**1.2 Foundations and Constitution**

**SSCG3: Demonstrate the knowledge of the framing and structure of the United States Constitution.**

The **Articles of Confederation** were approved on November 15, 1777 and became the first government of the new United States. There were various weaknesses in the Articles of Confederation; however, they did establish a more permanent government structure for the Unites States after declaring independence. The Articles were drafted by the Second Continental Congress. Under the Articles, each state maintained individual sovereignty and came together for issues related to common defense and protection of civil liberties. In order for the Articles of Confederation to be ratified, or formally approved, all thirteen of the states had to agree to the document. Eleven states ratified the Articles immediately. Delaware approved the Articles in February of 1779, and Maryland finally approved the Articles on May 1, 1781. Although it was a good starting point, there were many weaknesses.

The Articles of Confederation set up a simple government structure. Congress was the only body created and the members of Congress were chosen annually by the States; it was a **unicameral** government. Each state had one vote, regardless of population. The Articles did not create an executive branch or a judicial branch. Each year Congress chose a presiding officer, or chairman, from among the members. Congress did not have the power to tax and had to rely on asking the states to borrow funds. In addition, Congress did not have the power to regulate trade between the States, and could not make the States obey the Articles of Confederation. Any changes, or amendments, to the Articles required the approval of all thirteen states, and that proved to be an impossible task.

**Document 1**

“Almost immediately after the Confederation was created, many Americans, including [James] Madison, came to see that it was much too weak to do what they wanted. By the 1780s the problems were severe and conspicuous [obvious]. The Congress could not tax and pay its bills. It could not feed, clothe, or supply the army. It could not levy tariffs to regulate trade or to retaliate against the mercantilist European empires. It was even having trouble gathering a quorum to conduct business. Attempts to revise the Articles and grant the Congress the power to levy a 5 percent impost [tax] on imported European goods were thwarted by the need to get the unanimous consent of all thirteen states. Internationally the United States were being humiliated. In the Mediterranean the Barbary pirates were seizing American ships and selling their sailors into slavery, and the Confederation was powerless to do anything. It was unable even to guarantee the territorial integrity of the new nation. Great Britain continued to hold posts in the northwestern parts of United States territory in defiance of the peace treaty of 1783. In the southwest Spain was claiming territory that included much of present-day Alabama and Mississippi and plotting with American dissidents to break away from the Union.…”

~Gordon S. Wood, Revolutionary Characters: What Made the Founders Different, Penguin Press, 2006

**SSCG3a: Analyze debates during the drafting of the Constitution, including the Three-Fifths Compromise, the Great Compromise, and the Commerce Clause.**

Because of the problems with the Articles it was soon obvious that a new system would be needed. The tipping point was a small revolt by angry farmers in Massachusetts called Shays’ Rebellion. Representatives from twelve of the thirteen states (Rhode Island was the only state that did not send representatives) met in Philadelphia on May 25, 1787, in the Philadelphia Independence Hall for what was to be known as the **Philadelphia Convention**. Over the hot summer, the delegates met in secret, guarded by soldiers, with windows closed to discourage eavesdroppers. There were 55 delegates in attendance. This group of delegates became known as the **Framers** of the United States Constitution. **George Washington** was unanimously selected as the president of the convention. The framer’s final meeting of the Philadelphia Convention was September 17, 1787.

However, there were many factions (groups) that disagreed on a variety of issues. To finalize the constitution, a number of import compromises had to be struck for the final document to reach completion. The first one was the **Great Compromise,** and is also known as the Connecticut Compromise. There was much debate and conflict over representation in Congress; the larger states wanted representation based on population, while the smaller states wanted equal representation, regardless of population. The delegates of Connecticut developed a plan that would create two houses in Congress: the Senate and the House of Representatives. In the Senate, states would be represented equally. In the House, the representation for each state would be based on population.

Another significant agreement was the **Three-Fifths Compromise** which resulted from a debate over representation in the House of Representatives. The southern states wanted slaves to be counted in the population, therefore giving those states more representatives in the House. The northern states took the opposing view and did not want slaves counted. The Framers agreed to the Three-Fifths Compromise, which provided that all “free persons” should be counted as well as “three-fifths of all other persons”. In addition, this same formula would be used to determine the amount of direct taxes to be levied by Congress.

The Commerce Clauseestablished that the power to regulate foreign and interstate (between states) commerce would be a Congressional power. It is in Article I, Section 8, and Clause 3 of the Constitution. The **Commerce Compromise** set the foundation for the Commerce Clause. The southern states were fearful that Congress would be controlled by northern commercial interests, and that those interests would act against the interest of the agricultural southern states. Southern tobacco was the major American export at the time. The southerners feared that high export duties would be levied on the tobacco, and they were afraid that Congress would try to interfere with the slave trade. Under the **Commerce Compromise,** Congress was forbidden the power to tax the export of goods from any state, and Congress would not be able to interfere with the slave trade for a period of at least twenty years.

**SSCG3b: Analyze how the Constitution addresses the weaknesses of the Articles of Confederation.**

The United States Constitution addressed the weaknesses of the Articles of Confederation. The Congress was established as **bicameral** (two houses) with the Senate and the House of Representatives. Three branches of government were created: legislative, executive, and judicial. Instead of a presiding officer, the executive branch established a President. Congress was given the power to tax and regulate commerce. The Constitution established those rights specifically given to the national government and outlined rights given to the States. Finally, a formal process to amend the Constitution was incorporated into the document.

**SSCG3c: Explain the fundamental principles of the United States Constitution, including limited government, the rule of law, federalism, separation of powers, checks and balances, and popular sovereignty.**

\*The principle of **limited government** states that no government is all-powerful and can only do those things that the people have given it power to do. The people are the sole source of the government’s power and authority. The government is not above the law.

\***Popular sovereignty** means that the people are sovereign and have all of the political power. The government only governs with the consent of the people.

**\*Rule of law** holds that a government and its’ officers are subject to the law and not above the law.

**\*Federalism** is a method of distributing power where power is divided among the national, or central, government, and regional governments, such as states and cities. The national government has certain powers that states do not have, such as national defense, the power to coin money, and the power to regulate trade. Other powers belong solely to the states, while other powers are shared.

**\*Separation of powers** is a concept in which each of the three branches of government have separate powers and responsibilities. The powers assigned to each branch are outlined in the Constitution in Article I (legislative), Article II (executive), and Article III (judicial). The branches are considered separate but equal and have a complex system of **checks and balances**. Each branch has certain ‘checks’ on other branches that ensure the powers are not abused.

**SSCG3d: Explain the key ideas in the debate over ratification made by the Federalists and the Anti-Federalists.**

Two groups emerged in the debate around the Constitution – the Federalists and the Anti-Federalists. The **Federalists** favored ratification of the Constitution, and the **Anti-Federalists** opposed the ratification. The leaders of the Federalists were: Alexander Hamilton, James Madison, and John Jay. They focused on the weaknesses of the Articles of Confederation and supported ratification of the Constitution. They wrote and published a compilation of 85 essays and articles entitled ***The Federalist Papers***under the pseudonym Publius. The Federalists wanted a strong national government; they feared that too much power to the states would lead to a fractured nation with each state operating like a separate nation.

The Anti-Federalists were led by: Thomas Jefferson, Samuel Adams, John Hancock, Richard Henry Lee, and Patrick Henry. Their objections were many: too much power given to the central government and not enough powers to the states, no provisions to protect civil liberties, and the power to print money given to the national government and not the states.

**Document 2**

But whatever may be our situation, whether firmly united under one national government, or split into a number of confederacies, certain it is, that foreign nations will know and view it exactly as it is; and they will act toward us accordingly. If they see that our national government is efficient and well administered, our trade prudently regulated, our militia properly organized and disciplined, our resources and finances discreetly managed, our credit re-established, our people free, contented, and united, they will be much more disposed to cultivate our friendship than provoke our resentment. If, on the other hand, they find us either destitute of [lacking] an effectual government (each State doing right or wrong, as to its rulers may seem convenient), or split into three or four independent and probably discordant [quarreling] republics or confederacies, one inclining to Britain, another to France, and a third to Spain, and perhaps played off against each other by the three, what a poor, pitiful figure will America make in their eyes! How liable would she become not only to their contempt but to their outrage, and how soon would dear-bought experience proclaim that when a people or family so divide, it never fails to be against themselves.

~ John Jay, The Federalist, Number 4, November 7, 1787

**Document 3**

There is no declaration of rights; and the laws of the general government being paramount [superior] to the laws and constitutions of the several states, the declarations of rights in the separate states are no security. Nor are the people secured even in the enjoyment of the benefits of the common law, which stands here upon no other foundation than its having been adopted by the respective acts forming the constitutions of the several states.…

There is no declaration of any kind for preserving the liberty of the press, the trial by jury in civil cases, nor against the danger of standing armies in time of peace.…

~ George Mason, “Objections to the Constitution,” October 7, 1787

**SSCG4: Demonstrate knowledge of the organization and powers of the national government.**

**SSCG4a: Describe the structure, powers, and limitations of the legislative, executive, and judicial branches, as described in the Constitution.**

The **legislative** branch was established by Article I of the United States Constitution and includes the House of Representatives and the Senate, which are collectively known as the United States Congress. The House of Representatives membership is based on state population and has a total of 435 representatives, while the Senate is comprised of 100 total members – two from each of the 50 states. The Constitution grants Congress the sole power to declare war, enact legislation, and approve or reject many Presidential appointments. Part of Congress’ legislative authority includes the establishment of the annual budget for the United States’ government. Congress levies taxes and tariffs and has the power to borrow money on behalf of the U.S. government. All members of the legislative branch are selected by the people.

The power of the **executive** branch is vested in the President of the United States according to Article II of the Constitution. The President is the country’s Commander-in-Chief of the armed forces. The responsibilities of the executive branch include: implementing and enforcing the laws passed by Congress, appointing the heads of federal agencies, nominating the members of the Cabinet, which serves as the President’s key advisement team. The Vice President is a member of the executive branch. Both the President and Vice-President are selected by the people.

The **judicial** branch was created by Article III of the Constitution. Members of the judiciary branch are appointed by the President and confirmed by the Senate. The Congress has the authority to determine the structure of the judiciary, including the number of Supreme Court justices. While Congress determines the jurisdiction of federal courts, Congress has no authority over the decisions made by the Supreme Court. The federal judiciary has the sole authority to interpret the law and the constitutionality of laws and apply them to individual cases. In addition to creating the judiciary branch, Article III of the Constitution provides every person the right to a fair trial by a jury of one’s peers.

**SSCG4b: Analyze the relationship between the three branches in a system of checks and balances and separation of powers.**

Under **checks and balances,** certain branches are empowered to prevent actions by other branches and induced to share power. They are fundamentally important to the structure and operation of United States government. The Framers viewed checks and balances as essential to protect the liberties granted in the Constitution. In addition, checks and balances prevent any one branch from becoming too powerful.

The checks and balances of the legislative branch over the executive branch include: impeachment, override Presidential vetoes, approval of Presidential appointments and treaties, collect taxes and allocate federal funds, declare war, and select the President and Vice-President in a case where no candidate receives the majority of electoral votes.

The checks and balances of the legislative branch over the judicial branch are: approve the appointment of federal judges, impeachment, initiate constitutional amendments, set the jurisdiction of federal courts, and change the size of the Supreme Court.

The checks and balances of the executive branch over the legislative branch include: veto power, the Vice President is the President of the Senate, Commander-in-Chief of the armed forces, and calling one or both house of Congress into an emergency session.

The checks and balances of the executive branch over the judicial branch are: appointment of federal judges and pardon power.

The checks and balances of the judicial branch over both the legislative and executive branches is judicial review.

**Document 4**

