



# ARTICLE I: HOW CONGRESS WORKS— THE LEGISLATIVE BRANCH

## SCHOLAR EXCHANGE



# FRAMING QUESTIONS

What role does Congress have in Government?

What powers does the Constitution grant to Congress? And what are some of the limits on congressional power?

How did the Framers come up with the idea and what were some of the debates at the Constitutional Convention?

Has the original vision for what congress should be changed over time?

What are some of the Supreme Court's key decisions on congressional power? And what are some of the topics of ongoing constitutional debate?



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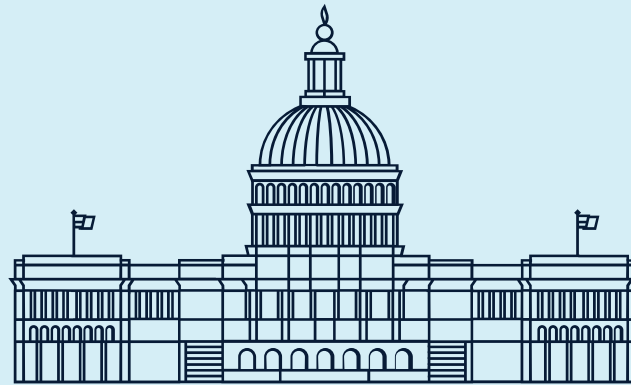
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# ARTICLE I

Article I establishes the national government's legislative branch—Congress.

Within the national government, Congress is responsible for making the laws.



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# The Constitution separates Congress into two Houses (Bicameralism):

## House of Representatives

- States are represented proportionally
- There are currently 435 Members of the House of Representatives
- Members must be at least 25-years-old
- They serve for two-year terms
- They can run for reelection
- They have always been elected directly by the people

## Senate

- States have equal representation—two Senators for each state
- Currently there are 100 U.S. Senators
- Senators must be at least 30-years-old
- They serve for six-year terms—with one-third of the Senate elected every two years.
- They can run for reelection
- Are now elected directly by the people—a change brought about by the 17th Amendment



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# POWERS OF CONGRESS

## Article I, Section 8:

The Congress shall have Power

- To lay and collect Taxes...
- To borrow Money...
- To regulate Commerce...
- To coin Money...
- To establish Post Offices and post Roads...
- To declare War...
- To raise and support Armies..
- To provide and maintain a Navy..
- To make all Laws which shall be necessary and proper...

(Note: Not all powers of Congress are listed here)



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# POWERS OF CONGRESS

## Article I, Section 8:

The Congress shall have Power

- “collect Taxes, Duties, Imposts and Excises, to pay the Debates and provide for the common Defence and general Welfare of the United States”
- “regulate Commerce with foreign Nations, and among the several States”
- “declare War”
- “make all Laws which shall be **necessary and proper** for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.”



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# LIMITS ON CONGRESS

## Article I, Section 9:

- The Slave Trade provision (withholding power to ban it for twenty years, which was done January 1, 1808)
- The “Suspension Clause” (the writ of habeas corpus shall not be suspended “unless when in Cases of Rebellion or Invasion the public Safety may require it.”)
- Bans ex post facto laws and Bills of Attainder
- The ban on direct and export taxes (as applied to other states),
- The appropriations clause (“No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law”)
- The ban on titles of nobility and the Emoluments Clause



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# LIMITS ON STATES

## Article I, Section 10:

Bans on

- Entering into treaties with foreign nations
- Coining their own money
- Impairing contracts

## Article VI:

Supremacy Clause:

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



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# BIG IDEA

With Congress, the Founding generation set up a national legislature to make the nation's laws. They looked to create a new national legislature with more authority—and ability to act—than the one that came before it, but also one of limited powers



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# HOW A BILL IS BECOMES A LAW

Members in one House of Congress—either the U.S. House of Representatives or the U.S. Senate—introduce a bill. Both Houses of Congress must pass the bill. Once the bill passes the House and the Senate, it's then sent to the President. The President then has the option to veto—in other words, reject—the bill.

If the President approves of the bill, then it becomes a law.

If she vetoes it, then Congress has the power to override—in other words, cancel—the President's veto by a 2/3 vote in each Houses of Congress.

If Congress succeeds in overriding the President's veto, then the bill becomes a law.

If Congress fails to override the President's veto, then the bill does not become a law

Finally, even after a bill becomes a law, people can go to court and challenge that law—arguing that it violates the Constitution.



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# CONSTITUTIONAL CONVENTION

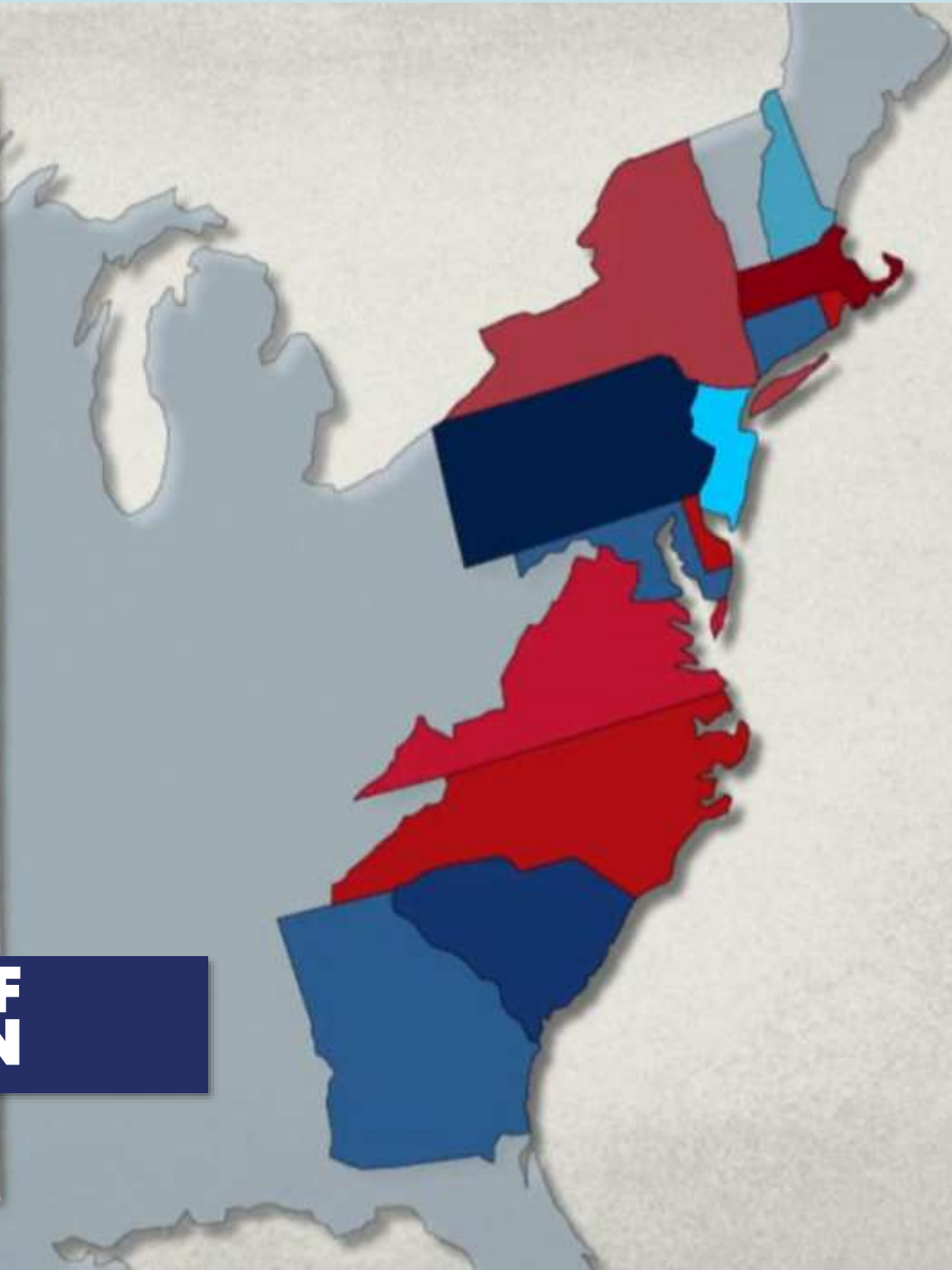
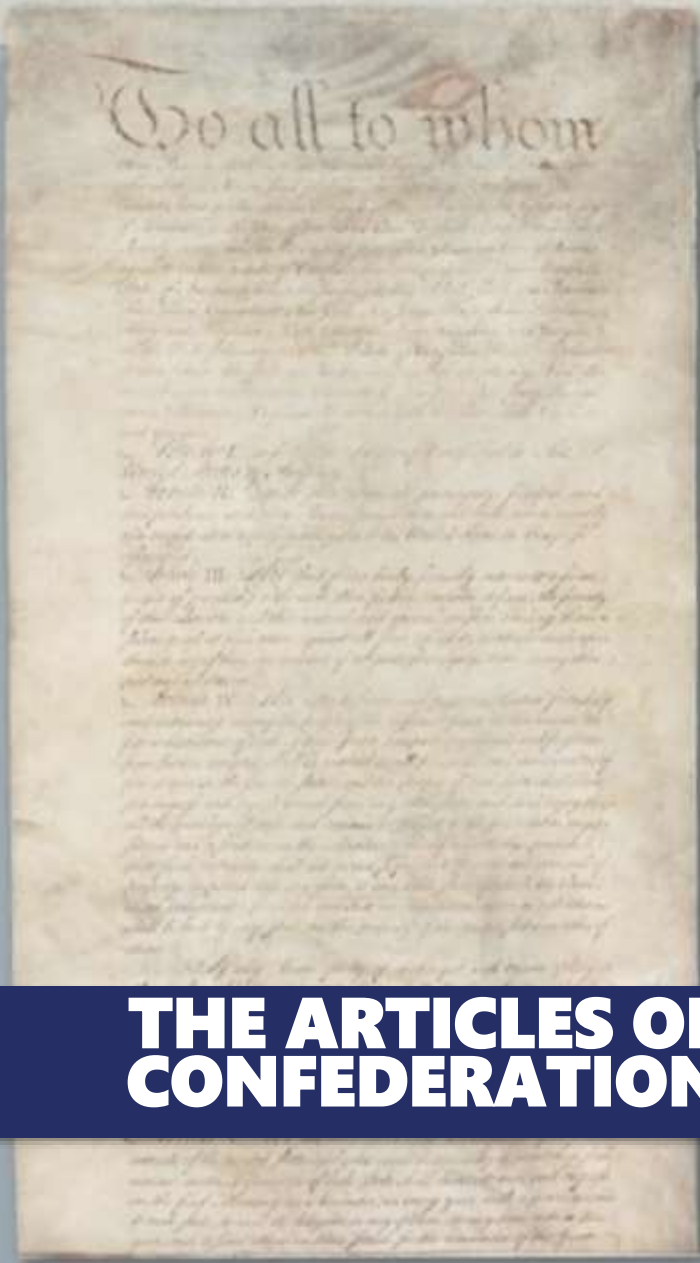
May to September 1787, Philadelphia, PA



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**THE ARTICLES OF CONFEDERATION**



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## **DEBATES OVER CONGRESS**

**How to balance the interests of the large states versus the interests of the small states.**

**How the states were to be represented in the new national legislature.**



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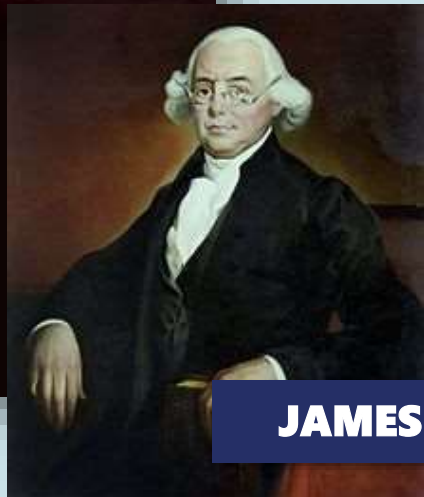
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# VIRGINIA PLAN



**JAMES MADISON**



**JAMES WILSON**

- Proportional representation
- Two chambers
- Power to address issues that were beyond the ability of any single state government
- Power to veto state laws which it found to be against the national interest

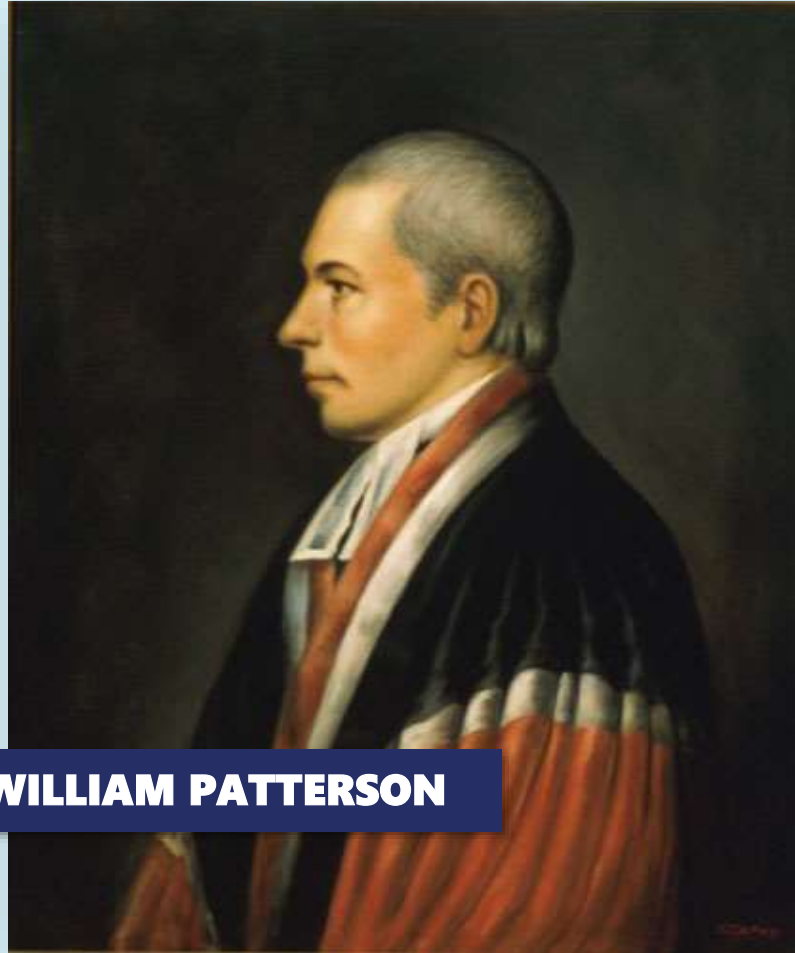


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# NEW JERSEY PLAN



**WILLIAM PATTERSON**

- One-house legislature
- Each state—regardless of its size—receiving one vote.
- Expand the powers of the national government to address the needs of a growing nation.
- Basic structure of the government would remain the same.

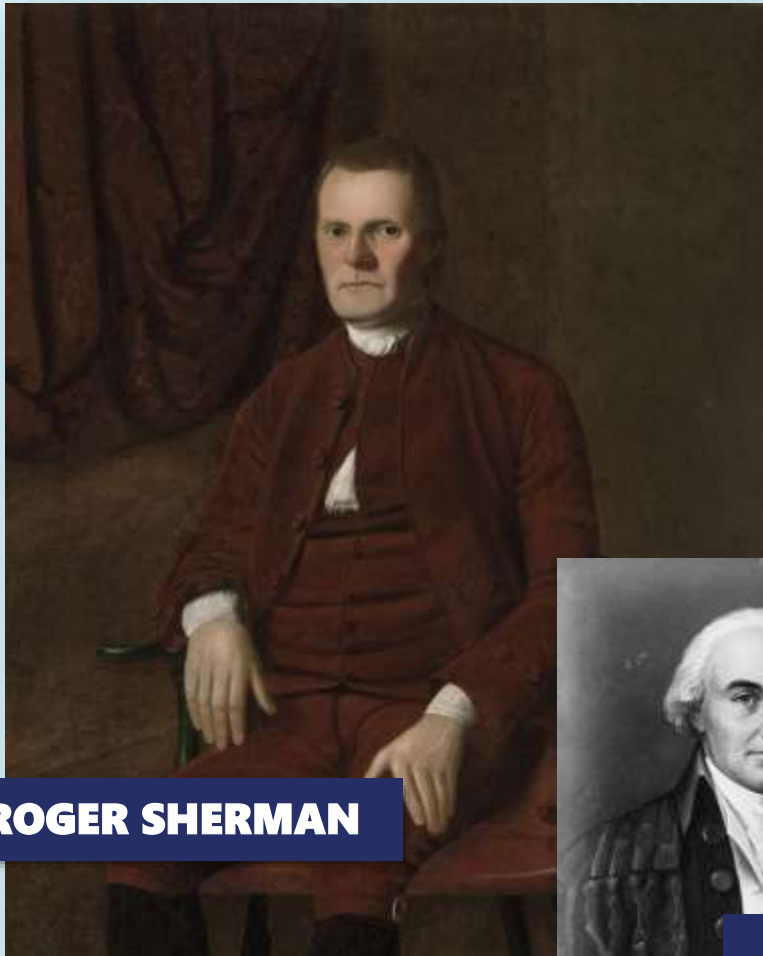


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# CONNECTICUT COMPROMISE



**ROGER SHERMAN**



**OLIVER ELLSWORTH**

- Two houses—a House of Representative and a Senate.
- The House would be elected on the basis of proportional representation
- The Senate would be elected on the basis of equal representation, with each state—regardless of its size—receiving two Senators.



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## DEBATES OVER CONGRESS

Whether (and how) to count enslaved people for purposes of congressional representation.

- Pro-slavery Southerners argued that enslaved people should count as a full person—5/5s.
- But anti-slavery Northerners asked how the Southern delegates could treat enslaved people as full persons for purposes of representation but deny their humanity by treating them as property? These Northerners argued that enslaved people should count as 0/5s.



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## **THE THREE-FIFTHS CLAUSE ARTICLE I, SECT. II, CL. 3:**

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.



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# DEBATES OVER CONGRESS

## Powers of Congress

Under the new Constitution, many Framers wanted to grant the national legislature powers that it lacked under the Articles of Confederation.

But they also wanted to strike a difficult balance: They wanted to strengthen the national government. But they also wanted to maintain the states' key role in governance.

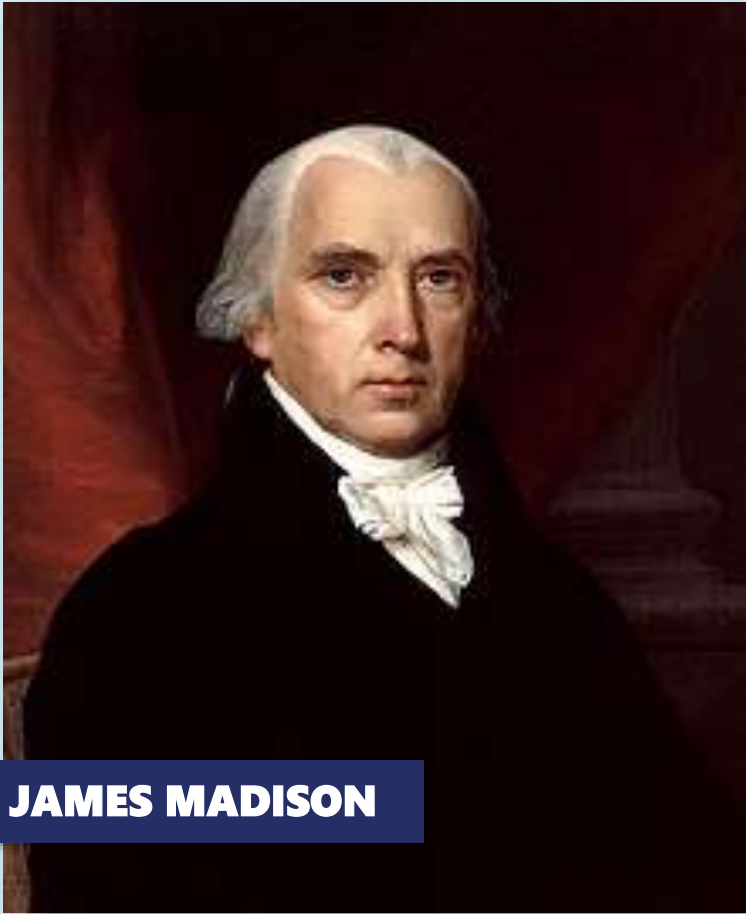


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# VIRGINIA PLAN



**JAMES MADISON**

Congress should be able to “legislate in all cases to which the separate states are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual Legislation . . . .”

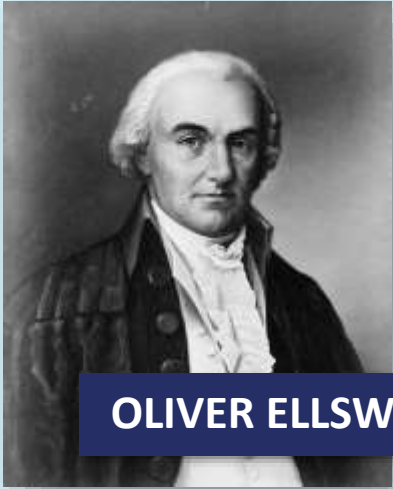


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# COMMITTEE OF DETAIL



**OLIVER ELLSWORTH**



**JOHN RUTLEDGE**



**JAMES WILSON**



**EDMUND RANDOLPH**



**NATHANIEL GORHAM**

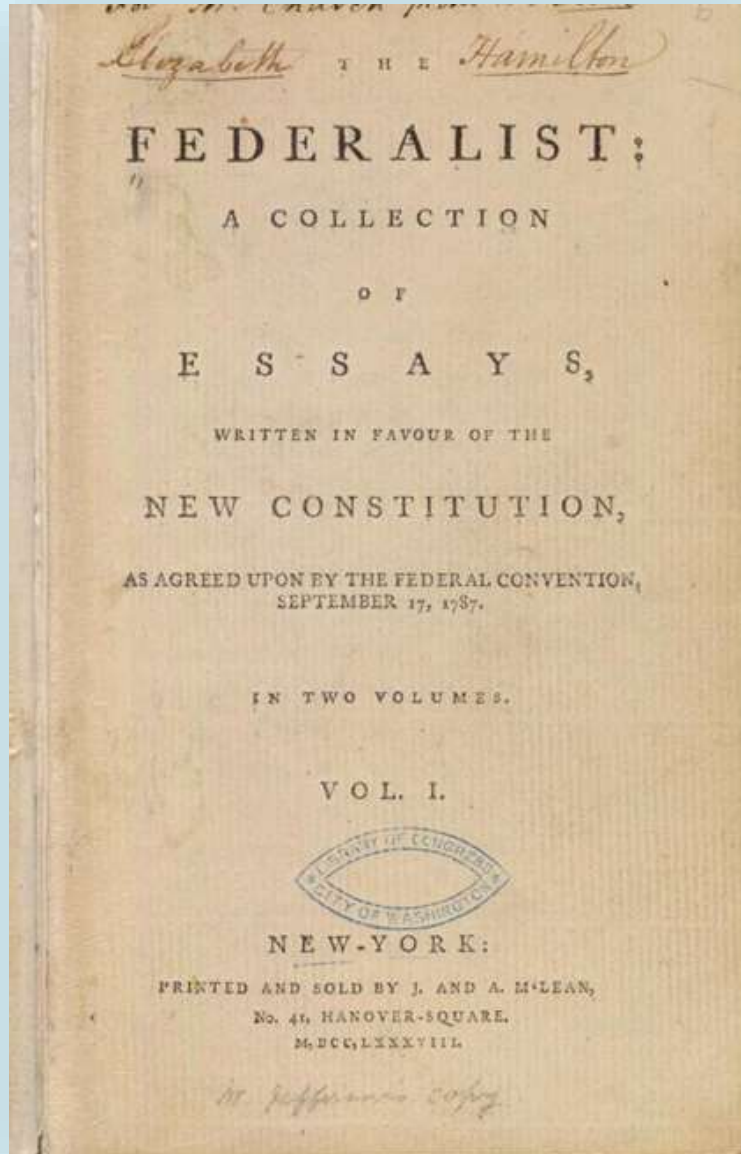


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# THE FEDERALIST PAPERS



**JAMES MADISON**



**ALEXANDER HAMILTON**



**JOHN JAY**



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# DEBATES OVER CONGRESS OVER TIME

- The Founding up to the Civil War
- The Civil War and Reconstruction
- The Gilded Age through the start of the New Deal
- The New Deal through the late twentieth century
- Debates at the Supreme Court today

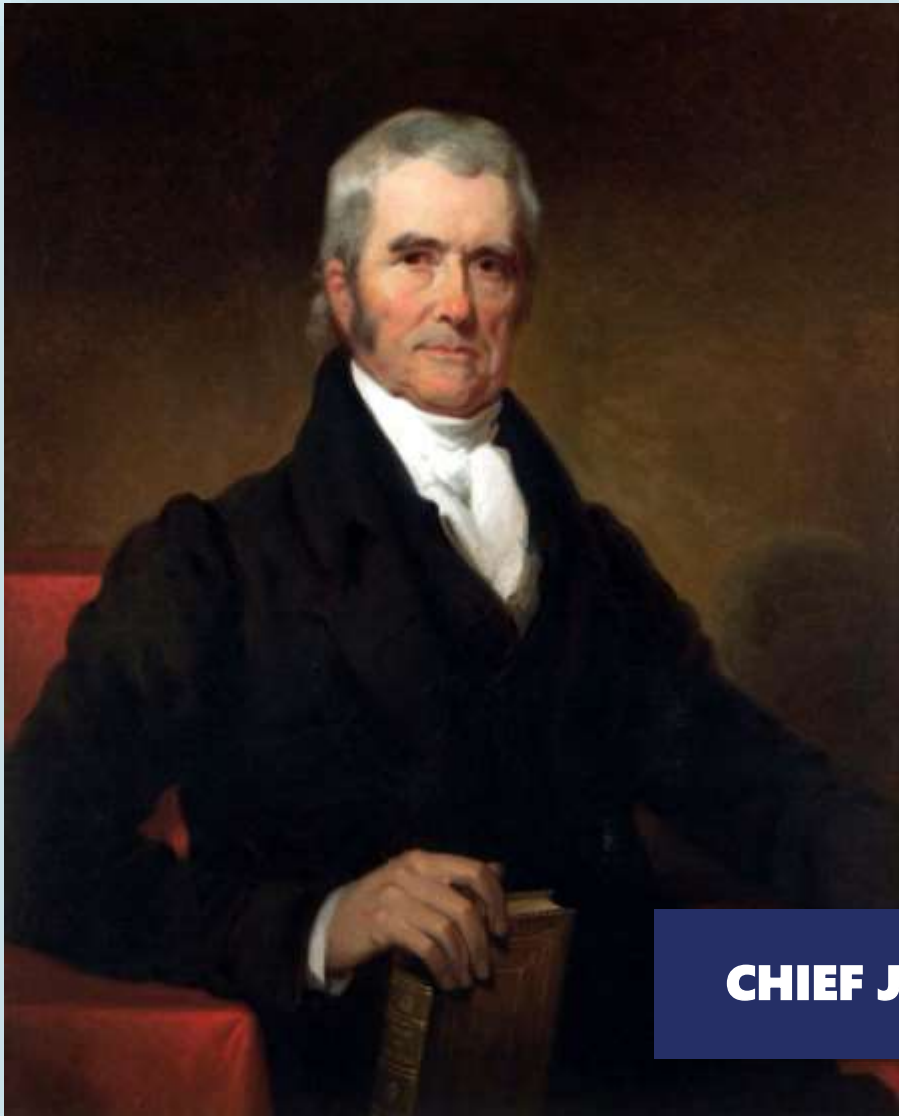


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# MARSHALL COURT



**CHIEF JUSTICE JOHN MARSHALL**

- *McCulloch v. Maryland*
- *Gibbons v. Ogden*

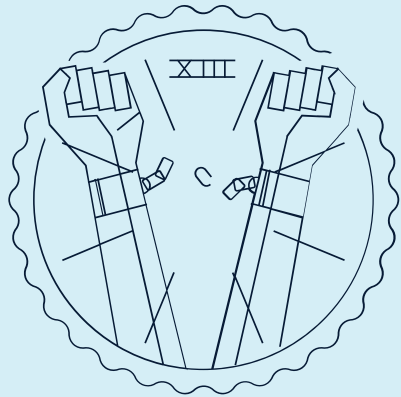


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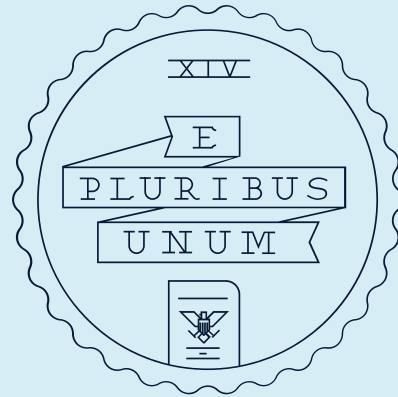
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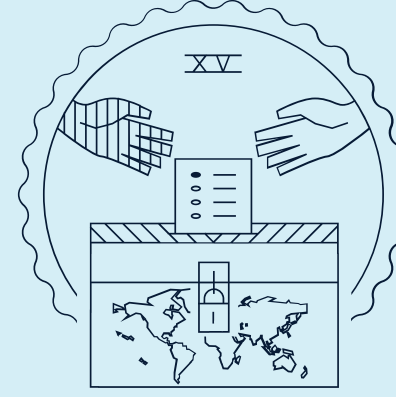
# CIVIL WAR AND RECONSTRUCTION



13TH AMENDMENT



14TH AMENDMENT



15TH AMENDMENT

“The **Congress shall have the power to enforce**, by appropriate legislation, the provisions of this article.”

14th Amendment, Section 5

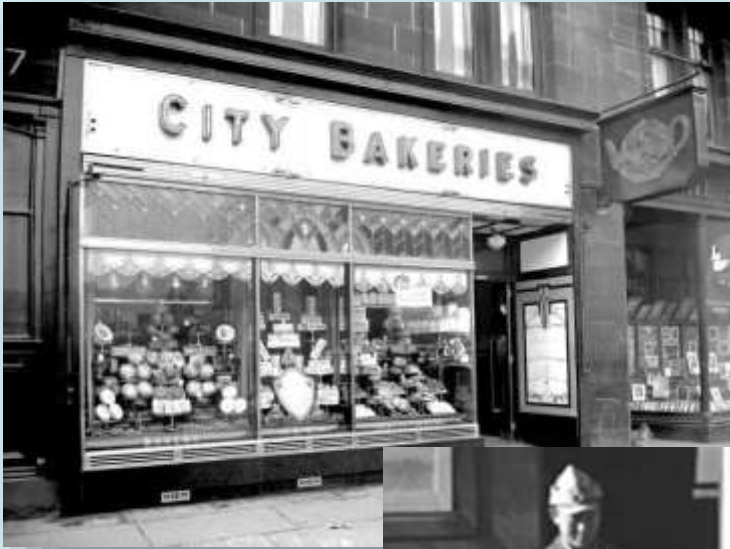


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# LOCHNER ERA



- *Lochner v. New York*
- *Hammer v. Dagenhart*
- *ALA Schechter Poultry Corp. v. United States* (Sick Chickens Case)



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# NEW DEAL ERA



- *National Labor Relations Board v. Jones & Laughlin Steel*
- *United States v. Darby*
- *Wickard v. Filburn*



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# NEW FEDERALISM



**CHIEF JUSTICE  
WILLIAM REHNQUIST**



**CHIEF JUSTICE  
JOHN ROBERTS**

- *Lopez v. United States*  
*United States v. Darby*
- ***NFIB v. Sebelius***



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# HYPOTHETICAL

*Does Congress **have the power** to pass a law requiring everyone to wear a mask during a pandemic?*



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