

B R I E F V E R S I O N

AMERICAN
GOVERNMENT

JAMES Q. WILSON



F O U R T H E D I T I O N

AMERICAN GOVERNMENT

BRIEF VERSION

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What Should We Know About American Government?

MOST AMERICANS THINK they know how their government works, and many don't like it. A common view goes like this:

The president gets elected because of some slick television ads, although he has ducked all the tough questions. His party's platform is a meaningless set of words that gives you no idea what he will do in office. Once in the White House, he proposes bills and then Congress decides which to pass. Congress and the president do this not to solve problems, but to reward whichever interest groups have spent the most money getting them elected. The laws they enact are turned over to an all-powerful bureaucracy that administers them much as the bureaucrats see fit, adding a lot of needless red tape. If you don't like these laws, you can sue, but the courts will base their decisions on their own liberal or conservative preferences and not on any standards of justice or fair play. All of these people—presidents, members of Congress, bureaucrats, and judges—act without any real respect for the Constitution. No wonder our national problems don't get solved.

Almost every sentence in the paragraph above is either flatly wrong, greatly exaggerated, or seriously incomplete. If you want to find out why, read this book. By the time you are finished, you may still think our system has faults, but you will have a clearer idea of what they are and how they arose.

These criticisms contain enough truth, however, to alert us to another reason for taking a course on American government. How our government operates is quite different from how other democratic governments, such as those in Western Europe, operate. We know that the president and Congress are often at loggerheads, that neither can exercise complete control over the bureaucracy, that judges often intervene to tell government agencies what to do, and that our politicians always seem to be involved in some scandal. We are also aware that other levels of government—cities and states—seem to compete with the federal government for the right to make certain decisions.

To most Europeans, all this would be absolutely baffling. In a country such as Great Britain, the legislature automatically approves almost any policy the chief executive (the prime minister) proposes, and does so without making any changes. The bureaucracy carries out the policy without resistance, but if something should go wrong, the legislature does not investigate the agency to see what went wrong. No citizen can sue the government in a British court; if one tried, the judge would throw the case out. There are no governors who have to be induced to follow the national policy; the national government's policies are, for most purposes, the *only* policies. If those policies prove unpopular, there is a good chance that many members of the legislature will not be reelected.

American government is not like any other democratic government in the world. Far from taking it for granted, students here should imagine for a moment that they are not young Americans but young Swedes, Italians, or Britons and ask themselves why American politics is so different and how that difference affects the policies produced here.

Consider these differences in *politics*:

- * In the United States, the police and the public schools are controlled by towns, cities, and states. In Europe, they are usually controlled by the national government.
- * If you want to run for office in the United States, you can do so by collecting the required number of signatures on a petition to get on the ballot in a primary election; if you win the primary, you then run in the general election. In Europe, there usually aren't any primary elections; instead, party leaders decide who gets on the ballot.
- * In the United States, fewer than one worker in five belongs to a labor union. In many European nations, the majority of workers belong to unions.

SOME KEY POLITICAL CONCEPTS

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GOVERNMENT

Government consists of those institutions that have the authority to make decisions binding on the whole society.

Note: Many institutions, such as colleges, corporations, and private clubs, exercise power over us. A government differs from these in two ways:

1. *Authority:* People believe that the government has the right to exercise power over all subordinate parts of society; a government can lawfully issue orders to a corporation or college, but a college or corporation cannot lawfully issue orders to the government.
2. *Power:* A government has a monopoly over the use of legitimate force. Governments, not private organizations, control the army, the police, and the prisons.

POLITICS

Politics is the activity generated by the conflict over who will run the government and what decisions it will make.

Note: Politics exists wherever there is disagreement about who should hold office or what decisions he or she should make. Thus it is no more possible to “take politics out of government” than it is to take emotion out of marriage.

- ★ The United States has no large socialist, communist, or Marxist political party. In France, Great Britain, Italy, and elsewhere, socialist and Marxist parties are large and powerful.
- ★ The United States has many politically active persons who consider themselves born-again Christians. Such persons are relatively rare in Europe and certainly not a political force there.
- ★ In the United States, judges decide whether abortions shall be legal, which pornographic movies may be shown, and what the size of a congressional district shall be. In Europe, the legislature decides such issues.
- ★ When the prime minister of Great Britain signs a treaty, his nation is bound by it; when the president signs a treaty, he is making a promise only to try to get the Senate to ratify it.

Consider also these differences in *policies*:

- ★ The tax burden in the United States is about half what it is in Sweden and many other European nations.



The United States Capitol.

- ★ The United States adopted federal policies to provide benefits to the elderly and the unemployed about a quarter of a century *after* such policies were already in effect in much of Europe.
- ★ The United States government owns very few industries. In much of Europe, the government owns the airlines, the telephone system, the steel mills, the automobile factories, and even the oil companies.
- ★ Throughout much of the 1980s and into the 1990s, the president and Congress could not agree on a budget—how much to spend, where to make cuts, and whether taxes should be increased; as a result, on some occasions the country had neither a budget nor the authority it needed to borrow money to keep paying its bills, and so the government partially shut down. In European democracies, this kind of deadlock almost never occurs.

How do we explain these differences? It is not that America is “democratic” and other nations are “undemocratic.” Great Britain and the United States are both democracies—but two different *kinds* of democracies. The American kind is the product of two closely related factors: our constitutional system and the opinions and values of the people. We have the kind of consti-

tution we do because the people who wrote it had certain beliefs about how government should be organized, and those beliefs are perpetuated and sharpened by the workings of the government created by that constitution.

In this book, we will not try to explain all the ways in which America differs from Europe. This book is not about comparative politics; it is about American politics. But keeping in mind the distinctive features of our system will, I hope, make the following chapters more interesting. You might try the following experiment. As you read this book, see how many of the differences listed above you can explain. You won't be able to explain them all, but you will be able to explain several.

THE MEANINGS OF DEMOCRACY

To explain why American democracy differs from democracy in Britain or Sweden, we must first understand what is meant by **democracy**. That word is used to describe three different political systems. In one system, found in the former Soviet Union and its satellites and in China, Cuba, and many Third World dictatorships, a government is said to be "democratic" if its decisions serve the "true interests of the people," whether or not those people had any say in making the decisions. This is called **democratic centralism**.

The term *democracy* is used in a second way to describe political systems in which all or most citizens participate directly in making governmental decisions. The New England town meeting, for example, comes close to fitting this definition of **direct democracy**. Once or twice a year all the adult citizens of a town come together to vote on all major issues and expenditures. In many states, such as California, a kind of direct democracy exists whenever voters are asked to approve or reject a specific policy, such as a plan to cut taxes or build a water system (a **referendum**), remove an elected official before his or her term has expired (a **recall**), or propose a new piece of legislation or a constitutional amendment (an **initiative**).

The third meaning of democracy was most concisely stated in 1942 by the economist Joseph Schumpeter: "The democratic method is that institutional arrangement for arriving at political decisions in which individuals [that is, officeholders] acquire the power to decide by means of a competitive struggle for the people's vote." This system is usually called a **representative democracy**. The Framers of the American constitution called it a **republic**.

Several arguments can be made in favor of representative democracy over direct democracy. First, direct democracy is impractical because it is impossible for all the citizens to decide all the issues: they don't have the time, energy, interest, or information. It is practical, however, to expect them to choose among competing leadership groups. Second, direct democracy is undesirable because the people will often make bad decisions on the basis of fleeting desires or under the influence of unscrupulous demagogues or clever advertising. Third, direct democracy makes it difficult to negotiate compromises

among contending groups; instead, one side wins and the other loses—even when there may have been a middle ground that both sides would have accepted.

You may think that these criticisms of direct democracy are unfair. If so, ask yourself which of the following measures (especially those that you feel strongly about) you would be willing to have decided by all citizens voting in a referendum. Abortion? Gun control? Federal aid to parochial schools? The death penalty? Foreign aid? Racial integration of public schools? The defense budget? Free trade? Most people, however “democratic” they may be, favor certain policies that they would not want decided by, in effect, a public opinion poll.

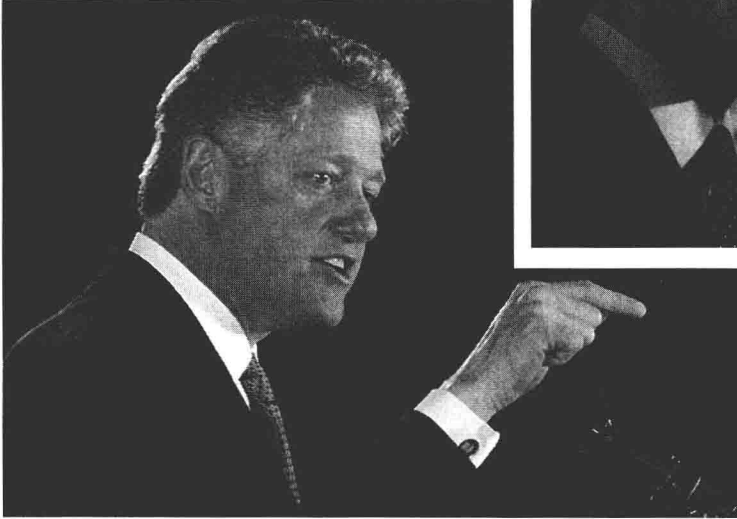
REPRESENTATIVE DEMOCRACY

In this book, we will use the word *democracy* to mean representative democracy, but we will not try to settle the argument over whether, or under what circumstances, direct democracy might be better. It is important to note, however, that representative democracy can exist only if certain conditions exist: freedom of speech and of the press (so that voters can learn about what their representatives are doing and communicate their preferences to them), freedom to organize (so that people can come forward as candidates for office), reasonably fair access to political resources (so that candidates can mount an effective campaign), a decent respect for the rights and opinions of others (so that the winners in an election are allowed to assume office and govern and the losers are not punished or banished), and a belief that the political system is legitimate (so that people will obey its laws without being coerced).

Broadly speaking, representative democracy can take one of two forms: the parliamentary system or the presidential system. The *parliamentary system*, common to almost all European democracies, vests political power in an elected legislature. The legislature, in turn, chooses the chief executive, called the prime minister. So long as the prime minister has the support of a majority of the members of parliament, he or she can carry out any policy that is not forbidden by the nation’s constitution. (Some parliamentary democracies do not have a written constitution. In Great Britain, for example, Parliament can do almost anything that it believes the voters will accept.) In a parliamentary democracy, political power at the national level is centralized; the prime minister and his or her cabinet make all the important decisions. The bureaucracy works for the prime minister. The courts ordinarily do not interfere. The theory of a parliamentary system is that the government should make decisions and then be held accountable to the voters at the next election.

A *presidential system* vests political power in separately elected branches of the national government—a president and a congress. In addition, there may be an independent judiciary, as there is in the United States, that can

The chief executives of two different kinds of democracies: Bill Clinton heads a presidential system, John Major a parliamentary one.



disapprove of the actions of the president and Congress if they violate the Constitution. The president proposes legislation but has no guarantee that Congress will accept it, even if the president's party has a majority of members in Congress. The bureaucracy works for both the president and Congress; since its loyalties are divided, its actions are not always consistent with what the president or Congress wishes. Political power at the national level is decentralized and shared. The theory of a presidential system is that policies should be tested for their political acceptability at every stage of the policy-making process, not just at election time.

Some people believe that the presidential system, based on separate branches of government sharing power, makes it very hard to enact any policies at all. So many roadblocks are built into the system that the government is biased against taking action. Moreover, when government does act, so many people are involved in making the decision that it becomes difficult for the voters to hold anyone directly accountable for the result. If you don't like the federal deficit, whom can you blame and vote against in the next election? The president? Your senator? Your representative?

To correct these features of the system, some critics have proposed that the United States change its constitution and make it more like a parliamentary democracy so that it will be easier for the government to act and easier for the voters to hold officials accountable for their actions at election time. But defenders of our constitution take a different view of the matter. The roadblocks in our constitutional system have not prevented our national government from growing about as fast, and adopting many of the same policies, as parliamentary democracies in Europe. And if the American government is not as big (measured by the taxes it levies, the money it spends, and the programs it enacts) as the governments of some European nations, maybe that is a good thing. Moreover, Americans may not be content with voting only once every four years to approve of or reject what the government is doing; they may want a chance to influence policy as it is being formulated—by writing their senator or representative, joining interest groups, marching on Washington, and bringing suit in court.

This book will not tell you whether to prefer an American-style presidential system or to yearn for a British-style parliamentary one. But it will tell you how our system works and explain why it works as it does. The primary reason it functions the way it does is the Constitution of the United States, which is where we shall start.

SUGGESTED READINGS

- Dionne, E. J. *Why Americans Hate Politics*. New York: Simon & Schuster, 1991. A thoughtful liberal critique of American politics since the 1960s.
- King, Anthony. *The New American Political System*. Washington, D.C.: American Enterprise Institute. First edition, 1978; second edition, 1990. Two books, edited by a British scholar, that give an intelligent overview of how American national government works today.
- O'Rourke, P. J. *Parliament of Whores: A Lone Humorist Attempts to Explain the Entire U.S. Government*. Boston: Atlantic Monthly Press, 1991. O'Rourke, a conservative version of Monty Python, offers a funny, outrageous, and sometimes insightful account of American politics. Caution: read only in short doses lest you hurt yourself laughing.
- Schumpeter, Joseph A. *Capitalism, Socialism, and Democracy*. 3d ed. New York: Harper, 1950, Chs. 20–23. A lucid statement of the theory of representative democracy.

2



The Constitution

THE PROBLEM OF LIBERTY

FOR OVER TWO HUNDRED YEARS the American government has derived its powers from a written constitution. Today we take that document for granted. Two centuries ago, however, the very idea of a written constitution, to say nothing of its particular contents, was a matter of great controversy.

When America was part of the British empire, Britain had no written constitution (it still doesn't). The American revolt against British rule, culminating in 1775 in the War of Independence, led many colonists to conclude that political power should never again be entrusted to rulers whose authority was based on tradition and other unwritten understandings. The central idea behind a written constitution was to limit and define political authority.

After they became independent, each of the thirteen former colonies adopted a written constitution that sharply restricted the authority of the newly chosen state governors and state legislators. But the colonies had to have some way of acting together on matters of mutual interest, such as waging the war against Britain. For this purpose, they came together in a loose alliance under the **Articles of Confederation**.

Many people recognized that the Confederation was too weak to manage the war effort effectively but believed that a national government that was any stronger would threaten their hard-won liberties.

When the Revolutionary War was over, many leaders decided that an even stronger national government was essential for the new nation to defend itself against foreign enemies, put down domestic insurrections, and encourage commercial activity. From May to September of 1787, fifty-five delegates from the states met in Philadelphia initially to revise the Articles of Confederation but in the end, as matters turned out, to produce an entirely new constitution. Most of the delegates had served in Congress under the Articles; few, if any, had found that experience satisfying. The chief problem faced by the Framers, as they came to be called, was that of liberty: how to devise a government strong enough to preserve order but not so strong that it would threaten liberty. In one of his most famous essays in defense of the Constitution, James Madison explained their delicate task:

In framing a government which is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed; and in the next place oblige it to control itself.¹

History has taught us, Madison and the other Framers believed, that people will seek power because they are by nature ambitious, greedy, and easily corrupted. As Madison wrote:

But what is government itself but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary.²

If we are to understand the institutions and policies of American government, we must first understand the historical experiences and philosophical ideas that gave birth to the constitution on which that government rests.

THE WEAKNESSES OF THE CONFEDERATION

Turmoil, uncertainty, and fear permeated the eleven years between the Declaration of Independence in 1776 and the signing of the Constitution in 1787. General George Washington had to wage a bitter, protracted war against a world power with only the support the state governments chose to give. When peace finally came, many parts of the nation were a shambles. The British were still a powerful force in North America, with an army available in Canada (where many Americans loyal to Britain had fled) and a large navy at sea. Spain claimed the Mississippi River Valley and occupied Florida. Soldiers returning to their farms found themselves heavily in debt but with no money to pay their debts or their taxes. The paper money printed to finance the war was now virtually worthless.

The thirteen states had only a faint semblance of a national government with which to bring order and stability to the nation. The Articles of Confederation, which had gone into effect in 1781, created little more than a “league of friendship” that lacked the power to levy taxes or regulate commerce. Each state retained its sovereignty and independence, each state (regardless of size) had one vote in Congress, nine (of thirteen) votes were required to pass any measure, and the delegates who cast these votes were picked and paid by the state legislatures. Several states claimed the unsettled lands in the West and occasionally pressed those claims with guns, but there was no national judicial system to settle these or other disputes among the states. To amend the Articles of Confederation, all thirteen states had to agree.

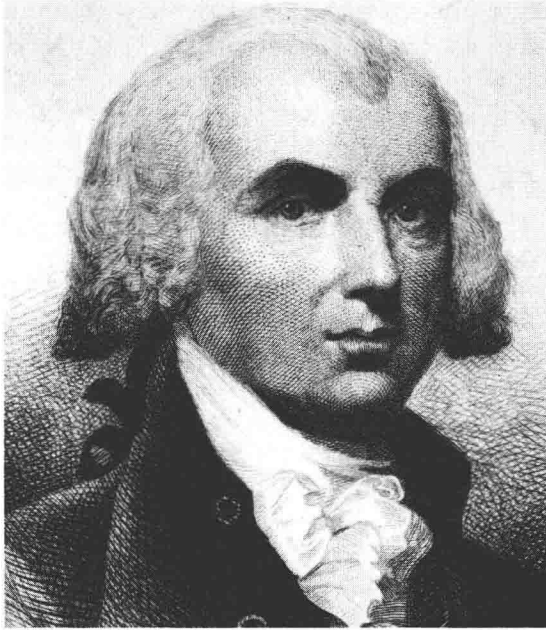
Many leaders of the Revolution, such as George Washington and Alexander Hamilton, believed that a stronger national government was essential. A small group, conferring at Washington’s home at Mount Vernon in 1785, decided to call a meeting to discuss trade regulation, one of the many seemingly insoluble problems facing Congress. That meeting, held at Annapolis, Maryland, in September 1786, was not well attended, so another meeting was called for May 1787 in Philadelphia—this time for the more general purpose of considering ways to remedy the defects of the Confederation.

THE CONSTITUTIONAL CONVENTION

The delegates assembled in Philadelphia for what was advertised (and authorized by Congress) as a meeting to revise the Articles; they adjourned four months later having written a wholly new constitution. When they met, they were keenly aware of the problems of the confederacy but far from agreement on remedies. As in 1776, their objectives were still the protection of life, liberty, and property, but they had no accepted political theory that would tell them what kind of national government, if any, would serve that goal.

The Lessons of Experience

James Madison, who was to be one of the leading framers of the new constitution, spent a good part of 1786 studying books sent to him by Thomas Jefferson, then in Paris, in hopes of finding some model for a workable American republic—but concluded that no model existed. History showed that confederacies were too weak to govern and tended to collapse from internal dissension, whereas all stronger forms of government were so powerful as to trample the liberties of the citizens. At home, the state governments of Pennsylvania and Massachusetts vividly illustrated the dangers of excessively strong and excessively weak governments.



James Madison, often described as the “Father of the Constitution,” prepared the Virginia Plan that formed the basis for the deliberations at the 1787 convention.

The Pennsylvania constitution, adopted in 1776, created the most radically democratic of the new state regimes. All power was given to a one-house (or **unicameral**) legislature, the members of which were elected for one-year terms. No legislator could serve for more than four years. There was no real executive. The radical pamphleteer Thomas Paine and various French philosophers hailed the Pennsylvania constitution as the very embodiment of the principle of rule by the people, but it was a good deal less popular in Philadelphia. The legislature disfranchised the Quakers, persecuted conscientious objectors to the war, ignored the requirement of trial by juries, and manipulated the judiciary.³ To Madison and his friends, the Pennsylvania constitution demonstrated how a government, though democratic, could be tyrannical by concentrating all powers in one set of hands, in this case the legislature.

The Massachusetts constitution of 1780, in contrast, was a good deal less democratic. There was a clear separation of powers among the branches of government, the directly elected governor could veto acts of the legislature, and judges served for life. But if the government of Pennsylvania was thought too strong, that of Massachusetts seemed too weak, despite its “conservative” features. In 1787 a group of ex-Revolutionary War soldiers and officers led by one Daniel Shays, plagued by debt and high taxes, forcibly prevented the courts in western Massachusetts from sitting. The governor of Massachusetts asked the Congress of the Confederation to send troops, but it could not raise the money or the manpower; the governor then discovered that he had no

state militia. In desperation, private funds were collected to hire a volunteer army that, with the firing of a few shots, dispersed the rebels.

Shays's Rebellion, occurring between the aborted Annapolis convention and the upcoming Philadelphia convention, had a powerful effect on public opinion. Far away in Paris, Thomas Jefferson took a detached view: "A little rebellion now and then is a good thing," he wrote. "The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants."⁴ But many other leaders were aghast at the rebellion. Delegates who might otherwise have been reluctant to attend the Philadelphia meeting were galvanized by the fear that state governments were about to collapse from internal dissension. George Washington wrote to a friend despairingly: "For God's sake . . . , if they [the rebels] have *real* grievances, redress them; if they have not, employ the force of government against them at once."⁵

The Framers

The Philadelphia convention attracted fifty-five delegates, only about thirty of whom participated regularly in the proceedings. Pledged to keep their deliberations secret, the delegates had to keep an eye on the talkative, party-loving Benjamin Franklin. The delegates were not bookish intellectuals, but men of practical affairs. Most were young but experienced in politics: eight had signed the Declaration of Independence, seven had been governors, thirty-four were lawyers; a few were wealthy. Thirty-nine had served in the ineffectual Congress of the Confederation; a third were veterans of the Continental army.

The convention produced not a revision of the Articles of Confederation, as it had been authorized to do, but instead a wholly new written constitution creating a true national government unlike any that had existed before. That document is today the world's oldest written national constitution. The deliberations that produced it were not always lofty or philosophical; much hard bargaining, not a little confusion, and the accidents of time and personality helped shape the final product. But though the leading political philosophers were only rarely mentioned, the debate was profoundly influenced by philosophical beliefs, some of which were formed by the revolutionary experience and others by the eleven-year attempt at self-government.

From the debates leading up to the Revolution, the delegates had established a commitment to liberty, which, despite the abuses sometimes committed in its name, they continued to share. Following the seventeenth-century English philosopher John Locke, they believed that liberty was a natural right and that men created government in order to prevent the strong from oppressing the weak. And since government itself must not deprive men of their liberty, government must be limited. The chief limitation on government, Locke had said, should derive from the fact that it is created by the consent of the governed, and that it governs through institutions wielding separate powers.

THE CHALLENGE

American experience since 1776, as well as the history of British government, led the Framers to doubt whether popular consent alone would be a sufficient guarantor of liberty. A popular government may prove too weak to prevent one faction from abusing another (as in Massachusetts), or a popular majority can be tyrannical (as in Pennsylvania). In fact, the tyranny of the majority can be an even greater threat than rule by the few: facing the will of the majority, the lone person cannot count on the succor of popular opinion or the possibility of popular revolt. The problem, then, was a delicate one: how to frame a government strong enough to rule effectively but not too strong to overrun the liberties of its citizens. The answer, the delegates believed, was not “democracy” as it was then understood—that is, mob rule, such as Shays’s Rebellion. Aristocracy—the rule of the few—was no solution either, since the few were as likely to be corrupted by power as the many. Nor could liberty be assured, Madison believed, by simply writing a constitution that limited what government could do.

Immediately after the convention had organized itself and chosen Washington as its presiding officer, the Virginia delegation presented a comprehensive plan, largely drafted by Madison, for a wholly new national government. The plan quickly became the major item of the convention’s business.

Large States Versus Small States

By agreeing to consider the *Virginia Plan*, the convention fundamentally altered its task from amending the Articles to designing a true national government. The Virginia Plan called for a strong national union organized into three governmental branches: legislative, executive, and judicial. It had two key features: (1) a national legislature would have supreme powers on all matters on which the separate states were not competent to act, as well as the power to veto any and all state laws, and (2) the people would directly elect at least one house of the legislature.

As the debate went on, the representatives of New Jersey and other small states became increasingly worried that the convention was going to write a constitution in which the states would be represented in both houses of Congress on the basis of population. If this happened, the smaller states feared they would always be outvoted by the larger states. The substitute *New Jersey Plan*, submitted to the convention by William Paterson, would have amended, not replaced, the Articles of Confederation, giving the central government somewhat stronger powers than it had but retaining the Articles’ one-state, one-vote system of representation. The key feature of the New Jersey Plan was a unicameral Congress in which each state would have an equal vote.