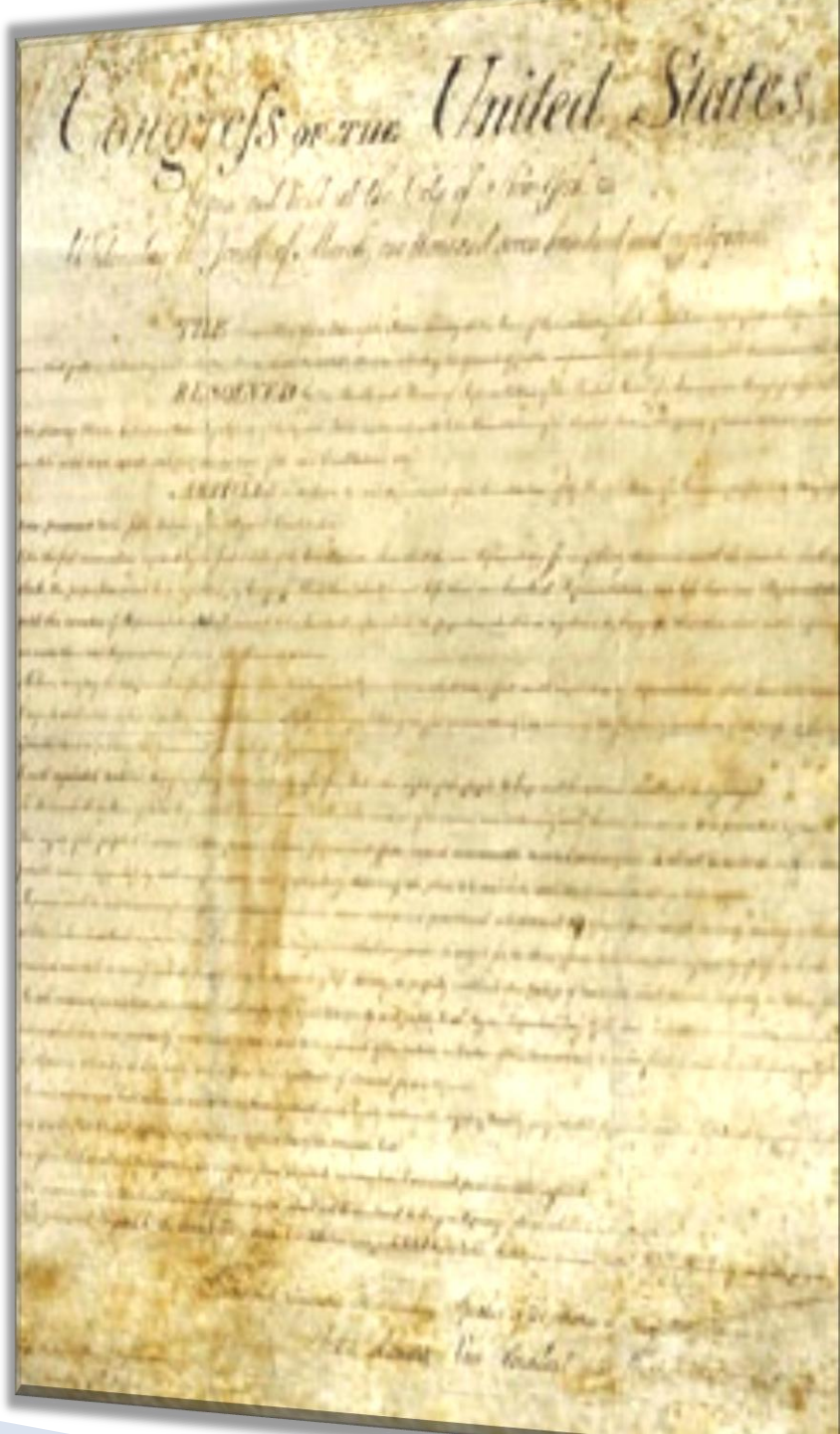
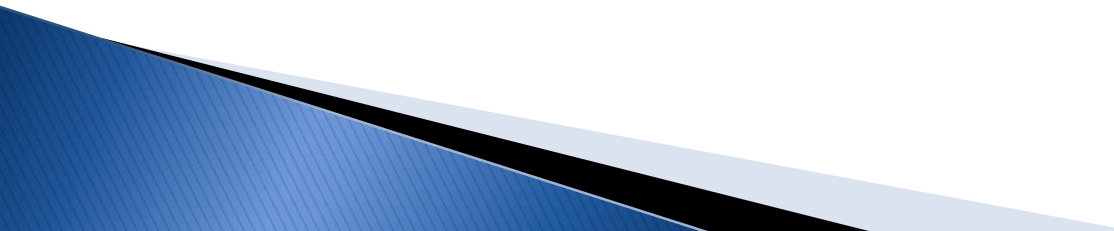


Lesson 15:
*How Have
Amendments
and Judicial
Review Changed
the
Constitution?*



Purpose

- ▶ This lesson describes the process devised for amending the Constitution and its first application, the Bill of Rights.
 - ▶ It also explains judicial review, and the arguments for and against this judicial power.
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Objectives

- ▶ *Describe the two ways in which the Constitution can be amended.*
- ▶ *Identify major categories of constitutional amendments.*
- ▶ *Explain why Madison introduced the Bill of Rights.*
- ▶ *Evaluate, take, and defend positions on the amendment process and judicial review.*

Terms to Know

▶ **Amendment**

- A change in or addition to a legal document.

▶ **Judicial Review**

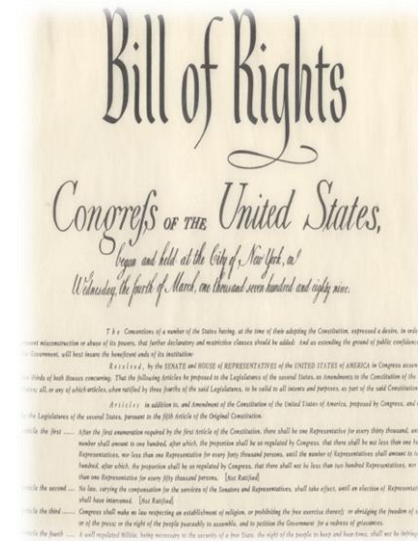
- The power of the courts to declare laws and actions of the local and state governments or the national government invalid if they are found to contradict the U.S. Constitution.

How and Why the Framers Devised an Amendment Process

- ▶ Founders recognized that society & conditions would change over time.
- ▶ The Constitution is difficult to amend
 - 2/3 of Congress to Propose, 3/4 of States to Amend
- ▶ Over 10,000 have been introduced to Congress
- ▶ Only 33 were officially proposed
- ▶ Of 33, only 27 ratified

Types of Amendments

- ▶ Bill of Rights (1791)
 - First 10 Amendments protect basic rights and liberties
- ▶ Fundamental Changes
 - 13th & 14th resulted from Civil War and resolved issues not settled at Constitutional Convention
 - Outlawed slavery
 - defined citizenship
 - imposed equal protection and due process requirements on states
 - gave Congress more enforcement power



▶ Expansion of Suffrage

- 15th, 19th, 24th, and 26th prohibit states from denying voting rights based on race, gender, age of persons of 18 or older, or failure to pay poll taxes



▶ Overturning Supreme Court Decisions

- 11th overturned improper expansion of federal court power
- 16th overturned decision that prevented Congress from passing an income tax



▶ Refinements

- 12th requires electors to make separate choices for president and vice president
- 20th shortened length of time between elections and when officials take office.
- 22nd limits president to 2 terms
- 25th addresses presidential succession



▶ Morality

- 18th outlawed manufacture, sale, and transport of alcohol (Prohibition)
- 21st repeals the 18th



Why a Bill of Rights was Proposed

- ▶ Many states and prominent figures argued for specific protections and listed rights
- ▶ Madison followed through on his promise to immediately add amendments (bill of rights) in first session of Congress



The Development of Judicial Review

- ▶ Marbury v. Madison (1803)
 - Chief Justice John Marshall concludes that judges have the power to decide whether acts of Congress, the executive branch, state laws, and even State Constitutions violate the US Constitution
 - Supreme Court justices have the final say about the meaning of the Constitution
 - This power to declare what the Constitution means and whether government actions violate the Constitution is known as JUDICIAL REVIEW



Controversy Over Judicial Review

- ▶ No mention of judicial review in Constitution
- ▶ However, founders assumed this power would be developed (Practice has roots in English Law)
- ▶ Marshall asserted that it is the “duty of the judicial department to say what law is.”



Premises of Judicial Review

1. The Constitution is a superior, paramount law that cannot be changed by ordinary means.
 2. Acts of Congress, the Executive, and the States reflect temporary, fleeting views of what law is.
 3. Acts of Congress, the Executive, and the States that conflict with the Constitution are not entitled to enforcement and must be disregarded.
 4. Judges are in the best position to declare what the Constitution means.
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