Slide 1

Text: America and Arizona Government for Elementary Teachers

Presentation 5: The Constitution

Audio: Welcome to America-Arizona Government for elementary teachers. This is presentation five, The Constitution. In this presentation, we look at the basics of the constitution, the convention as well as the details of the constitutional plan. Now, as we ended in our last presentation, the 13 states had agreed to send delegates to a convention to review the Articles of Confederation which had utterly failed to meet the needs of the colonists as a form of central government. Not all states were agree upon going, they thought it might be a bad idea, didn't know what the meeting would result. And so the backers of this convention chief among them James Madison convinced Benjamin Franklin to attend and convinced George Washington to attend. In once work got out that Franklin and Washington who were two of the most revered personalities at that generation were committed to go the convention. The other states fell in line and agreed to go ahead and send delegates to this meeting that George Washington had agreed to chair. We will examine that convention and a document they produced in detail in this presentation.

Slide 2

Text: Presentation Objectives

AEPA Objectives
- 0005 Understand the history of political thought through the modern era
- 0010 Understand the United States Constitution

AZ Social Studies Standard, Strand 3, Concept 2: Structure of Government

Audio: This presentation will look at objective five of the AEPA test objective to understand the history of political thought through the modern era. And also, objective ten, understanding the United States constitution. We will also look at concept to the structure of government which is under the Arizona's Social Study Standard Strand 3-Civics and Government. You're encouraged to pause the presentation and look at the document of the social study standard articulated by a grade level for Strand 3 Concept 2, and look at some of the objectives that are there for the K thru 8 instruction level. And look at the kinds of things that you will need to know to teach to that strand. And then at the end of this presentation, you can review that document and see how many of those we've covered and gauge how are your understanding of those concepts has improved.
Slide 3

Text: Constitutional Convention

[Picture of delegates to the Constitutional Convention]

Audio: The men who assembled have this convention represented the 13 states. Some of these were large states, some were small states, and there were northern states and southern states. Each state represents any different part of the country with different interests and different concerns. Some of the delegates were men from well-established families, others were immigrants. They were all sent to the convention by their state legislatures. So, in the negotiations that have followed, this delegates were careful to accurately represent their constituents needs. This means that these men did not simply sit down and write a constitution. The constitution is a compromise document. So the result of months of argument and debate and drafts and revisions are what we call the constitution. And when they were finished, nobody felt like they had gotten everything they wanted. They all were deeply disappointed in the document that resulted from it. But, what they had was a document that was politically possible given the political realities of the day. Again, and again, delegates made compromises between what they would like to have in order to get something that was capable of garnering the political support that would be necessary in order to be ratified. They chose again and again to take what was politically possible over an ideal and rather than walk out of the room to maintain an ideal, they stayed in the room and compromised because they knew that without that compromise, there would be no document. And that was their overriding goals, come up with something that could govern the people better than the articles had. That sometimes, when people referred to the founding fathers and the constitution, they speak as if they haven't opened and this pristine document came down with angelic choirs to be delivered to the founders. And the reality was the politics played a huge role. Now, that this does diminish in any way, the genius that the document represents. If anything, it's even more inspiring that what they came up with through that political process has indeed worked so well. Now in this presentation rather than focusing on details like the Virginia plan and the Delaware plan and the great compromise, this presentation is going to focus on the underlying premise behind the constitutional framework that Madison developed. Now, you're invited to review in your text and the online supplemental material. And those documents can go into the details of the various plans and the compromises if you're interested in that. But this presentation, I'd like to look more at the big picture of what it was, these men accomplished at this convention.

Slide 4

Text: Constitutional Convention
• Madison is Father of Constitution
• Virginia Plan

Audio: James Madison is commonly viewed as the Father of the Constitution. The constitute school convention itself was organized by him and his allies. And he worked behind the scenes to ensure that the Virginia plan that he wrote would be the first that would be considered. He knew George Washington, and was able to gain his trust and made an agreement that Washington would recognize the Virginia delegation first when the meeting began. This illustrates an important lesson in politics, in general if we set the constitutional convention aside for a second. And the lesson here is that anytime, there is a meeting or a decision to be made. The person who shows up at that meeting with a written plan within agenda will usually get 90 percent of what they want. Because most people when a written plan has been in front of them say, "Great, we'll go with that." And then, they'll tweak it so they feel like they have some ownership over it. But it's a great lesson for the budding politicians who are listening to this presentation in how to succeed in a political setting. So the convention begins, and Washington indeed recognizes the delegation from Virginia and they make a motion. And the very first motion is to eliminate the Articles of Confederation and start over. And they presented the basic outlines of the Virginia plan. Now, this immediately caused an uproar because most of the states that come to the convention not with the intent of writing a brand new constitution. The legislatures had sent them as delegates to revise the articles of confederation. But again, because of the respect that was given to George Washington, the committee continued to debate despite the preservations of several its members. Now, most of what we know about the convention is due to incredibly detailed notes that Madison kept. And fortunately, for modern scholars in students, those notes are available to anyone on the internet. And so you want to look at those additional resources. Another source to understand what Madison was thinking is the Federalist Papers. And we'll discuss those more in detail later. But it's through these sources that we understand that basic premise to the constitutional design.

Slide 5

Text: The Problem of government

Audio: Now, if you remember from the last presentation, the failures of the Articles of Confederation are what led to the general recognition among the political leads of the Atlantic sea board there with the 13 state, a new convention. They needed a new document. They were willing to go along with this direction that the convention took, after some initial opposition,
because they recognized that having resisted the tyranny of the king, the new country had gone too far in the other direction and had such a weak government that they were sliding towards anarchy. So the question was not really whether or not there should be a stronger government. The question was what form should that government take while avoiding sliding too far at the other direction in reaction to the weaknesses of the articles. It would be easy to create a very powerful central government that was capable of destroying the freedoms and liberties that they have fought in the revolution for. So it's balanced in this two competing threats from too much and too little government that the founders in the Constitutional Convention tried to strike.

**Slide 6**

**Text:** Madison’s Dilemma

- All previous democracies had failed
  - Examples of Greece, Rome, Italian city-states
  - Factions led to tyranny every time

[Image of Greek senate] [Image of Roman ruins]

**Audio:** Now as Madison prepared for this convention and thought about what form this government ought to take, he looked back on history. And what he saw was quite troubling. And what he saw was that, all previous democracies had failed. Democracy had never actually worked. If we looked at Greece with the Greek city states of Athens and others, they all collapsed eventually, and were absorbed into empires. The Republic of Rome had collapsed and had turned into the Empire of Rome. The Italian city states had freedom for a long time but even then, they had all collapsed. And so Madison tried to figure it out why this was so. What was the fundamental problem that led to the failure of democracy in every single instance in history, before that. And as Madison reviewed history, he saw a common factor in all of these failures. And what he concluded was that factions had led to tyranny every time.

**Slide 7**

**Text:** Madison’s Dilemma

- Factions led to tyranny every time
- Factions fought for power and resources
- In economic or military crisis
  - Division led to inept govt. and defeat
    - Division led one faction to sell out
    - Tyrant would rescue the polity, then stay
    - Revolution by fed up masses would lead to tyranny, “The Mob”
Audio: Now by faction, what Madison meant was, a group of people. Technically, they were families or dynasties, clans, guilds, in the Italian city states. But a group of people who have a common cause and are unified in their pursuit for political power. Now in these ancient democracies that these factions, these groups would compete with each other for dominance because it mattered who won. If you're family wins, the control of the Roman senate, then that means that your brother gets the contract to pave the roads and your cousins get to be the general on the next legion. And your family or your guild or again, whatever your group is, is enriched because with power comes resources and the benefit and gain of controlling society. And so these groups would continually battle each other. Now what would typically happen, is that one group would be dominant and would chase the other groups out or just make them subservient. Back in the day, it really mattered if you were out of power that often was a very dangerous position to be in. In the Roman Republic, families typically had going to exile when their faction lost control of the senate because guys with long knives, would find you in the middle of the night if you are not out of town. So these minor factions would suffer when they're not in power. Now what would happen is that, when a crisis would occur, this faction, the factional fighting would undermine the stability of government. There'd be an economic crisis where the currency collapses or maybe there's a drought and there's not enough grain. Or, maybe there's a storm coming that destroys a few of the buildings and there has to be a renewal of infrastructure. Or more commonly, there's a foreign threat. The Persians are coming in, or the Spartans are attacking, or the Germantic tribes are invading. You know there's some threat that is challenging the body politic. And because of the factionalization and the lack of unity in those factions, this crisis would lead to a failure of some kind. And that usually played out in one of four ways. One was, there would be a division where the ruling faction would be unable to effectively marshal the forces of the state to defeat the enemy in the military crisis or meet the needs of the economic crisis. And that inept government that is incapable of action because of the division within it, goes down in defeat, and the democracy ends because they're conquered by the neighboring tribe. Another way this played out is this internal divisions, factionalization would lead one faction to sell out. The barbarians would be at the gate, and the losing faction would send an emissary out at two in the morning. And the enemy would say, hey, I've got a deal for you, if you'll open the gates, tomorrow at three in the morning, we'll come in and we'll wipe out the enemy. You are the faction who's in control and we'll put you guys in charge. That this minor faction that hasn't been able to take political control. And you guys can be the governors while we move on to the next city. And this faction whose been suffering at the hands of the dominant faction would say, hey, deal. And so the next day, three in the morning, they would open the gates and that treachery would enable the enemy to come through and sure enough, they'd wiped out the ruling faction and set up the other faction as the
governors and the democracy is now over. And the city has become a vassal state to some empire or neighboring tribe. Another way, another outcome of this scenario, is the rulers would be inept that factionalization is preventing a resolution of the crisis and it's reaching a fever pitch. And all of the sudden, here comes the guy on the white horse that this is where that metaphor comes from. And he'd come marching in the town and he would say, give me the power and I will save you. The politicians don't know what they're doing, they cannot be trusted, I will rule with a firm hand and I will win the battle and meet the crisis. And that's where the word tyrant comes from. That's not necessarily a negative thing. Tyrant just means the guy on the horse in charge and all power would go to that tyrant. And typically, the factions would give him the power because they realize they are about to lose the war. And the guy on the white horse would charge out, defeat the enemy and comeback. And then say, you know what, I kind of like being in charge. And the democracy is over. And the tyrant maintains power and it turns into typically, a monarchy at that point. A fourth way that these democracy is ended, was the masses who are suffering under the inept rulership of the legislator or senate that is riven by faction and incapable of governing and addressing the crisis, the mob, the group of citizens would rise up and have a revolution and overthrow the elites who were fighting amongst themselves and say that get rid of all of the rulers. And that would then lead to tyranny because typically, a mob has to have a leader of some kind in that mob when all of the powerful people had their houses burned down. The guy in charge, the mob usually sets himself up as the next king. So all of these ancient democracies had failed. Every last one of them in one of these four scenarios. And the core problem in all of them was fictionalization, and the weakness that brought to their governments.

**Slide 8**

**Text:** Madison’s Dilemma

- All previous democracies had failed
  - Examples of Greece, Rome, Italian city-states
  - Factions led to tyranny every time
- Allowing factions will lead to tyranny
- Preventing factions will lead to tyranny

**Audio:** So here is the dilemma that Madison faced as he thought through, how can we create a government that can rule these people here in the Americas? The dilemma is that, given that all previous democracies had failed due to factionalization. If you allow factions to flourish, they'll lead the tyranny. They had every single time throughout history. The dilemma is that, if you take actions that prevent the factions from forming, those would be things like not allowing speech, not allowing assembly, not allowing freedom of association. Maybe limiting the amount of
property that someone has to prevent them from accumulating the power needed to be a dominant faction. If you engage in those behaviors to prevent the rise of factions, those policies themselves will end your democracy. You can't have a free society that prevents factions from forming. By definition, you've ended your freedom because of the threat of faction. So that's the dilemma. If you prevent factions, you have tyranny. If you allow factions, you'll end up with tyranny because of the factionalization that occurs.

**Slide 9**

**Text:** Madison’s Solution

- A large, representative Republic
  - No 1 faction can control all areas
  - “The Mob” is distanced from direct power
  - Wise elites with a stake in stability would be chosen to guide the Republic

**Audio:** Madison's solution to this dilemma was to argue that it was not democracy by itself that leads to the evils of faction. It is the fact that all of these ancient democracies were small democracies. They were city states for the most part. Or in the case of the Roman Republic, they represented a small group of elite families, it was not the entire population of Rome that participated in the senate. As we said, small communities lead to factionalization where one faction fights to be dominant over the others. The other problem is that, they were all direct democracies. Meaning, the people who are in the senate directly represented themselves and their factions. And they voted on everything the society did. So again, who decides which contractor gets to put the new highway in. Well, the people in the room are the contractors themselves making that decision. Where who decides who's going to be the general at the next legion. Well that general is going to be one of the people in the room? They are voting on matters for themselves. It's a direct democracy. So, Madison's solution was to have a large representative democracy rather than a small direct democracy. Because it's large, no one faction could control all the instruments power available to it. And that meant that with no one found faction being able to dominate than the disloyalty and treason or selfishness that factions represented in previous democracies wouldn't take place, because, there wouldn't be just one dominant faction. In the representative aspect meant that rather than everybody going to the senate and voting to enrich themselves, they would send a representative. And so a large group of people would vote to send one person to represent that large group of people. And this meant that the mob as Madison referred to everyday citizens would be distanced from direct power that they would not be able to raid the treasury to buy themselves bread, for example in the Roman Republic. Because they represent it, they'd be distanced from the instruments of power by the representative. And Madison felt that the person that represent to who would be would be one of
the elites in society. And Madison felt that the wise elites in society had a state in the system because they owned a property, because they were from established families. They had a reputation to uphold, and because they had the education to understand the political and economic principles of government. And so, those elites with the stake and the stability of a nation would be the people who are chosen to guide the republic. And so this was Madison's way out of that dilemma. Let's look at some of these reasons in more detail.

**Slide 10**

**Text:** Madison’s Solution

- Small Republic’s prone to Evils of Faction

[diagram of Faction A, Faction B, and Faction C]

**Audio:** Okay, let's look in these example of Madison's problem here, which was that, in smaller republics, they are prone to the evils of faction. Now here you have, a political body that is small and local. And so it's only divided into a few factions. Now in this political grouping faction A, is the dominant faction. Faction B is not quite as powerful, and faction C, is a minor group. Now in this political grouping, A can dominate B and C. But only if it has the help of one of the other groups. Likewise B and C could form an alliance and contest power with A. Maybe, there's an alliance between A and C and B as to compete for C's goodwill to be able to compete with A. This leads to constant intrigue with back room deals and backstabbing and it's not a stable situation. It makes it so that one of these groups can use power to promote it action of its own interests through action. And will likely do all it can to unseat the dominant faction. All right this was the problem that Madison identified.

**Slide 11**

**Text:** Madison’s Solution

- Large Republic has many factions
- No one faction can dominate
- “The Mob” is distanced from direct power
- Wise elites with a stake in stability would be chosen to guide the Republic

[Image of wheel with A-I around Government]

**Audio:** Now if however, the political body is large enough, then there are multiple factions competing for power. You have not just A, B, and C, but you have A through I. And they’re all competing to be able to control or occupy the central seat of power that is government. And so here, if A controls the government, it's going to be temporary. Because G and H are also going to
want to control the government. In fact, all of them A through I are seeking to control government which will prevent anyone faction from dominating the system for any length of time at all. Now, in addition to the size issue, there's a notion of pluralism here that we can now introduce. Pluralism is the idea that the best good in a society will result from the competition between the groups in that society for the outcome. And the function of government in a pluralist society is to act as the neutral referee to ensure that the contest between these groups, these factions is fair. So that is a pluralist society. Now we can contrast that with an elite society which is where one group is dominant. One group tends to win, and one group is able to capture the seats of power. Now that may not necessarily be a bad thing because they're actually competent because they're elite. You know, you perfectly egalitarian way to pick the president would be by lottery. And we could say, all right it's this turn, it's Bob from Peoria’s turn to be president and we're going to take him from his job as a Circle K clerk and put him in the White House. Now that's a perfectly fair way to pick the president but probably not the best way to pick someone whose actually going to lead the country. Now as we'll talk in our later discussion on campaigns, the process that we currently use may not produce a result any better than that lottery. But the point is, that an elitist view is that, people who have the training and background are the ones who end up leading. And that's good for the society as a whole. Everyone benefits from that competent leadership. So that's an elitist view, whereas, a pluralist view is that no one group ever dominates. Now, Madison argued that in a larger republic, that democracy is able to function and avoid the tyranny of factions. I'd like you to pause the presentation at this point and read Federalist No.10 which should be in appendix in the text that you have or available online here. Read Federalist No. 10 to understand the rationale that Madison gives for why a powerful central government, created by the constitution, will not lead to tyranny. And it's because, no one faction will ever dominate that process. So read that and then start the presentation again.

Slide 12

Text: Madison’s Solution

Separation of Power

- No 1 faction can control all areas
- Central gov’t can be strong, but ineffective

Audio: The other solution that Madison advocated was to take power and divide it. And this would make it harder for anyone faction to control all of the instruments of power which may lead to tyranny. Now, to do this, to divide power up, Madison advocated a bicameral legislature. Now bicameral means two houses. And what that means is, that there are, of the legislature is divided into two separate bodies. And both bodies need to pass the same law in order for it to take effect, in order for it to become law. This makes it difficult for one faction to do something
because they have to control two bodies of power, not just one. It also slows government down a lot, that it's difficult to make things happen quickly particularly, if there's no consensus on what needs to happen. And so, this again, protects the republic from tyranny. It protects it from the tyranny of faction controlling one house. And also protects it from the tyranny of the mob when people demand action immediately, revolutionary change. It doesn't usually happen in a legislature that's divided into two bodies. Now, what I'd like you to do now is pause the presentation and read Federalist No. 51 and this will be the last Federalist Paper that you need to read in its entirety. Again, there should be a copy of it in the appendix to your text or through an online resource. Read No. 51 and then restart the presentation.

Slide 13

Text: Checks and Balances

[Graph of 3 branches of government]

Audio: A final limitation on power that Madison and the others at the convention of that matter certainly drew upon was the British tradition of checks and balances. By splitting the government's power into three branches, the legislature, the executive and the judiciary. It again makes it difficult for any one faction to control the entirety of government and thereby lead to tyranny. So let's explore this idea in a little more detail. By checks, what is meant is that, each branch has a way to limit the freedom of movement by the other branch in some way. Or another way to think of that is each branch has a way to reign in the other branch if it gets out of control. So let's say the congress just goes crazy. They're listening to the mob whose demand in action. While the executive branch has a veto power. And so, they can say no, you're being crazy. Or the judicial branch has the power of interpretation of what the statutes means. And also the power to declare actions by the congress unconstitutional through judicial review and we'll talk about that in more detail when we talk about the courts. On the other hand, let say we have a president who is just crazy, well, the legislature has the ability to override presidential vetoes if the president is vetoing the good policies that congress is doing. Congress has the power of the purse which means they can just zero out the budget of the parts of the executive branch that the president is abusing. And they have the power to confirm appointments so as the president who is crazy tries to put all of his crazy little friends in charge of the government. Congress can say, no, we're not going to go along with that. Or the judicial branch can declare the actions of the executive to be unconstitutional as well. Then finally, if the judiciary branch goes crazy, then there are fewer checks on the judicial branch because the assumption was that these people are they at least prone to being crazy because they're not directly elected. But the president is one who decides who these people are through appointments. And the legislature is the one who confirms his appointments. And the legislature branch has the ability to impeach judges. So, again, if they're
going crazy, take and impeach them. So, each of the three branches has checks, meaning, mechanisms to stop action or reverse action that is been taken by the other branch. Now the balance's portion of this is that power is divided among the three. Now, the judicial branch has the least amount of power because they're in a reactive situation. They can't make up their mind to go change the country. They have to wait for cases to come to them to rule upon. But, once a case gets in their court, they're quite powerful, because they can make statements that are binding on those who are in the court. So, they have their own power. And the executive branch is also quite powerful. And when we--in a later presentation, we'll discussed the powers of the executive branch. But the founders felt that the judicial--sorry, the legislature branch was going to be the most powerful branch which is why it was divided into two different parts. And so each of these branches has their own independent power based and their own measure of power. And nothing can be accomplished unless all three branches are on board. They all have to agree and go along with something in order for it to happen. And so, power is balanced between the three branches. In addition to having checks between them and among them. Now, one analogy in all of these to help understand the design and what Madison had in mind here, that was said to me and it made a lot of sense at that time is that our government is like having three dogs chained to the same leash. Or there really is probably four dogs because the legislature branch has two branches. Well let's keep it simple, let's think of the legislative branches. One dog, now if you're walking on--if you go on a walk with three dogs and all three dogs are moving in one direction, what happens to you? Particularly if they're large dogs. Where you get dragged along with those dogs in the direction they're going. But, on the other hand, if those three dogs are going in opposite directions, one, maybe one of them is not moving at all and the other two are going in different directions, what happens to you? Well you go nowhere, in fact, you probably get tide up in the leashed of these dogs. And that's an apt description of our government. That when all three branches of government agree, we have very powerful and effective government. But, when those three branches are in disagreement, our government goes nowhere. The word we have for that is gridlock, we're stuck, we can't move. Example would be after the September 11 attacks when the plane hit the Pentagon. That wing of the Pentagon had just recently been renovated and it had taken years and it gone over budget. And they had just finished it and they hadn't moved people in it which is why the lost in life was so low when that plane hit. And the president said, we want, as a symbol of resolve, we want to rebuild this wing in one year's time. So, we can immediately, be back up and running and show the world that this will not stop us. Well it took a decade, to renovate that wing and the president wanted it rebuilt in one year. And so what he did was, he asked congress for funding and congress gave on an empty check basically. He then used an executive order, created state of emergency which exempted that project from all of the normal rules and regulations that have to be followed when the government does something. So, if the contractor in charge needed a hammer, they could just go to laws or home depot and by a hammer and not have to go through the normal procurement process to get a hammer. He created
a construction Czar, you know, a guy who is in charge of building it and he got whatever he wanted. Now, all the rules that were being violated were ignored by the judicial branch who gave a pass to the president for violating all those rules through that emergency declaration. And as consequence, indeed, the Pentagon was rebuilt in one year. Our government can act very quickly indecisively if all three branches are in agreement. And we need only look at the normal day to day affairs to see the opposites, that when out branches are not in agreement, it takes forever to get things done. And an often remark when people will, are saying how frustrated they are that nothing is happening with congress, you know, I could say well, Madison is smiling in his grave, cause the system was designed to be inefficient. And the reason was, it was a protection against tyranny.

**Slide 14**

**Text:** Convention Debate

- Debate at the Convention was heated
  - Constitution was a negotiated document
  - Large v. Small
  - North v. South

Now what the founders came out with after a summer of debate was a form of government that would manage the affairs of a large representative republic will have a very strong central government that shares power with the states. And then within the central government, power is divided among three branches, and the most powerful branch, the legislature is further divided into two houses. Now, the founders, in particular Madison, felt that this structure would enable the American experiment in democracy to flourish. Now recall prior to the American experiment, no democracy had ever survived. And so, the question that the founders faced is how can we create this government that is strong and free at the same time? Now as pointed out earlier, the debate between the various factions at the convention was quite heated, the large states, and the small states and the northern states and the southern states, all fought to protect their interests. The document, they came up with was a work of genius because it created a sustainable structure while meeting the demands of all of these interests. And it was not a perfect document in particularly from our modern prospective and that compromises that surrounded slavery are seen as particularly odious to our modern viewpoint. But the thing to remember is that, the constitution enabled representative government to exist and to flourish. And set--created a set of principles that government had to function by. And as that government functioned over time, the rights and freedoms that we know accept as normal were able to become widespread.
Slide 15

Text: Amending and Ratification

Amendment Process

[Diagram of amendment process]

**Audio:** Now, recall that the delegates to the convention had been told by their constituent, legislatures to modify the Articles of Confederation. That's was the premise by which they all got into that room in the first place. And so, the constitution provided for its own ratification using the same super majority rules that the Articles of Confederation had. These will—in essence meant that the constitution was an amendment to the articles because it followed the same rules of voting that the articles had. It's just the amendment, was what in Arizona, we call a strike call amendment, and it started over. So, that meant that nine of the 13 states had to ratify their constitution before it would take effect. Now, that same super majority requirement is still there for amendments to the constitution. If we look for how amendments can be made, there is two different ways that amendments can be proposed, one is that, both houses of congress have to pass by a two third super majority, a constitutional amendment. And when that occurs, it goes to the states for ratification. There is another method which is, if two thirds of the states vote to have another constitutional convention, then that convention can generate amendments for the constitution. That has not happened throughout the history of the republic. There was an effort to do that occasionally in now and then. The most recent was in the late 1980s, there was a states rights movement that wanted to call a new convention to rewrite parts of the constitution and reassert the power of the states relative to the federal government. That move never really got that far off the ground, no, because most observers are very nervous about doing that because, look at what happened in the last time. We sent the group of people to consider an amendment to the government, right. They threw it in the trash can and came up with a whole new constitution. And so, most observers don't particularly want to go there again. So, that never happened of, been unable to get two thirds of the states to agree to a new a convention. So, all current amendments to the constitution have come through congress. Now there's two ways of ratifying it, once it gets to the states. One is that, three quarters of the state legislatures ratify it. Which again is that the same super majority that the Articles of Confederation had. And that's how all but one of the amendments to the constitution have been passed. There is another route to ratification. And that is if three quarters of the states convene a convention and the sole purpose of that convention is not to generate new amendments, it is simply to ratify the proposed amendment that is before them. And that has only been used once. And that was the amendment to repeal prohibition. And that's basically because of politics of prohibition. There was quite a bit of movement nationally to repeal prohibition. However, there was still a very strong movement
in the states, the local governments to maintain prohibition. And so, the national legislature passed the amendment to repeal prohibition, but realized it would be politically impossible for the state legislatures to ratify that amendment. And so, what the state of legislatures did was they instead authorized delegates to a convention to ratify it. And they sent people who had no political future to that convention. So that those people could vote to repeal prohibition and not have to face the wrath of the voters as the members of the legislatures would've had to. So, the domestic politics of the day explained why that was used. But every other amendment has been ratified by the state of legislatures. Now, going back to the ratification of the constitution. When the constitution was announced, it was met with considerable apprehension. The ratification debates took place on a state by state level at each state legislature. Those who were in favor of the constitution call themselves federalist after the federal nature of the government that was set up by the constitution. And we'll talk more about that federal structure in our next presentation. Those opposed to the new constitution were called the anti-federalists. Now Madison and his friend John Jay, wrote several articles to influence the New York ratification debate. And those articles were compiled together afterwards into a document call the Federalist Papers. And the Federalist Papers are available online. And I'd encourage you to look through those because they explained the rationale for why our government is designed the way that it is.

**Slide 16**

**Text:** Amending and Ratification

- Ratification debate was heated
- Federalists v. Anti-Federalists

[Image of convention delegates in debate] [Line graph with “Anarchy on the left, “Totalitarianism” on the right]

**Audio:** Now, the debate for ratification was closed. We, with our perspective of having lived on the constitution for a couple a hundred years, have a hard time understanding why there was a debate at all. Because we think the constitutions is pretty good thing. But the people at the time were deeply divided over this question of whether or not to create a federal government. Patrick Henry was a particularly vocal opponent to the constitution. If you recall, he is the one who rallied the colonist to unite together in common cause in the first continental congress with the cry of, give me liberty, or give me death. When the ratification debates, he famously said, that he would rather return to live under the king than live under the tyranny that would come from the federal government. The anti-federalist were concerned that a strong central government would take away their rights and freedoms. They worried that because of the reaction to the--Articles of Confederation as being too far down the continuum towards anarchy, that Madison and his fellows in the constitutional convention had slid too far in the other direction, in reaction that.
And that this new government that would be created by the constitution would lead tyranny. And now recognizing how powerful that argument was and the difficulty of winning that debate. The federalist agreed that if the constitution was amended, they would immediately amend that constitution after it was adopted to include a Bill of Rights. To protect citizens from government encroachment.

**Slide 17**

**Text:** Bill of Rights

- Bill of Rights was key to persuade uncertain delegates

[Photo of protesters] [Photo of man selling guns] [Photo of journalists filming an event]

**Audio:** Now the federalist originally argue that no Bill of Rights was necessary because there are so many checks and balances within the system, the central government would not behave of, till you serve the rights of the citizens. Now with the view of hindsight, we can look back on that argument and see that it was fairly naive that through our history, government has continually tried to expand its power and limit the freedom of its citizens. And so the Bill of Rights has become a central document to the freedoms that we enjoy and the constitutional foundations that all of our other law has based upon. There were originally 12 amendments offered as part of the Bill of Rights. But only 10 of them were ratified by the states. And so those are the 10, first 10 amendments are the Bill of Rights. And they do things such as freedom of speech, right to assembly, the freedom to bear arms, the freedom to have due process, the freedom from torture. And then finally, with the 10th amendment, the reservation of powers to the states. So, it's a fairly comprehensive package of rights that were granted or recognized. Because remember, the founders are operating under the enlightenment thought of John Locke that these rights that are in shrine in the Bill of Rights are not given by the governments. Rather, the Bill of Rights, prevents the government from taking them away from us. They're ours because were human, we're breathing. And so they are natural rights that are unalienable. And the Bill of Rights prevents the government from encroaching upon them. Rather than granting rights in some legal sense of it.

**Slide 18**

**Text:** Conclusion

[Picture of Delaware Ratification Bill] [Map of majorities of Federalists and Anti-Federalists]

**Audio:** Now, with the promise of a Bill of Rights on the side of the federalists ratification became politically possible in many of the patriots who had opposed the constitution out of the fear of the budding tyranny emerging from this new federal government withdrew their
opposition with the assurance that this Bill of Rights would protect them from such tyranny. Now the map that the slide shows on the right, it shows the majorities for the federalist and the anti-federalist in the different parts of the country. And again, it was a heat of debate and it was closed. In some states, the anti-federalist won and they turn down the constitution. In other states, the federalists won. And in yet, another group of states, the debate was so closed that the vote was put off until one side of the other could prevail. There's one story told of a state legislature that was quite close and it was the outcome of which was answered. And so what the federalist delegates did was they hired a bunch of ruffians to block the doors of the hotel were the anti-federalist were staying. And then that morning, convened the legislature, had enough people there to established a quorum and voted for passage of the constitution before the anti-federalists could break out of their hotel to make it to the legislature to cast their “no” vote. So, there might have been some shenanigans involved with the ratification but nevertheless, as they say by hook or crook, the constitution was indeed ratified. Once the 9th state voted to adopt in July of 1788, the constitution became in effect. Now the next legislature will give a much closer look at the federal structure of the government.

**Slide 19**

**Text:** This Presentation

This presentation is courtesy of Brian Dille, Professor of Political Science at Mesa Community College

**Audio:** This presentation is courtesy of Brian Dille. I'm the speaker and I'm the professor of political science at Mesa Community College, a college of the Maricopa Community College District in Mesa, Arizona. I hope you've enjoyed this presentation.