

## DEMOCRACY AND THE CONSTITUTION (SUMMARY)

Some “pro-democratic” elements of the original constitution:

- the Constitution did not create a *mixed regime*\*; all federal offices were directly or indirectly elected (though often quite indirectly);
- no property qualifications for holding federal office were imposed and religious tests were specifically excluded (both in contrast to many state constitutions of the time);
- federal officials were to be paid salaries (allowing people without personal wealth to hold office) by the U.S. government; and
- federal suffrage (for electing the House of Representatives) could be no more restrictive than the broadest state suffrage.

Many important elements of the constitution were *permissive*, i.e., it was left up to the states as to how “democratic” certain practices would be (or would become):

- suffrage in federal elections left up to states (subject to the proviso noted above); and
- whether Presidential electors would be popularly elected was left up to state legislatures.

Critics of the constitution have often pointed to such allegedly “anti-democratic” provisions of the original constitution as the following:

- indirect election of Senators and the President;
- equal representation of the states in the Senate (and exceptionally long terms for Senators);
- a bicameral Congress, separation of powers, separate and staggered elections, Presidential veto, some supra-majority requirements (for veto overrides, treaties, and constitutional amendments), and the general structure of “checks and balances”;
- the limited powers of the federal government and various protections for private property;
- judicial review (though this power was not explicit in the Constitution) by unelected federal judges;
- the difficulty of amending the constitution; and
- and of course, the accommodation of slavery (though it was expected — or at least hoped — that this accommodation would be only temporary).

The effect many of these provisions is that a (perhaps transitory) *national majority* cannot gain *complete* control of all decision making units of government *immediately* as a result of the next election. This was certainly intended by the framers, as a check on “majority [factional] tyranny.” (Such a system contrasts with the kind of parliamentary regime that many decades later developed in Britain and elsewhere.) And, although Beard and other critics of the constitution often sympathize with the “popular” or “democratic” Antifederalists, many (though not all) of these provisions were concessions to Antifederalists, who strongly supported localism and limited government.

\*A *mixed regime* is a “mixed” form of government that combines “popular,” “aristocratic,” and “monarchical” elements and that was exemplified by the British form of government at the time (with its House of Commons, House of Lords, and Monarch). Some Americans (e.g., John Adams) initially looked with a degree of favor on the mixed regime form of government.