

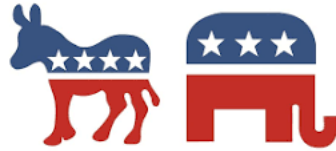
WE, the People of the United States,  
in order to form a more perfect  
Union, establish Justice, insure  
domestic Tranquility, provide for the com-  
mon Defence, promote the General Welfare,  
and secure the Blessings of Liberty to Our-  
selves and our Posterity, do ordain and estab-  
lish this Constitution for the United States of  
America.

**Text used in this class: Transcription from the National Archive, [archives.gov](https://www.archives.gov)**

# John Adams video

# Things We Think Are in the Constitution But Aren't

- Political Parties



- The Supreme Court declaring a law unconstitutional (judicial review)

- The President's Cabinet



# The Constitution is dead! Dead!

-- Supreme Court Justice Antonin Scalia, from *We the People* by Jill Lepore

**Originalism:** the Constitution should be interpreted as it was understood at the time of its adoption.... [It is] the opposite of the “living constitutionalism” theory, which asserts that the Constitution ... can evolve with society

-- Legal Information Institute, Cornell University



As opposed to “we the states” – the phrase establishes a direct relationship between the federal government and its citizens.

## Who is?

- Male
- White
- 21 and over
- Property owners

## Who isn't?

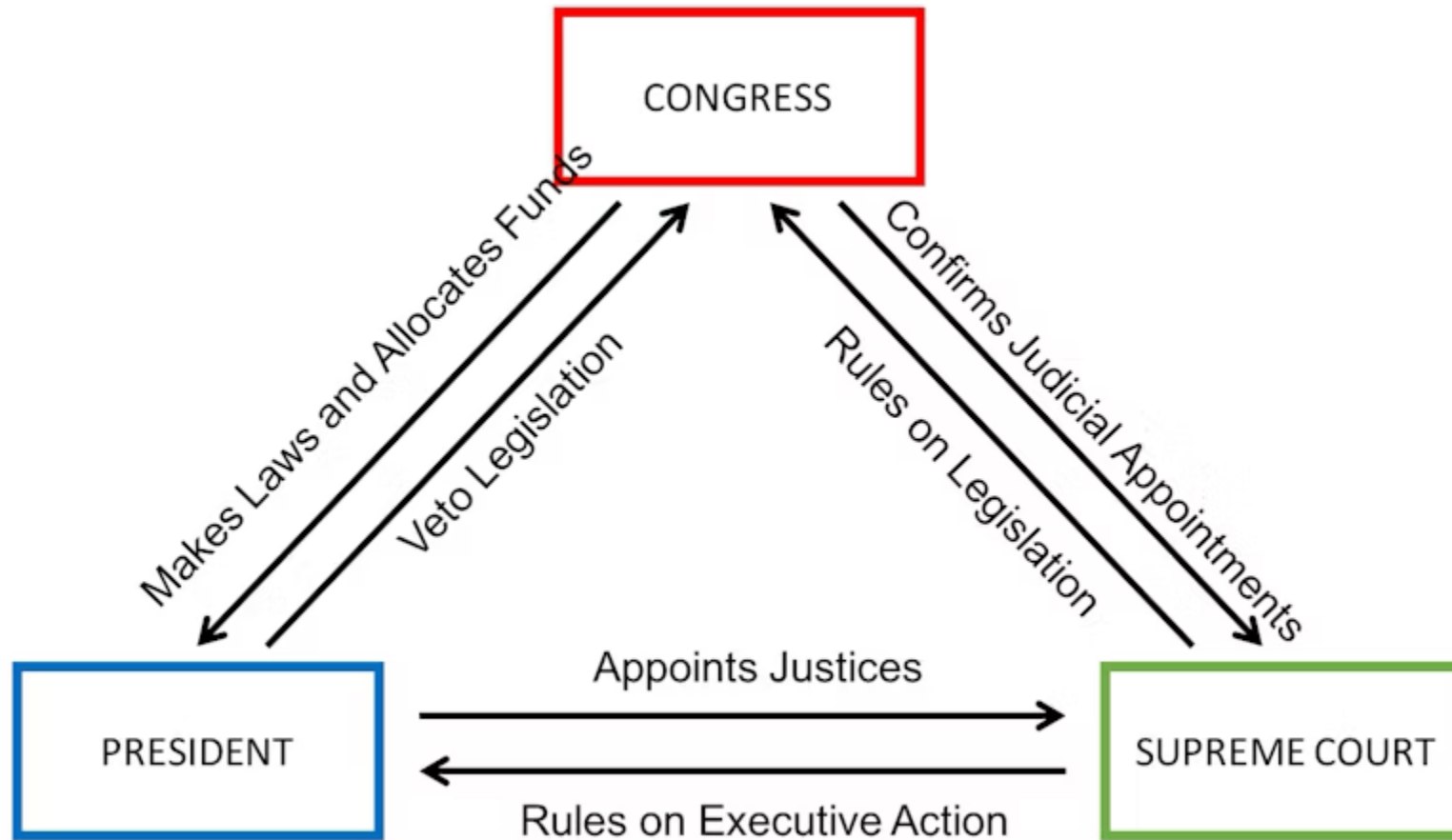
- Poor and working class men of any color
- Native Americans
- Slaves
- Women – were considered their husband's or father's property, like children or slaves

# The Preamble

Outlines the functions of government and the purposes of the Constitution specifically. How specific is the language?

- To form a more perfect union
- Establish justice
- Insure domestic tranquility
- Provide for the common defense
- Promote the general welfare
- Secure the blessings of liberty for ourselves and our posterity

# Checks and balances



3 branches of government each assigned specific tasks and also given ways to stop the other branches from getting too powerful

# Article 1: Congress

## Section. 1.

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

## Section. 2.

The House of Representatives shall be composed of Members chosen every second Year by the People of the several States ... Representatives . . . Shall be apportioned among the several States which may be included within this Union, according to their respective Numbers

## Section. 3.

The Senate of the United States shall be composed of two Senators from each State . . . thereof, for six Years; and each Senator shall have one Vote.

**Translation:** Congress will have two houses, the Senate and House of Representatives, to make laws.

**Section. 2.** Members of the House of Representatives will serve 2 years and are based on their state's population. [How many per state?]

**Section. 3.** There will be 2 senators from each state, regardless of population, serving for a 6-year term

# How a bill becomes law

## Section. 7.

All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it,

If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law

**Translation:** Bills that involve taxes must start in the House of Representatives, since it's the chamber closest to the people. All other bills can begin in either the House or the Senate. To become law, a bill must pass both chambers and be signed by the President. If the President vetoes it, Congress can override the veto with a two-thirds vote in both the House and Senate.

# Now that's perfectly clear, right?

- Bill to law scan

# How does this relate to the shutdown?

- Funding for the government ended at the end of the fiscal year, Sept. 30
- Per the Constitution, all revenue bills have to start in the House of Representatives.
- House passed a bill on Sept. 19, 217 – 212, along party lines
- Senate voted 55-45 on the bill on Sept. 30, but that was not enough to pass.



***Wait, what? A majority vote wasn't enough? Why?***

# The filibuster!

- [https://youtu.be/ild79vAsGpo?si=\\_BnCths\\_0fPYVkEz&t=6121](https://youtu.be/ild79vAsGpo?si=_BnCths_0fPYVkEz&t=6121)

# Filibuster rules . . .

- Senate can't vote on a law during a filibuster. Used to block civil rights legislation in the 1950s and 1960s
- Requires 60 votes for cloture, a separate vote to stop debate
- Since the early 1970s, if 41 or more senators threatens a filibuster, the Senate majority leader can refuse to call a vote – no more Jimmy Stewart scenes
- There have been 2,000 filibusters since 1917 – half of them in the last 12 years
- It has become a given that any proposed law requires 60 votes to pass the Senate

# . . . And impact

- Gives rural states disproportionate power to stop legislation
- 26 states contain only 17% of the population yet have 52 senators combined. The Senate can, and does, block measures supported by the majority of Americans, such as gun safety regulations
- A small minority of the population can, and does, block measures supported by the majority of Americans, such as gun safety regulations
- When Congress becomes paralyzed, it creates a power vacuum that the President may fill, disrupting the balance of powers. For example, President Trump withheld funds from a budget that Congress had approved and he had signed into law.

# Congressional Powers

## Article 1, Section. 8.

- The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare . . .
- To borrow Money on the credit of the United States;
- To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;
- To establish an uniform Rule of Naturalization . . .
- To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;
- To declare War . . .
- To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;
- To provide and maintain a Navy;

# And last but not least . . .

- To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

## . . . The elastic clause

So-called because it allows Congress to

S T R E T C H

its powers. Example: Using its power to regulate interstate commerce to pass the Civil Rights Act of 1964

