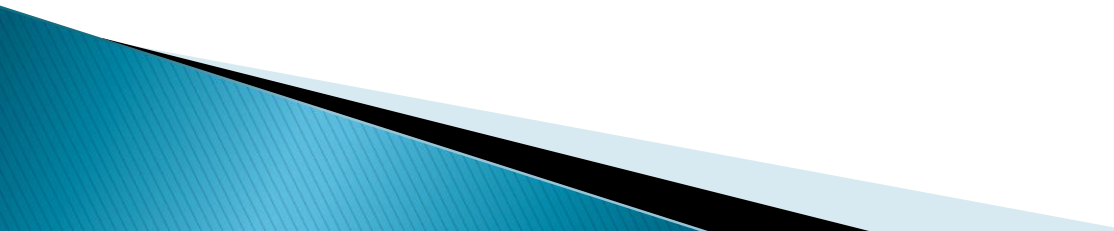
**Federalists** argued that adoption of the Constitution would remedy the problems of the Articles of Confederation.

Still, not all patriots thought adoption of the Constitution was necessary or even wise. Many prominent Americans, known collectively as **Antifederalists**, argued that the Constitution would establish a government that was too powerful and undemocratic.



## Federalists versus Antifederalists

	Federalists	Antifederalists
Who were they?	Were property owners, creditors, merchants	Were small farmers, frontiersmen, debtors, shopkeepers
What did they believe?	Believed that elites are best fit to govern and that "excessive democracy" is dangerous	Believed that government should be close to the people and that the concentration of power in the hands of the elites is dangerous
What system of government did they favor?	Favored strong national government; believed in "filtration" so that only elites would obtain governmental power	Favored retention of power by state governments and protection of individual rights
Who were their leaders?	Were led by Alexander Hamilton, James Madison, George Washington	Were led by Patrick Henry, George Mason, Elbridge Gerry, George Clinton

- ▶ Arguing for strong state governments and limiting the power and authority of the central government, Antifederalists hoped to preserve the status quo by maintaining popular control of government.
  - ▶ The Federalists' victory, with the ratification of the Constitution, produced a new, more powerful central government that regulated popular influence over national governing institutions.
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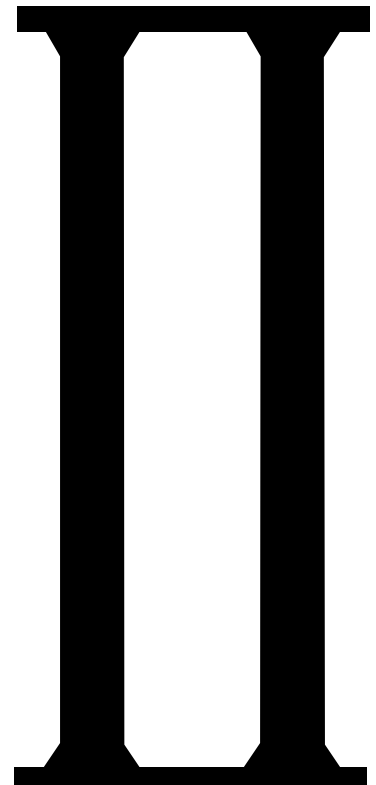
# The Seven Articles of the Constitution

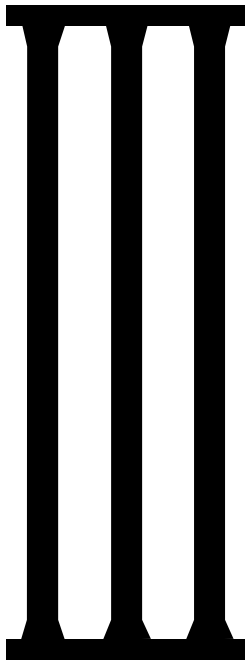
Article I sets forth the powers and structure of the **legislative branch**:

- Bicameralism (House and Senate);
- Expressed powers of government;
- “Necessary and proper” clause provides for the potential expansion of congressional and national government power.

Article II sought to provide an independent and “energetic” **executive branch**.

- The president was to be independent of the legislative branch;
- The president was to be the country’s “commander in chief” and its chief diplomat;
- Other powers include appointment of executive and judicial officials and the veto of congressional acts.



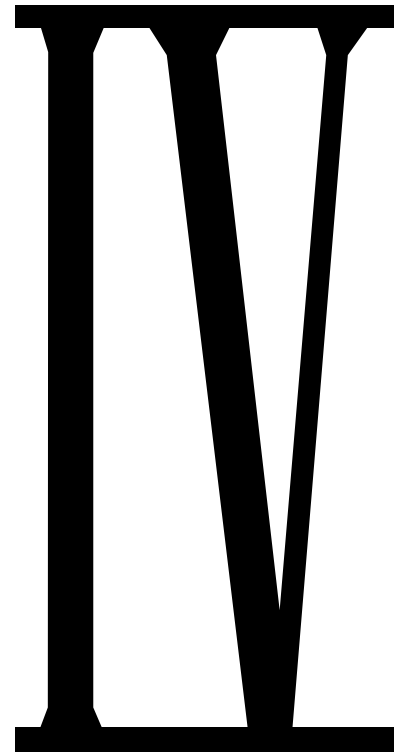


Article III deals with the selection and powers of the **federal judiciary**.

- Justices and judges were to be appointed by the president and confirmed by the Senate;
- They would serve lifetime terms;
- It made the federal judicial supreme over state courts.

Key elements of Article IV promote **national unity and power.**

- Reciprocity among states, which must give “full faith and credit” to acts of other states;
- Guarantees citizens of any state the “privileges and immunities” of every other state.



# V

Article V sets forth the procedures for amending the Constitution.

*Proposing Amendments:*

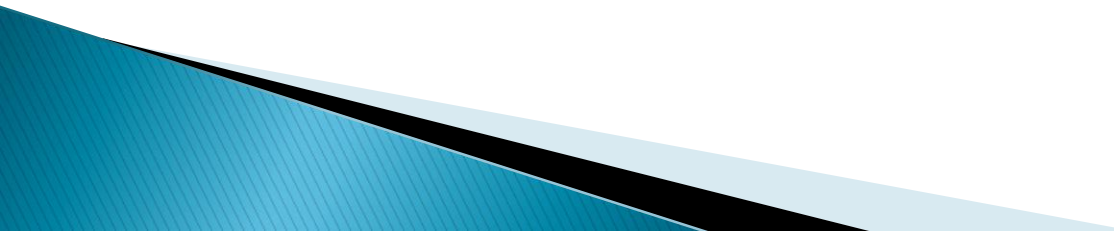
Constitutional amendments can be proposed either:

(a) by passage in the House and Senate by two-thirds vote; or

(b) by passage in a national convention called by Congress in response to petitions by two-thirds of the states.

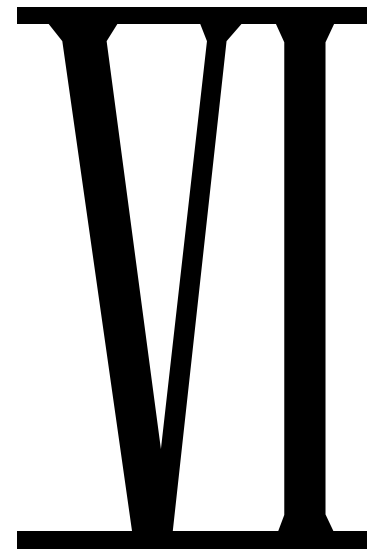
## Ratifying Amendments

Constitutional amendments can be ratified either:

- (a) by acceptance by majority vote in the legislatures of three-fourths of the states;
  - (b) by acceptance by conventions called for the purpose in three-fourths of the states.
- 



Article VI's “supremacy clause” states that laws of the national government and treaties are the **supreme law of the land**.



## Routes of Amendment

### THE NATIONAL LEVEL: PROPOSAL OF AMENDMENTS

**A**  
Passage in House  
and Senate, each by  
two-thirds vote

**B**  
Passage in a national  
convention called by  
Congress in  
response to petitions  
by two thirds (34)  
of the states\*

### THE STATE LEVEL: RATIFICATION OF AMENDMENTS

**C**  
Acceptance by  
majority vote in the  
legislatures of  
three fourths (38)  
of the states

**D**  
Acceptance by  
conventions called  
for that purpose in  
three fourths (38)  
of the states†

Route 1

Route 2

Route 3

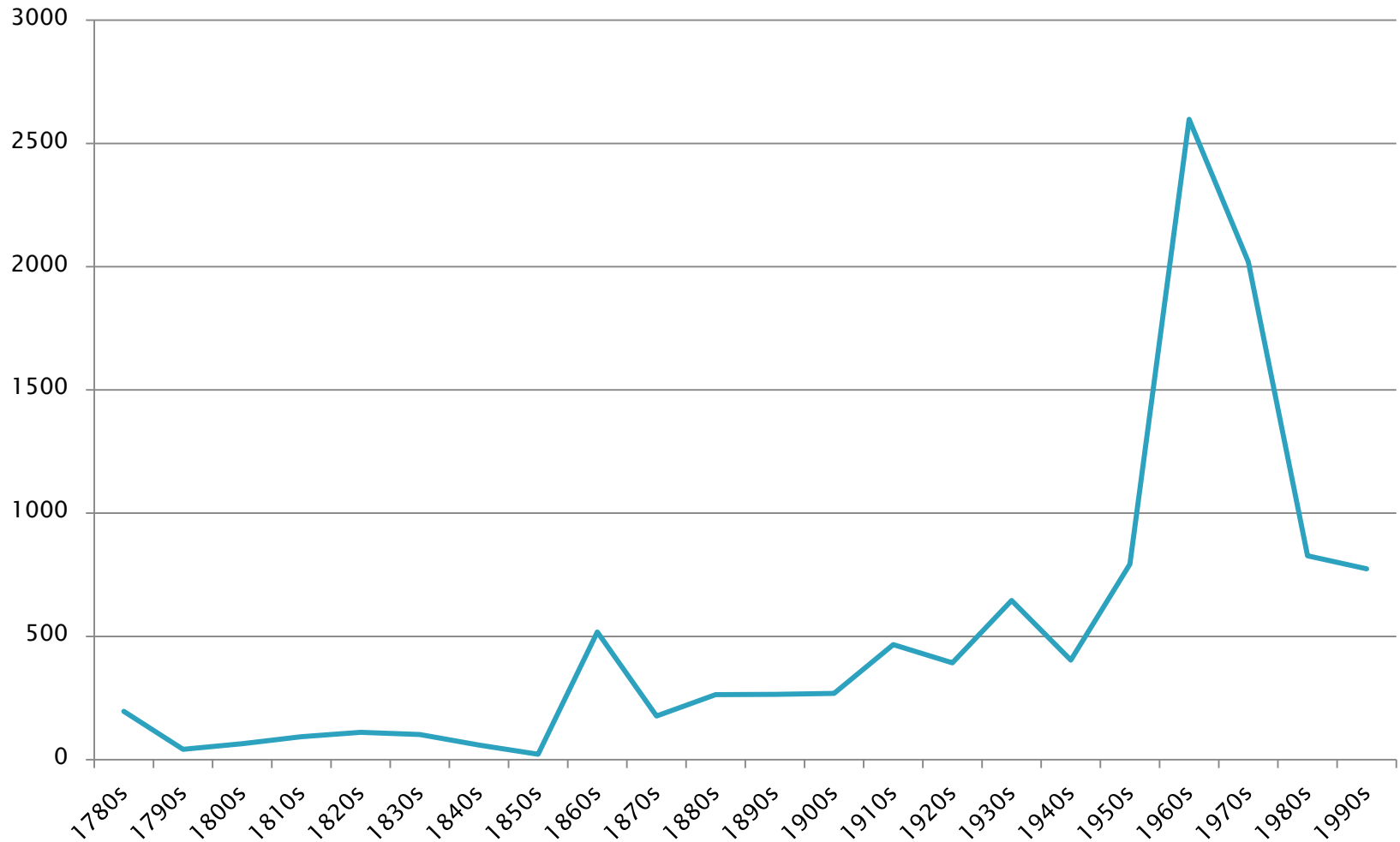
Route 4

## *The Policy Principle:*

*Political outcomes  
are the products of  
individual  
preferences and  
institutional  
procedures.*

The super-majorities required for formal proposal and ratification of constitutional amendments are high barriers to the success of any effort to change the Constitution.

## Constitutional Amendments Offered, 1780s–1990s



Source: John R. Vile, Encyclopedia of Constitutional Amendments, Proposed Amendments, and Amending Issues, 1789–2002, 2nd edition (Santa Barbara, CA: ABC-CLIO, 2003), Appendix C, p. 539.

Although there have been about 10,000 amendments offered, only 29 have been proposed by Congress, and only 27 have been ratified.





The first 10 Amendments, comprising the Bill of Rights, were ratified in 1791, the remaining 17 Amendments have been adopted since the beginning of the nineteenth century, and only 12 have been adopted since the Civil War Amendments in 1868.

# Additional Art for Chapter 2





## ANALYZING THE EVIDENCE

## Voting at the Constitutional Convention

Under the Articles of Confederation, there was a unicameral Congress in which each state delegation received a single vote, regardless of state population. So Virginia, with roughly 700,000 people, had the same share of votes as Rhode Island, with a population closer to 70,000.\*\* Among the issues considered by the framers at the Constitutional Convention, one of the most contentious involved how representation in the Congress would work under the new Constitution.

On May 29, 1787, Edmund Randolph proposed the Virginia Plan, which later came to be associated with James Madison. This plan initially called for the creation of three semi-independent branches of government with a bicameral legislature and introduced the idea of checks and balances. On June 11, a series of votes were taken on the Virginia Plan, which consistently received the support of the larger, more populous states—because under this plan at least one of the chambers of Congress would be elected with representation proportional to population, giving the more populous states more of a voice in the national government.

Given that the smaller, less populous states were poised to lose representation if votes in Congress were based on population, delegates from those states decided to propose their own plan for the national government. On June 15, William Patterson proposed the New Jersey Plan, which called for the creation of a unicameral legislature with one vote per state. When a vote was scheduled on June 19 that pitted the Virginia Plan against the New Jersey Plan, the states voted exactly the same way as they did on the vote for proportional representation in the Virginia Plan (see below). Moreover, many of the delegates from the smaller states threatened to leave the convention if the Virginia Plan was ratified. In an attempt to prevent the smaller states from departing, Roger Sherman proposed the Connecticut Compromise, which was voted on on June 23. This plan called for a bicameral legislature, with representation based on population in the lower house and equal representation of states in the upper house. The Connecticut Compromise ultimately passed by a 5–4 vote.

State*	Total population**	Slave population**	Vote on Virginia Plan	Vote on Connecticut Compromise
Virginia	747,550	292,627	Y	N
Pennsylvania	433,611	3,707	Y	N
Massachusetts	378,556	0	Y	—
New York	340,241	21,193	N	—
Maryland	319,728	103,036	—	Y
North Carolina	395,005	100,783	Y	Y
South Carolina	249,073	107,094	Y	N
Connecticut	237,655	2,648	Y	Y
New Jersey	184,139	11,423	N	Y
Georgia	82,548	29,264	Y	N
New Hampshire	141,899	157	—	—
Delaware	59,096	8,887	N	Y
Rhode Island	69,112	958	—	—

\*Maryland's delegates were split equally and thus did not vote. Delegates from New Hampshire never attended at the same time as those from New York, hence their lack of participation. Rhode Island did not send any delegates to the convention.

\*\*Population data are based on the 1790 census and therefore are only approximate with respect to populations in 1787.

If we consider the number of representatives in Congress that each state would receive under the various plans (see below), it becomes clear why individual states voted the way they did. Under the Articles and the proposed New Jersey Plan, even the smallest states had 1 out of 13 votes in the Congress. We can express their share of the total votes as .077.

State*	Under Articles: Each state has one out of 13 total votes	Population-based system like Virginia Plan: Each state has one vote per 30,000 constituents, out of 65 total votes*
Virginia	.077	10/65 = .154
Pennsylvania	.077	8/65 = .123
Massachusetts	.077	8/65 = .123
New York	.077	6/65 = .092
Maryland	.077	6/65 = .092
North Carolina	.077	5/65 = .077
South Carolina	.077	5/65 = .077
Connecticut	.077	5/65 = .077
New Jersey	.077	4/65 = .062
Georgia	.077	3/65 = .046
New Hampshire	.077	3/65 = .046
Delaware	.077	1/65 = .015
Rhode Island	.077	1/65 = .015

\*Note that the framers calculated the number of representatives per state using population estimates. The first census was not taken until 1790.



Under a population-based system such as the Virginia Plan, the smaller states would lose voting power in Congress. For example, in a population-based system with one representative per 30,000 people, Delaware would only have 1 out of 65 votes, or a .015 share of total votes. This is significantly less voting power than the 1 out of 13 (.077) share that these states enjoyed under the Articles and other arrangements that would give each state equal representation in Congress.

By providing for equal representation of the states in one house of Congress and population-weighted representation in the other, the Connecticut Compromise mitigated the loss of voting power that the small states would suffer. As the right-hand column in the table on the previous page indicates, a majority of the states accepted this compromise, which eventually became part of the Constitution. As this case demonstrates, the conflicting interests of the framers are reflected in the rules and procedures of the institutions they established.

Sources: Keith L. Dougherty and Jac C. Heckelman, "A Pivotal Voter from a Pivotal State: Roger Sherman at the Constitutional Convention," *American Political Science Review* 100 (May 2006): 297–302; Clinton L. Rossiter, 1787: *The Grand Convention* (New York: Macmillan, 1996.)



## The Separation Of Powers

		
LEGISLATIVE	EXECUTIVE	JUDICIAL
<ul style="list-style-type: none"><li>Passes federal laws</li><li>Controls federal appropriations</li><li>Approves treaties and presidential appointments</li><li>Regulates interstate commerce</li><li>Establishes lower-court system</li></ul>	<ul style="list-style-type: none"><li>Enforces laws</li><li>Serves as commander in chief of armed forces</li><li>Makes foreign treaties</li><li>Proposes laws</li><li>Nominates Supreme Court justices and federal court judges</li><li>Pardons those convicted in federal court</li></ul>	<ul style="list-style-type: none"><li>Reviews lower-court decisions</li><li>Decides constitutionality of laws</li><li>Decides cases involving disputes between states</li></ul>

## The Bill of Rights: Analysis of its Provisions

Amendment	Purpose
I	Limits on Congress: Congress is not to make any law establishing a religion or abridging the freedom of speech, press, or assembly or the right to petition the government.
II, III, IV	Limits on the executive: The executive branch is not to infringe on the right of people to keep arms (II), is not to arbitrarily take houses for use by a militia (III), and is not to engage in the search or seizure of evidence without a court warrant swearing to a belief in the probable existence of a crime (IV).
V, VI, VII, VIII	Limits on the courts: The courts are not to hold trials for serious offenses without provision for a grand jury (V), a petit (trial) jury (VII), a speedy trial (VI), presentation of charges, and confrontation of hostile witnesses (VI). Individuals may not be compelled to testify against themselves (V) and are immune from trial more than once for the same offense (V). Neither bail nor punishment can be excessive (VIII), and no property can be taken without just compensation (V).
IX, X	Limits on the national government: All rights not enumerated are reserved to the states or the people.

## Amending The Constitution to expand The Electorate

Amendment	Purpose	Year Proposed	Year Adopted
XIV	Provided, in Section 1, a national definition of citizenship*	1866	1868
XV	Extended voting rights to all races	1869	1870
XIX	Extended voting rights to women	1919	1920
XXII	Extended voting rights to residents of the District of Columbia	1960	1961
XXIV	Extended voting rights to all classes by abolition of poll taxes	1962	1964
XXVI	Extended voting rights to citizens aged 18 and over	1971	1971

\*In defining citizenship, the Fourteenth Amendment actually provided the constitutional basis for expanding the electorate to include all races, women, and residents of the District of Columbia. Only the "eighteen-year-olds' amendment" should have been necessary because it changed the definition of citizenship. The fact that additional amendments were required after the Fourteenth suggests that voting is not considered an inherent right of U.S. citizenship. Instead, it is viewed as a privilege.

## Amending The Constitution to expand or limit The Power of Government

Amendment	Purpose	Year Proposed	Year Adopted
XI	Limited the jurisdiction of federal courts over suits involving the states	1794	1798
XIII	Eliminated slavery and the rights of states to allow property in the form of persons	1865*	1865
XIV	In Section 2, applied due process of the Bill of Rights to the states	1866	1868
XVI	Established the national power to tax income	1909	1913
XXVII	Limited Congress's power to raise its own salary	1789	1992

\*The Thirteenth Amendment was proposed on January 31, 1865, and adopted less than a year later, on December 6, 1865.

Amending The Constitution to change the relationship between  
The Elected offices and The Electorate

Amendment	Purpose	Year Proposed	Year Adopted
XII	Provided a separate ballot for the vice president in the electoral college	1803	1804
XIV	Eliminated, in Section 2, the counting of slaves in the apportionment of House seats	1866	1868
XVII	Provided for the direct election of senators	1912	1913
XX	Eliminated "lame duck" sessions of Congress	1932	1933
XXII	Limited the presidential term	1947	1951
XXV	Provided for presidential succession in case of disability	1965	1967



# This concludes the presentation slides for Chapter 2: Constructing a Government

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