

1. Now that you have read *We Are Politics*, Chapter Two - The Constitution, explain in six sentences what you understand of the reading.

2. Now that you have read *American Government*, Chapter Two - The Constitution and Its Origins, explain in six sentences what you understand of the reading.

Chapter 2 – The constitution

Thomas Jefferson wrote in which it states the fundamental aspect of America:

1. life,
2. liberty, and
3. the pursuit of happiness.

The most famous part of the Declaration of Independence is the first paragraph:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, -- That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness."

The first sentence was lifted from John Locke, but Jefferson changed his words from "Life, Liberty, and Pursuit of Property" to "Life, Liberty, and the Pursuit of Happiness."

The document also stated the grievances the colonists had with the British government. Most ignore the list of issues they have with Great Britain. The are listed as follows:

1. He has refused his Assent to Laws, the most wholesome and necessary for the public good.
2. He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.
3. He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.
4. He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with his measures.
5. He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.
6. He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.
7. He has endeavored to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands.
8. He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers.

9. He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.
10. He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our people, and eat out their substance.
11. He has kept among us, in times of peace, Standing Armies without the Consent of our legislatures.
12. He has affected to render the Military independent of and superior to the Civil power.
13. He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:
 1. For Quartering large bodies of armed troops among us:
 2. For protecting them, by a mock Trial, from punishment for any Murders which they should commit on the Inhabitants of these States:
 3. For cutting off our Trade with all parts of the world:
 4. For imposing Taxes on us without our Consent:
 5. For depriving us in many cases, of the benefits of Trial by Jury:
 6. For transporting us beyond Seas to be tried for pretended offenses
 7. For abolishing the free System of English Laws in a neighboring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:
 8. For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:
 9. For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.
14. He has abdicated Government here, by declaring us out of his Protection and waging War against us.
15. He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.
16. He is at this time transporting large Armies of foreign Mercenaries to complete the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.
17. He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.
18. He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

All of these issues were an indicator that the colonists were already involved in self-governing; therefore, they no longer were tolerant of being subjected to the Queen. Freedom was a necessity. War was going to be inevitable.

This very act was treason, and anyone who participated in the American Revolution could be subjected to death if America were to lose.

After the American Revolution, the colonists knew they should have a government, but they did not want a strong central government. The newly formed 13 states ratified the Articles of Confederation (1777). ([Links to an external site.](#))

The principal writer was John Dickinson, who was a delegate from Delaware.

There are aspects of this document that still resonates, which was to ensure how people can file bankruptcy.

What was in it?

Yet, it provided no central government, along with the inability to regulate taxes, no mechanism for collecting taxes, and had no mechanism for a leader. The reason for these gaps was the fear these newly independent US citizens did not want a strong central government to rule over them. Rather, they wanted strong states to self-govern itself that also have an allegiance with one another.

There were problems

There were many problems with this system, which led to the Constitutional Convention. One large problem that existed in the current system is that some states would become stronger than others. Their strength was shown in the military potential, economic growth, and treaties with other nations. These things would weaken the idea of one nation coming together

Religion Influence of Writing the Constitution

The constitution provides a definition for life. According to Lutz (1988), the American constitution is rooted in Judeo-Christian tradition, along with some radical aspects of the Protestant sects, which came from the different English settlers from Northern America.

When writing the US Constitution, there were many factors that went into deciding how this document should be formulated.

1. **First**, the early settlers that were in colonies were formed with a charter. The elements of a charter are to stipulate the land and who would govern the land.
2. **Second**, they utilized the Pilgrim's Code of Law ([Links to an external site.](#)) that helped govern certain aspects of the colonists.
3. **Third**, the early constitutions, such as the Fundamental Orders of Connecticut provide an influence.

Lutz (1988) shows the colonial heritage in the various aspects:

1. The basics for a civil society.

2. The document is replaceable.
3. A double agreement is in the foundation document – first, among the people, with elements from the covenant/compact tradition; second, between the people and the government, with elements derived from charters.
4. The first part of the agreement creates a people and a civil society and defines the basic goals and values of that society.
5. The first part of the agreement is put in a preamble and/or bill of rights.
6. The second part of the agreement creates a set of institutions for collective decision-making.
7. The second part of the agreement is found in a separate section of the document more properly called a constitution.
8. There are certain fundamental beliefs, or basic symbols, upon which constitutional government rests.
9. There are certain principles of constitutional designs: frequent elections, a broadly defined electorate, legislative supremacy, limited government, separation of powers, checks on the executive, division of power.
10. Certain rights are inalienable, such as the right to give and withholding consent, the right to freedom of conscience, and the right to a trial by jury of one's peers.
11. All other rights are alienable when the common good so requires and when the people or their representatives consent.

These alienable and inalienable rights are listed in the

Constitutional Compromises

Some of the issues that came up at the **Constitutional Convention** ([Links to an external site.](#)) are the issue of how strong the executive should be, how to have a bicameral government, and the distribution of power. We see these compromises within the following plans:

1. **New Jersey Plan** – Equal representation per state, which is found within the Senate. This plan protects smaller states from larger states.
2. **Virginia Plan** – Representation is based on the population within each state. It is in proportion with that states' representation. This is found in the House of Representatives
3. **Connecticut Compromise** – There should be two separate houses in Congress: a Senate and a House of Representatives. The highest house is the Senate.
4. **3/5th Compromise** – The slave states didn't have a large white male, land owning population. Therefore, they wanted to protect slavery long-term, which they felt it could only be done with counting slaves. In order to count slaves, the slave states did not want the slaves to be equal to one person, which led to the 3/5ths clause.

Even though the terms, such as **separation of powers** and **checks and balances** are not in the Constitution, the principles are there.

- **Article One** – Congress is the people's branch of government.
- **Article Two** – The Executive branch of government, which is the executive arm of government.
- **Article Three** – The Judiciary government is Supreme Court.

These three branches of government have explicit (stated) and implicit (implied) laws. There are few areas in which Congress and the Executive branches overlap. Yet, the notion of **separation of powers** is the division of power between these three branches of government. Also, these three branches have a mechanism of checking each other and balancing power, so tyranny can be prevented.

Amend the Constitution

In Article V of the Constitution, explains the amendment process.

The process of having the US Constitution Amended ([Links to an external site.](#)) is:

1. Congress proposes an amendment that must have a 2/3rd vote in the house or there is a national convention where an amendment is requested by 2/3rd of the states.
2. The state legislatures must vote, in which 3/4ths of states ratified it or the state convention can ratify an amendment by a vote of 3/4th of the states.

Ultimately, the US Constitution has been amended 17 times after the US Constitution was ratified with the Bill of Rights (1-10 amendments). This process is extremely difficult to do, which means that there has to be an overall consensus of the public for there to be any changes to the Constitution.

Was the Constitutional Principles in Danger?

What Happened?

On May 25, 2020, George Floyd was accused of having a counterfeit \$20 bill. This led to a police altercation, in which Police Officer Derek Chauvin was held down with a knee on his neck for 8 minutes and 46 seconds. Three other officers watched and did not stop the officer, and no one handled him with care. The officers claimed that George Floyd was aggressive, which caused the force. Yet, the video circulated, and it was

evident that the cops were lying. Within 24 hours of the video's released, all 4 officers were fired. Yet, this was not enough. People began to protest.

The protest began as Black Lives Matter, but it seemed to expand. There are people from every racial background involved. Throughout the protests, more officers used excessive force and lied about the interaction. Videos that varied from the officers version of events from the actual altercation with a protestor kept happening, which increased the number of protests around the country.

At one point, President Trump stayed in the White House bunker while the people protested outside. After many critics, President Trump walked across the street and held a Bible upside down in front of an Episcopalian Church. President Donald Trump and his cabinet did not enter the building. They just stood outside. Earlier this day, Presidential Candidate Joe Biden decided to meet with Black ministers in a church to have a conversation about race and systematic racism.

During the time of the protests, President Donald Trump made various statements. First, he has been tweeting about the protesters being "terrorists." He has threatened to restore "law and order" at any cost.

During a speech, President Donald Trump stated that he would call in the military to calm the protests in the cities. This is called the Insurrection Act of 1807.

The Insurrection Act of 1807 is a US Federal Law that empowers the US president to deploy military troops to suppress civil disorder, insurrection, and rebellion.

It has been used a few times in modern history. For example, President Eisenhower utilized it to integrate the schools in Arkansas and other parts of the South. During the 1992 LA Uprising, President Bush had the military come into Los Angeles to stop the uprising.

The quandary is really about trust and is such excessive force necessary.

Consider

Do you think that the protests need to be stopped through the use of the military?

Do you trust President Trump with the use of the military to stop protesters? Are we in a Constitutional conflict when the military is used on mostly peaceful protesters?

Fast Forward!

Now that President Trump is no longer president, many of the Black Lives Matter protests have ended. In fact, the Minnesota legal system prosecuted Derek Chauvin and other police officers who were present. The Department of Justice under President Biden also prosecuted the same police officers. They were found guilty within both the state and federal legal system.

The Constitution and Its Origins

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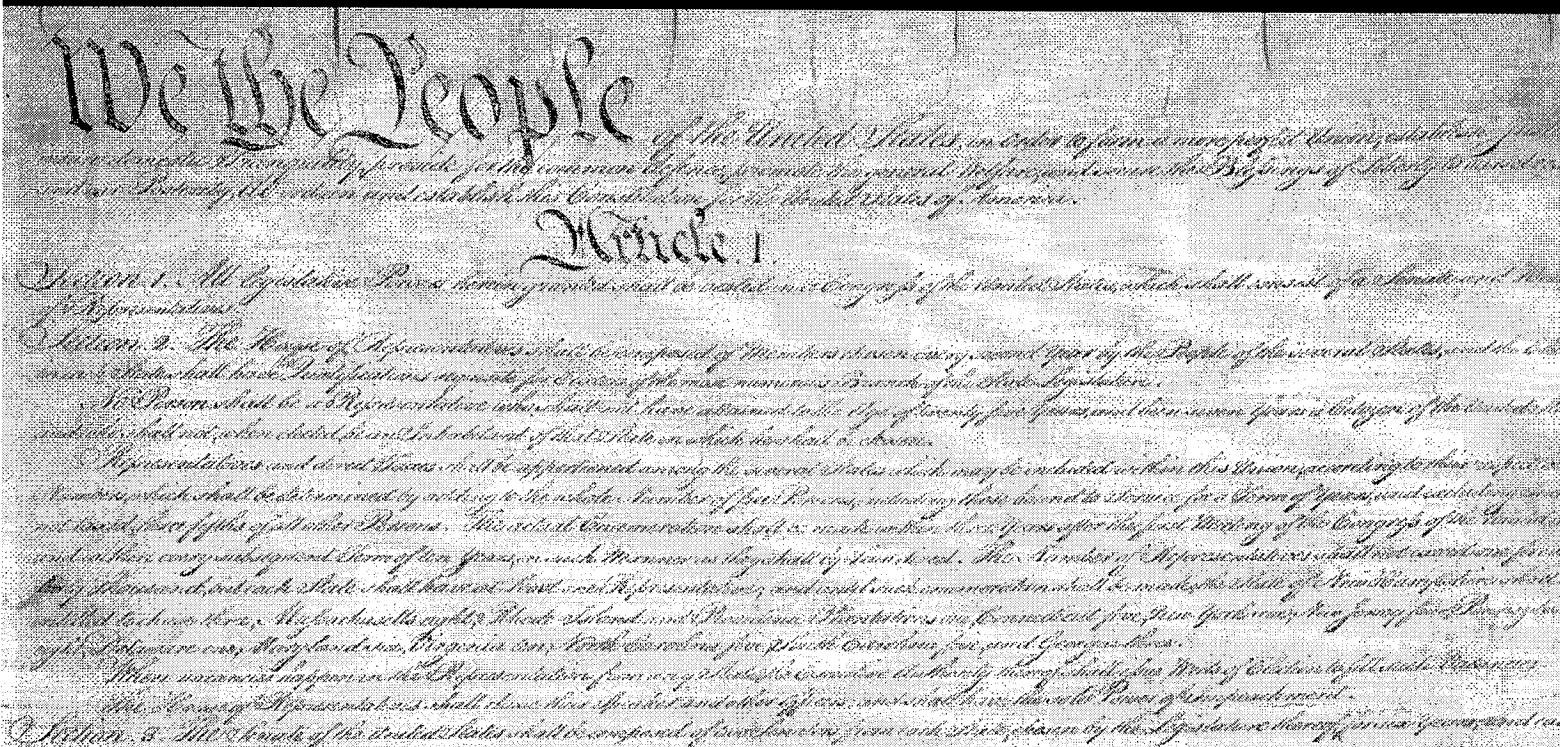


FIGURE 2.1 Written in 1787 and amended twenty-seven times, the U.S. Constitution is a living document that has served as the basis for U.S. government for more than two hundred years. (credit: modification of work by National Archives and Records Administration)

CHAPTER OUTLINE

- 2.1 The Pre-Revolutionary Period and the Roots of the American Political Tradition
- 2.2 The Articles of Confederation
- 2.3 The Development of the Constitution
- 2.4 The Ratification of the Constitution
- 2.5 Constitutional Change

INTRODUCTION The U.S. Constitution, see Figure 2.1, is one of the world's most enduring symbols of democracy. It is also the oldest, and shortest, written constitutions of the modern era still in existence. Its writing was by no means inevitable, however. In many ways, the Constitution was both the culmination of American (and British) political thought about government power and a blueprint for the future.

It is tempting to think of the framers of the Constitution as a group of like-minded men aligned in their lofty thinking regarding rights and freedoms. This assumption makes it hard to oppose constitutional principles in modern-day politics because people admire the longevity of the Constitution and like to consider its ideals above petty **partisan politics**. However, the Constitution was designed largely out of necessity following the failure of the first revolutionary government, and it featured a series of pragmatic compromises among its

disparate stakeholders. It is therefore quite appropriate that more than 225 years later the U.S. government still requires compromise to function properly.

How did the Constitution come to be written? What compromises were needed to ensure the ratification that made it into law? This chapter addresses these questions and also describes why the Constitution remains a living, changing document.

2.1 The Pre-Revolutionary Period and the Roots of the American Political Tradition

LEARNING OBJECTIVES

By the end of this section, you will be able to:

- Identify the origins of the core values in American political thought, including ideas regarding representational government
- Summarize Great Britain's actions leading to the American Revolution

American political ideas regarding liberty and self-government did not suddenly emerge full-blown at the moment the colonists declared their independence from Britain. The varied strands of what became the American republic had many roots, reaching far back in time and across the Atlantic Ocean to Europe. Indeed, it was not new ideas but old ones that led the colonists to revolt and form a new nation.

POLITICAL THOUGHT IN THE AMERICAN COLONIES

The beliefs and attitudes that led to the call for independence had long been an important part of colonial life. Of all the political thinkers who influenced American beliefs about government, the most important is surely John Locke ([Figure 2.2](#)). The most significant contributions of Locke, a seventeenth-century English philosopher, were his ideas regarding the relationship between government and **natural rights**, which were believed to be God-given rights to life, liberty, and property.



FIGURE 2.2 John Locke was one of the most influential thinkers of the Enlightenment. His writings form the basis for many modern political ideas.

Locke was not the first Englishman to suggest that people had rights. The British government had recognized its duty to protect the lives, liberties, and property of English citizens long before the settling of its North American colonies. In 1215, King John signed Magna Carta—a promise to his subjects that he and future monarchs would refrain from certain actions that harmed, or had the potential to harm, the people of England. Prominent in Magna Carta's many provisions are protections for life, liberty, and property. For example, one of the document's most famous clauses promises, "No freemen shall be taken, imprisoned . . . or in any way destroyed . . . except by the lawful judgment of his peers or by the law of the land." Although it took a long time for modern ideas regarding due process to form, this clause lays the foundation for the Fifth and Sixth Amendments to the U.S. Constitution. While Magna Carta was intended to grant protections only to the English barons who were in revolt against King John in 1215, by the time of the American Revolution, English subjects, both in England and in North America, had come to regard the document as a cornerstone of liberty for men of

all stations—a right that had been recognized by King John I in 1215, but the people had actually possessed long before then.

The rights protected by Magna Carta had been granted by the king, and, in theory, a future king or queen could take them away. The natural rights Locke described, however, had been granted by God and thus could never be abolished by human beings, even royal ones, or by the institutions they created.

So committed were the British to the protection of these natural rights that when the royal Stuart dynasty began to intrude upon them in the seventeenth century, Parliament removed King James II, already disliked because he was Roman Catholic, in the Glorious Revolution and invited his Protestant daughter and her husband to rule the nation. Before offering the throne to William and Mary, however, Parliament passed the English Bill of Rights in 1689. A bill of rights is a list of the liberties and protections possessed by a nation's citizens. The English Bill of Rights, heavily influenced by Locke's ideas, enumerated the rights of English citizens and explicitly guaranteed rights to life, liberty, and property. This document would profoundly influence the U.S. Constitution and Bill of Rights.

American colonists also shared Locke's concept of property rights. According to Locke, anyone who invested labor in the *commons*—the land, forests, water, animals, and other parts of nature that were free for the taking—might take as much of these as needed, by cutting trees, for example, or building a fence around a field. The only restriction was that no one could take so much that others were deprived of their right to take from the commons as well. In the colonists' eyes, all free White males should have the right to acquire property, and once it had been acquired, government had the duty to protect it. (The rights of women remained greatly limited for many more years.)

Perhaps the most important of Locke's ideas that influenced the British settlers of North America were those regarding the origins and purpose of government. Most Europeans of the time believed the institution of monarchy had been created by God, and kings and queens had been divinely appointed to rule. Locke, however, theorized that human beings, not God, had created government. People sacrificed a small portion of their freedom and consented to be ruled in exchange for the government's protection of their lives, liberty, and property. Locke called this implicit agreement between a people and their government the **social contract**. Should government deprive people of their rights by abusing the power given to it, the contract was broken and the people were no longer bound by its terms. The people could thus withdraw their consent to obey and form another government for their protection.

The belief that government should not deprive people of their liberties and should be restricted in its power over citizens' lives was an important factor in the controversial decision by the American colonies to declare independence from England in 1776. For Locke, withdrawing consent to be ruled by an established government and forming a new one meant replacing one monarch with another. For those colonists intent on rebelling, however, it meant establishing a new nation and creating a new government, one that would be greatly limited in the power it could exercise over the people.

The desire to limit the power of government is closely related to the belief that people should govern themselves. This core tenet of American political thought was rooted in a variety of traditions. First, the British government did allow for a degree of self-government. Laws were made by Parliament, and property-owning males were allowed to vote for representatives to Parliament. Thus, Americans were accustomed to the idea of representative government from the beginning. For instance, Virginia established its House of Burgesses in 1619. Upon their arrival in North America a year later, the English Separatists who settled the Plymouth Colony, commonly known as the Pilgrims, promptly authored the Mayflower Compact, an agreement to govern themselves according to the laws created by the male voters of the colony.¹ By the eighteenth century, all the colonies had established legislatures to which men were elected to make the laws for their fellow colonists. When American colonists felt that this longstanding tradition of representative self-government was threatened by the actions of Parliament and the King, the American Revolution began.

THE AMERICAN REVOLUTION

The American Revolution began when a small and vocal group of colonists became convinced the king and Parliament were abusing them and depriving them of their rights. By 1776, they had been living under the rule of the British government for more than a century, and England had long treated the thirteen colonies with a degree of benign neglect. Each colony had established its own legislature. Taxes imposed by England were low, and property ownership was more widespread than in England. People readily proclaimed their loyalty to the king. For the most part, American colonists were proud to be British citizens and had no desire to form an independent nation.

All this began to change in 1763 when the Seven Years War between Great Britain and France came to an end, and Great Britain gained control of most of the French territory in North America. The colonists had fought on behalf of Britain, and many colonists expected that after the war they would be allowed to settle on land west of the Appalachian Mountains that had been taken from France. However, their hopes were not realized. Hoping to prevent conflict with Indian tribes in the Ohio Valley, Parliament passed the Proclamation of 1763, which forbade the colonists to purchase land or settle west of the Appalachian Mountains.²

To pay its debts from the war and maintain the troops it left behind to protect the colonies, the British government had to take new measures to raise revenue. Among the acts passed by Parliament were laws requiring American colonists to pay British merchants with gold and silver instead of paper currency and a mandate that suspected smugglers be tried in vice-admiralty courts, without jury trials. What angered the colonists most of all, however, was the imposition of direct taxes: taxes imposed on individuals instead of on transactions.

Because the colonists had not consented to direct taxation, their primary objection was that it reduced their status as free men. The right of the people or their representatives to consent to taxation was enshrined in both Magna Carta and the English Bill of Rights. Taxes were imposed by the House of Commons, one of the two houses of the British Parliament. The North American colonists, however, were not allowed to elect representatives to that body. In their eyes, taxation by representatives they had not voted for was a denial of their rights. Members of the House of Commons and people living in England had difficulty understanding this argument. All British subjects had to obey the laws passed by Parliament, including the requirement to pay taxes. Those who were not allowed to vote, such as women and Black people, were considered to have virtual representation in the British legislature; representatives elected by those who could vote made laws on behalf of those who could not. Many colonists, however, maintained that anything except direct representation was a violation of their rights as English subjects.

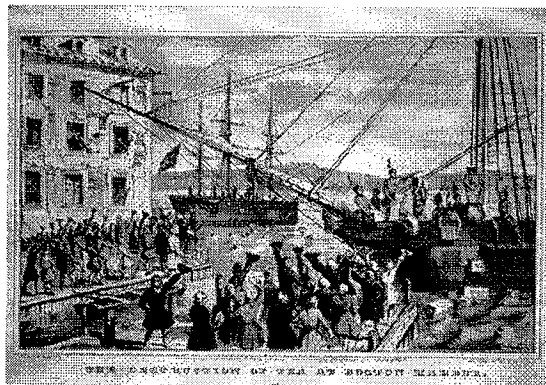
The first such tax to draw the ire of colonists was the Stamp Act, passed in 1765, which required that almost all paper goods, such as diplomas, land deeds, contracts, and newspapers, have revenue stamps placed on them. The outcry was so great that the new tax was quickly withdrawn, but its repeal was soon followed by a series of other tax acts, such as the Townshend Acts (1767), which imposed taxes on many everyday objects such as glass, tea, and paint.

The taxes imposed by the Townshend Acts were as poorly received by the colonists as the Stamp Act had been. The Massachusetts legislature sent a petition to the king asking for relief from the taxes and requested that other colonies join in a boycott of British manufactured goods. British officials threatened to suspend the legislatures of colonies that engaged in a boycott and, in response to a request for help from Boston's customs collector, sent a warship to the city in 1768. A few months later, British troops arrived, and on the evening of March 5, 1770, an altercation erupted outside the customs house. Shots rang out as the soldiers fired into the crowd (Figure 2.3). Several people were hit; three died immediately. Britain had taxed the colonists without their consent. Now, British soldiers had taken colonists' lives.



FIGURE 2.3 The Sons of Liberty circulated this sensationalized version of the events of March 5, 1770, in order to promote the rightness of their cause; it depicts British soldiers firing on unarmed civilians in the event that became known as the Boston Massacre. Later portrayals would more prominently feature Crispus Attucks, an African American who was one of the first to die. Eight British soldiers were tried for murder as a result of the confrontation.

Following this event, later known as the Boston Massacre, resistance to British rule grew, especially in the colony of Massachusetts. In December 1773, a group of Boston men boarded a ship in Boston harbor and threw its cargo of tea, owned by the British East India Company, into the water to protest British policies, including the granting of a monopoly on tea to the British East India Company, which many colonial merchants resented.³ This act of defiance became known as the Boston Tea Party. In the 2010s, many who did not agree with the positions of the Democratic or the Republican Party organized themselves into an oppositional group dubbed the Tea Party (Figure 2.4).



(a)



(b)

FIGURE 2.4 Members of the modern Tea Party movement claim to represent the same spirit as their colonial forebears in the iconic lithograph *The Destruction of Tea at Boston Harbor* (a) and protest against what they perceive as government's interference with people's rights. In April 2010, members of a Tea Party Express rally on the

Boston Common signed a signature wall to record their protest (b). (credit b: modification of work by Tim Pierce)

In the early months of 1774, Parliament responded to this latest act of colonial defiance by passing a series of laws called the Coercive Acts, intended to punish Boston for leading resistance to British rule and to restore order in the colonies. These acts virtually abolished town meetings in Massachusetts and otherwise interfered with the colony's ability to govern itself. This assault on Massachusetts and its economy enraged people throughout the colonies, and delegates from all the colonies except Georgia formed the First Continental Congress to create a unified opposition to Great Britain. Among other things, members of the institution developed a declaration of rights and grievances.

In May 1775, delegates met again in the Second Continental Congress. By this time, war with Great Britain had already begun, following skirmishes between colonial militiamen and British troops at Lexington and Concord, Massachusetts. Congress drafted a Declaration of Causes explaining the colonies' reasons for rebellion. On July 2, 1776, Congress declared American independence from Britain and two days later signed the **Declaration of Independence**.

Drafted by Thomas Jefferson, the Declaration of Independence officially proclaimed the colonies' separation from Britain. In it, Jefferson eloquently laid out the reasons for rebellion. God, he wrote, had given everyone the rights of life, liberty, and the pursuit of happiness. People had created governments to protect these rights and consented to be governed by them so long as government functioned as intended. However, "whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government." Britain had deprived the colonists of their rights. The king had "establish[ed] . . . an absolute Tyranny over these States." Just as their English forebears had removed King James II from the throne in 1689, the colonists now wished to establish a new rule.

Jefferson then proceeded to list the many ways in which the British monarch had abused his power and failed in his duties to his subjects. The king, Jefferson charged, had taxed the colonists without the consent of their elected representatives, interfered with their trade, denied them the right to trial by jury, and deprived them of their right to self-government. Such intrusions on their rights could not be tolerated. With their signing of the Declaration of Independence ([Figure 2.5](#)), the founders of the United States committed themselves to the creation of a new kind of government.

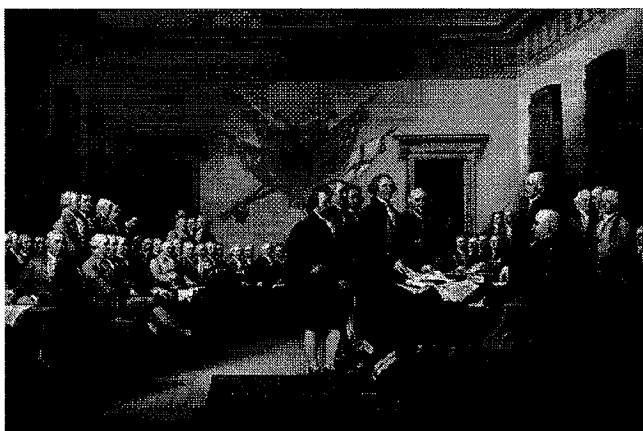


FIGURE 2.5 The presentation of the Declaration of Independence is commemorated in a painting by John Trumbull in 1817. It was commissioned to hang in the Capitol in Washington, DC.

LINK TO LEARNING

Thomas Jefferson explains in the Declaration of Independence (<http://www.openstax.org/l/29DeclarationIn>) why many colonists felt the need to form a new nation. His evocation of the natural rights of man and his list of grievances against the king also served as the model for the Declaration of Sentiments

(<http://www.openstax.org/l/29DeclarationSe>) that was written in 1848 in favor of giving women in the United States rights equal to those of men. View both documents and compare.

2.2 The Articles of Confederation

LEARNING OBJECTIVES

By the end of this section, you will be able to:

- Describe the steps taken during and after the American Revolution to create a government
- Identify the main features of the Articles of Confederation
- Describe the crises resulting from key features of the Articles of Confederation

Waging a successful war against Great Britain required that the individual colonies, now sovereign states that often distrusted one another, form a unified nation with a central government capable of directing the country's defense. Gaining recognition and aid from foreign nations would also be easier if the new United States had a national government able to borrow money and negotiate treaties. Accordingly, the Second Continental Congress called upon its delegates to create a new government strong enough to win the country's independence but not so powerful that it would deprive people of the very liberties for which they were fighting.

PUTTING A NEW GOVERNMENT IN PLACE

The final draft of the **Articles of Confederation**, which formed the basis of the new nation's government, was accepted by Congress in November 1777 and submitted to the states for ratification. It would not become the law of the land until all thirteen states had approved it. Within two years, all except Maryland had done so. Maryland argued that all territory west of the Appalachians, to which some states had laid claim, should instead be held by the national government as public land for the benefit of all the states. When the last of these states, Virginia, relinquished its land claims in early 1781, Maryland approved the Articles.⁴ A few months later, the British surrendered.

Americans wished their new government to be a **republic**, a regime in which the people, not a monarch, held power and elected representatives to govern according to the rule of law. Many, however, feared that a nation as large as the United States could not be ruled effectively as a republic. Many also worried that even a government of representatives elected by the people might become too powerful and overbearing. Thus, a **confederation** was created—an entity in which independent, self-governing states form a union for the purpose of acting together in areas such as defense. Fearful of replacing one oppressive national government with another, however, the framers of the Articles of Confederation created an alliance of sovereign states held together by a weak central government.

LINK TO LEARNING

View the **Articles of Confederation** (<http://www.openstax.org/l/29ArticlesConf>) at the National Archives. The **timeline for drafting and ratifying the Articles of Confederation** (<http://www.openstax.org/l/29Arttimeline>) is available at the Library of Congress.

Following the Declaration of Independence, each of the thirteen states had drafted and ratified a constitution providing for a republican form of government in which political power rested in the hands of the people, although the right to vote was limited to free (White) men, and the property requirements for voting differed among the states. Each state had a governor and an elected legislature. In the new nation, the states remained free to govern their residents as they wished. The central government had authority to act in only a few areas, such as national defense, in which the states were assumed to have a common interest (and would, indeed, have to supply militias). This arrangement was meant to prevent the national government from becoming too powerful or abusing the rights of individual citizens. In the careful balance between power for the national

government and liberty for the states, the Articles of Confederation favored the states.

Thus, powers given to the central government were severely limited. The Confederation Congress, formerly the Continental Congress, had the authority to exchange ambassadors and make treaties with foreign governments and Indian tribes, declare war, coin currency and borrow money, and settle disputes between states. Each state legislature appointed delegates to the Congress; these men could be recalled at any time. Regardless of its size or the number of delegates it chose to send, each state would have only one vote. Delegates could serve for no more than three consecutive years, lest a class of elite professional politicians develop. The nation would have no independent chief executive or judiciary. Nine votes were required before the central government could act, and the Articles of Confederation could be changed only by unanimous approval of all thirteen states.

WHAT WENT WRONG WITH THE ARTICLES?

The Articles of Confederation satisfied the desire of those in the new nation who wanted a weak central government with limited power. Ironically, however, their very success led to their undoing. It soon became apparent that, while they protected the sovereignty of the states, the Articles had created a central government too weak to function effectively.

One of the biggest problems was that the national government had no power to impose taxes. To avoid any perception of “taxation without representation,” the Articles of Confederation allowed only state governments to levy taxes. To pay for its expenses, the national government had to request money from the states, which were required to provide funds in proportion to the value of the land within their borders. The states, however, were often negligent in this duty, and the national government was underfunded. Without money, it could not pay debts owed from the Revolution and had trouble conducting foreign affairs. For example, the inability of the U.S. government to raise sufficient funds to compensate colonists who had remained loyal to Great Britain for their property losses during and after the American Revolution was one of the reasons the British refused to evacuate the land west of the Appalachians. The new nation was also unable to protect American ships from attacks by the Barbary pirates.⁵ Foreign governments were also, understandably, reluctant to loan money to a nation that might never repay it because it lacked the ability to tax its citizens.

The fiscal problems of the central government meant that the currency it issued, called the Continental, was largely worthless and people were reluctant to use it. Furthermore, while the Articles of Confederation had given the national government the power to coin money, they had not prohibited the states from doing so as well. As a result, numerous state banks issued their own banknotes, which had the same problems as the Continental. People who were unfamiliar with the reputation of the banks that had issued the banknotes often refused to accept them as currency. This reluctance, together with the overwhelming debts of the states, crippled the young nation’s economy.

The country’s economic woes were made worse by the fact that the central government also lacked the power to impose tariffs on foreign imports or regulate interstate commerce. Thus, it was unable to prevent British merchants from flooding the U.S. market with low-priced goods after the Revolution, and American producers suffered from the competition. Compounding the problem, states often imposed tariffs on items produced by other states and otherwise interfered with their neighbors’ trade.

The national government also lacked the power to raise an army or navy. Fears of a standing army in the employ of a tyrannical government had led the writers of the Articles of Confederation to leave defense largely to the states. Although the central government could declare war and agree to peace, it had to depend upon the states to provide soldiers. If state governors chose not to honor the national government’s request, the country would lack an adequate defense. This was quite dangerous at a time when England and Spain still controlled large portions of North America (Table 2.1).

Problems with the Articles of Confederation

Weakness of the Articles of Confederation	Why Was This a Problem?
The national government could not impose taxes on citizens. It could only request money from the states.	Requests for money were usually not honored. As a result, the national government did not have money to pay for national defense or fulfill its other responsibilities.
The national government could not regulate foreign trade or interstate commerce.	The government could not prevent foreign countries from hurting American competitors by shipping inexpensive products to the United States. It could not prevent states from passing laws that interfered with domestic trade.
The national government could not raise an army. It had to request the states to send men.	State governments could choose not to honor Congress's request for troops. This would make it hard to defend the nation.
Each state had only one vote in Congress regardless of its size.	Populous states were less well represented.
The Articles could not be changed without a unanimous vote to do so.	Problems with the Articles could not be easily fixed.
There was no national judicial system.	Judiciaries are important enforcers of national government power.

TABLE 2.1 The Articles of Confederation suffered from many problems that could not be easily repaired. The biggest problem was the lack of power given to the national government.

The weaknesses of the Articles of Confederation, already recognized by many, became apparent to all as a result of an uprising of Massachusetts farmers, led by Daniel Shays. Known as Shays' Rebellion, the incident panicked the governor of Massachusetts, who called upon the national government for assistance. However, with no power to raise an army, the government had no troops at its disposal. After several months, Massachusetts crushed the uprising with the help of local militias and privately funded armies, but wealthy people were frightened by this display of unrest on the part of poor men and by similar incidents taking place in other states.⁶ To find a solution and resolve problems related to commerce, members of Congress called for a revision of the Articles of Confederation.

MILESTONE

Shays' Rebellion: Symbol of Disorder and Impetus to Act

In the summer of 1786, farmers in western Massachusetts were heavily in debt, facing imprisonment and the loss of their lands. They owed taxes that had gone unpaid while they were away fighting the British during the Revolution. The Continental Congress had promised to pay them for their service, but the national government did not have sufficient money. Moreover, the farmers were unable to meet the onerous new tax burden Massachusetts imposed in order to pay its own debts from the Revolution.

Led by Daniel Shays (Figure 2.6), the heavily indebted farmers marched to a local courthouse demanding relief. Faced with the refusal of many Massachusetts militiamen to arrest the rebels, with whom they sympathized, Governor James Bowdoin called upon the national government for aid, but none was available. The uprising was finally brought to an end the following year by a privately funded militia after the protestors' unsuccessful attempt to raid the Springfield Armory.

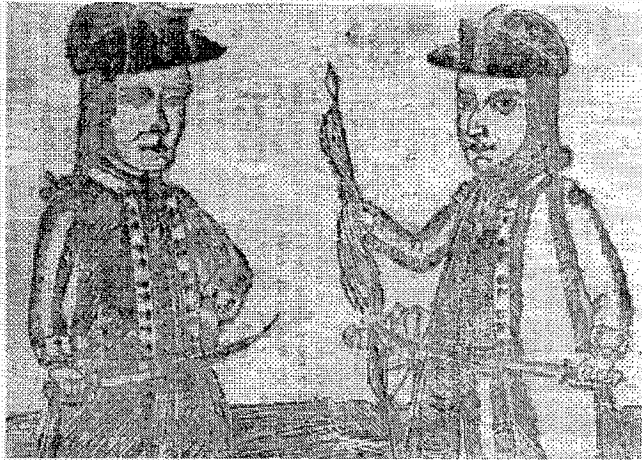


FIGURE 2.6 This contemporary depiction of Continental Army veteran Daniel Shays (left) and Job Shattuck (right), who led an uprising of Massachusetts farmers in 1786–1787 that prompted calls for a stronger national government, appeared on the cover of *Bickerstaff's Genuine Boston Almanack for 1787*.

Were Shays and his followers justified in their attacks on the government of Massachusetts? What rights might they have sought to protect?

2.3 The Development of the Constitution

LEARNING OBJECTIVES

By the end of this section, you will be able to:

- Identify the conflicts present and the compromises reached in drafting the Constitution
- Summarize the core features of the structure of U.S. government under the Constitution

In 1786, Virginia and Maryland invited delegates from the other eleven states to meet in Annapolis, Maryland, for the purpose of revising the Articles of Confederation. However, only five states sent representatives. Because all thirteen states had to agree to any alteration of the Articles, the convention in Annapolis could not accomplish its goal. Two of the delegates, Alexander Hamilton and James Madison, requested that all states send delegates to a convention in Philadelphia the following year to attempt once again to revise the Articles of Confederation. All the states except Rhode Island chose delegates to send to the meeting, a total of seventy men in all, but many did not attend. Among those not in attendance were John Adams and Thomas Jefferson, both of whom were overseas representing the country as diplomats. Because the shortcomings of the Articles of Confederation proved impossible to overcome, the convention that met in Philadelphia in 1787 decided to create an entirely new government.

POINTS OF CONTENTION

Fifty-five delegates arrived in Philadelphia in May 1787 for the meeting that became known as the Constitutional Convention. Many wanted to strengthen the role and authority of the national government but feared creating a central government that was too powerful. They wished to preserve state autonomy, although not to a degree that prevented the states from working together collectively or made them entirely independent of the will of the national government. While seeking to protect the rights of individuals from

government abuse, they nevertheless wished to create a society in which concerns for law and order did not give way in the face of demands for individual liberty. They wished to give political rights to all free men but also feared mob rule, which many felt would have been the result of Shays' Rebellion had it succeeded. Delegates from small states did not want their interests pushed aside by delegations from more populous states like Virginia. And everyone was concerned about slavery. Representatives from southern states worried that delegates from states where it had been or was being abolished might try to outlaw the institution. Those who favored a nation free of the influence of slavery feared that southerners might attempt to make it a permanent part of American society. The only decision that all could agree on was the election of George Washington, the former commander of the Continental Army and hero of the American Revolution, as the president of the convention.

The Question of Representation: Small States vs. Large States

One of the first differences among the delegates to become clear was between those from large states, such as New York and Virginia, and those who represented small states, like Delaware. When discussing the structure of the government under the new constitution, the delegates from Virginia called for a **bicameral legislature** consisting of two houses. The number of a state's representatives in each house was to be based on the state's population. In each state, representatives in the lower house would be elected by popular vote. These representatives would then select their state's representatives in the upper house from among candidates proposed by the state's legislature. Once a representative's term in the legislature had ended, the representative could not be reelected until an unspecified amount of time had passed.

Delegates from small states objected to this **Virginia Plan**. Another proposal, the **New Jersey Plan**, called for a **unicameral legislature** with one house, in which each state would have one vote. Thus, smaller states would have the same power in the national legislature as larger states. However, the larger states argued that because they had more residents, they should be allotted more legislators to represent their interests (Figure 2.7).

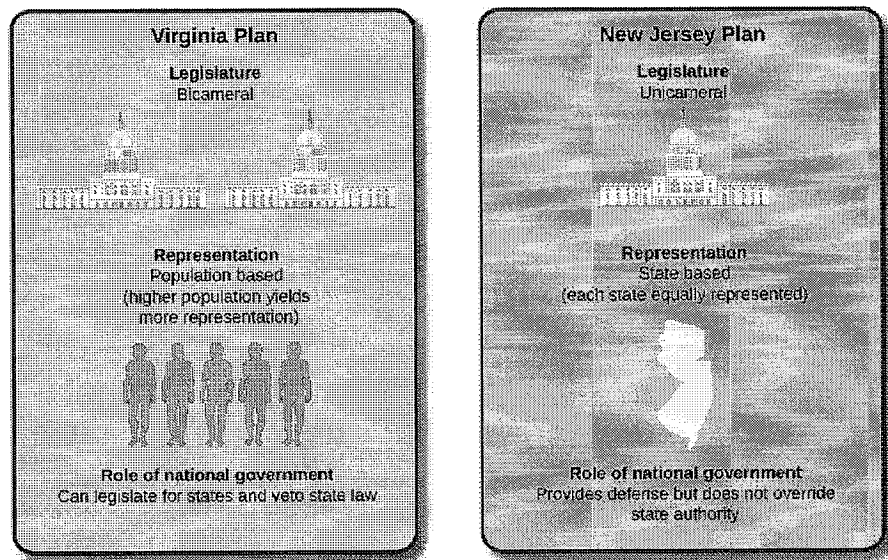


FIGURE 2.7 The Virginia Plan called for a two-house legislature. Representation in both houses would be based on population. A state's representatives in one house would be elected by the state's voters. These representatives would then appoint representatives to the second house from among candidates chosen by the state's legislature. The New Jersey Plan favored maintaining a one-house Congress with each state being equally represented.

Slavery and Freedom

Another fundamental division separated the states. Following the Revolution, some of the northern states had either abolished **slavery** or instituted plans by which enslaved men and women would gradually be

emancipated. Pennsylvania, for example, had passed the Act for the Gradual Abolition of Slavery in 1780. All people born in the state to enslaved mothers after the law's passage would become indentured servants to be set free at age twenty-eight. In 1783, Massachusetts had freed all enslaved people within the state. Many Americans believed slavery was opposed to the ideals stated in the Declaration of Independence. Others felt it was inconsistent with the teachings of Christianity. Some White people feared for their safety if the enslaved population or Americans' reliance on slavery were to increase. Although some southerners shared similar sentiments, none of the southern states had abolished slavery and none wanted the Constitution to interfere with the institution. In addition to supporting the agriculture of the South, enslaved people could be taxed as property and counted as population for purposes of a state's representation in the government.

Federal Supremacy vs. State Sovereignty

Perhaps the greatest division among the states split those who favored a strong national government and those who favored limiting its powers and allowing states to govern themselves in most matters. Supporters of a strong central government argued that it was necessary for the survival and efficient functioning of the new nation. Without the authority to maintain and command an army and navy, the nation could not defend itself at a time when European powers still maintained formidable empires in North America. Without the power to tax and regulate trade, the government would not have enough money to maintain the nation's defense, protect American farmers and manufacturers from foreign competition, create the infrastructure necessary for interstate commerce and communications, maintain foreign embassies, or pay federal judges and other government officials. Furthermore, other countries would be reluctant to loan money to the United States if the federal government lacked the ability to impose taxes in order to repay its debts. Besides giving more power to populous states, the Virginia Plan also favored a strong national government that would legislate for the states in many areas and would have the power to veto laws passed by state legislatures.

Others, however, feared that a strong national government might become too powerful and use its authority to oppress citizens and deprive them of their rights. They advocated a central government with sufficient authority to defend the nation but insisted that other powers be left to the states, which were believed to be better able to understand and protect the needs and interests of their residents. Such delegates approved the approach of the New Jersey Plan, which retained the unicameral Congress that had existed under the Articles of Confederation. It gave additional power to the national government, such as the power to regulate interstate and foreign commerce and to compel states to comply with laws passed by Congress. However, states still retained a lot of power, including power over the national government. Congress, for example, could not impose taxes without the consent of the states. Furthermore, the nation's chief executive, appointed by the Congress, could be removed by Congress if state governors demanded it.

Individual Liberty vs. Social Stability

The belief that the king and Parliament had deprived colonists of their liberties had led to the Revolution, and many feared the government of the United States might one day attempt to do the same. They wanted and expected their new government to guarantee the rights of life, liberty, and property. Others believed it was more important for the national government to maintain order, and this might require it to limit personal liberty at times. All Americans, however, desired that the government not intrude upon people's rights to life, liberty, and property without reason.

COMPROMISE AND THE CONSTITUTIONAL DESIGN OF AMERICAN GOVERNMENT

Beginning in May 1787 and throughout the long, hot Philadelphia summer, the delegations from twelve states discussed, debated, and finally—after compromising many times—by September had worked out a new blueprint for the nation. The document they created, the U.S. Constitution, was an ingenious instrument that allayed fears of a too-powerful central government and solved the problems that had beleaguered the national government under the Articles of Confederation. For the most part, it also resolved the conflicts between small and large states, northern and southern states, and those who favored a strong federal government and those

who argued for state sovereignty.

LINK TO LEARNING

The closest thing to minutes of the Constitutional Convention is the [collection of James Madison's letters and notes \(http://www.openstax.org/l/29MadisonPapers\)](http://www.openstax.org/l/29MadisonPapers) about the proceedings in Philadelphia. Several such letters and notes may be found at the Library of Congress's American Memory project.

The Great Compromise

The Constitution consists of a preamble and seven articles. The first three articles divide the national government into three branches—Congress, the executive branch, and the federal judiciary—and describe the powers and responsibilities of each. In Article I, ten sections describe the structure of Congress, the basis for representation and the requirements for serving in Congress, the length of Congressional terms, and the powers of Congress. The national legislature created by the article reflects the compromises reached by the delegates regarding such issues as representation, slavery, and national power.

After debating at length over whether the Virginia Plan or the New Jersey Plan provided the best model for the nation's legislature, the framers of the Constitution had ultimately arrived at what is called the **Great Compromise**, suggested by Roger Sherman of Connecticut. Congress, it was decided, would consist of two chambers: the Senate and the House of Representatives. Each state, regardless of size, would have two senators, making for equal representation as in the New Jersey Plan. Representation in the House would be based on population. Senators were to be appointed by state legislatures, a variation on the Virginia Plan. Members of the House of Representatives would be popularly elected by the voters in each state. Elected members of the House would be limited to two years in office before having to seek reelection, and those appointed to the Senate by each state's political elite would serve a term of six years.

Congress was given great power, including the power to tax, maintain an army and a navy, and regulate trade and commerce. Congress had authority that the national government lacked under the Articles of Confederation. It could also coin and borrow money, grant patents and copyrights, declare war, and establish laws regulating naturalization and bankruptcy. While legislation could be proposed by either chamber of Congress, it had to pass both chambers by a majority vote before being sent to the president to be signed into law, and all bills to raise revenue had to begin in the House of Representatives. Only those men elected by the voters to represent them could impose taxes upon them. There would be no more taxation without representation.

The Three-Fifths Compromise and the Debates over Slavery

The Great Compromise that determined the structure of Congress soon led to another debate, however. When states took a census of their population for the purpose of allotting House representatives, should enslaved people be counted? Southern states were adamant that they should be, while delegates from northern states were vehemently opposed, arguing that representatives from southern states could not represent the interests of those enslaved. If enslaved people were not counted, however, southern states would have far fewer representatives in the House than northern states did. For example, if South Carolina were allotted representatives based solely on its free population, it would receive only half the number it would have received if enslaved people, who made up approximately 43 percent of the population, were included.⁷

The **Three-Fifths Compromise**, illustrated in [Figure 2.8](#), resolved the impasse, although not in a manner that truly satisfied anyone. For purposes of Congressional apportionment, slaveholding states were allowed to count all their free population, including free African Americans and 60 percent (three-fifths) of their enslaved population. To mollify the north, the compromise also allowed counting 60 percent of a state's enslaved population for federal taxation, although no such taxes were ever collected. Another compromise regarding the institution of **slavery** granted Congress the right to impose taxes on imports in exchange for a twenty-year

prohibition on laws attempting to ban the importation of enslaved people to the United States, which would hurt the economy of southern states more than that of northern states. Because the southern states, especially South Carolina, had made it clear they would leave the convention if abolition were attempted, no serious effort was made by the framers to abolish slavery in the new nation, even though many delegates disapproved of the institution.

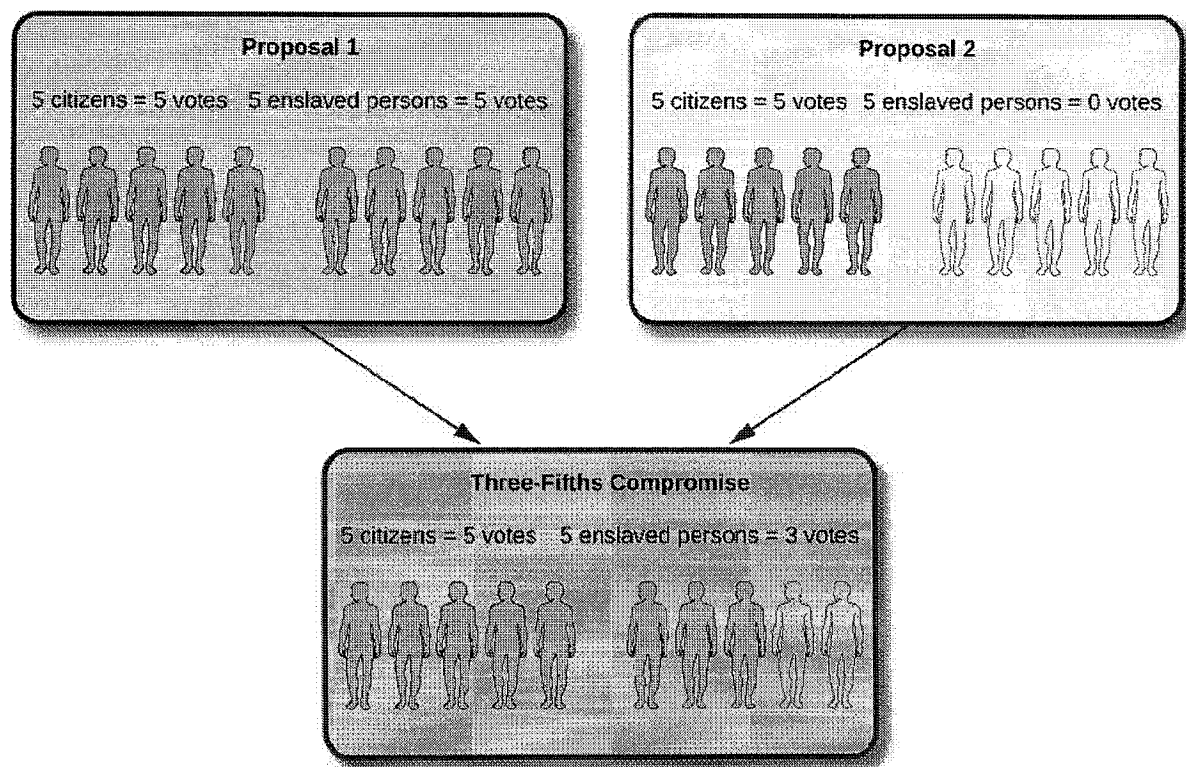


FIGURE 2.8 This infographic shows the methods proposed for counting enslaved populations and the resulting Three-Fifths Compromise.

Indeed, the Constitution contained two protections for slavery. Article I postponed the abolition of the foreign slave trade until 1808, and in the interim, those in slaveholding states were allowed to import as many enslaved people as they wished.⁸ Furthermore, the Constitution placed no restrictions on the domestic slave trade, so residents of one state could still sell enslaved people to other states. Article IV of the Constitution—which, among other things, required states to return freedom seekers to the states where they had been charged with crimes—also prevented the enslaved from gaining their freedom by escaping to states where slavery had been abolished. Clause 3 of Article IV (known as the fugitive slave clause) allowed enslavers to reclaim the enslaved in the states where they had fled.⁹

Separation of Powers and Checks and Balances

Although debates over slavery and representation in Congress occupied many at the convention, the chief concern was the challenge of increasing the authority of the national government while ensuring that it did not become too powerful. The framers resolved this problem through a **separation of powers**, dividing the national government into three separate branches and assigning different responsibilities to each one, as shown in Figure 2.9. They also created a system of **checks and balances** by giving each of three branches of government the power to restrict the actions of the others, thus requiring them to work together.