A New Constitution and a History of Democracy

Student Name

School Name

Class

Date

A glance at the late 18th century U.S. political system reveals that the new Constitution was the law of a highly undemocratic land. The early United States was a society in which entire sections of the population were denied basic human rights, where the institutions of the new government were not derived from egalitarian principles, and where millions of people did not receive adequate political representation. As the overarching political instrument of the era, the Constitution bears responsibility for a society in which the many toiled without representation for the benefit of a powerful few.

Perhaps the most egregious example of the Constitution's anti-democratic features was its sanction of the widespread practice of slavery. Rather than ending slavery, the Constitution allowed planters and others to hold their fellow human beings as chattel. Not only did the Constitution permit the existing system of slavery to continue, it permitted the Atlantic slave trade to keep "importing" slaves for 20 more years. It also counted a slave as three-fifths of a human being, stating: "Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons."[1] Clearly, this provision was inserted not to protect the rights of the enslaved but to boost the electoral power of the slave states. Such a provision was not the only institutional failure of the Constitution.

[1] U.S. Constitution, art. 1, sec. 2, cl. 3.

Secondly, the arrangement of the new federal government in the Constitution was highly unrepresentative. The president was elected indirectly through the Electoral College, while the Supreme Court was completely appointed. In the remaining branch of government, the upper house, the Senate, provided for each state to have equal representation without regard for how many people lived in the state, decreeing that "the Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote."[2] This means that the state of New York now has the same voting power through the Senate as the state of Wyoming, even with wildly different population numbers. By diluting the power of the franchise, the Constitution made a system that was destined to be unrepresentative even more undemocratic. Only the House of Representatives nominally derived its power from the people, and its character was deeply affected by who could and could not vote.

Finally, the Constitution allowed states to set norms for who could vote in elections and who could not. In the early United States, that meant that people who did not own sufficient property, enslaved people, and women were denied the vote. A government allegedly founded on the idea of "no taxation without representation" violated this rallying cry of the American Revolution. As a result of the Constitution, a majority of people in the early United States could not vote for their representatives. Only with 1920's nineteenth amendment were women allowed to vote, and the Voting Rights Act of 1965 banned discriminatory voting practices against people of color.[3] This shows that the Constitution failed to deliver on democratic voting rights until a full two hundred years later.

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[2] U.S. Const. art. 1, sec. 3, cl. 1.
[3] U.S. Const. amend. XIX, sec. 1.

Rather than promoting a government "of the people, by the people, and for the people," the Constitution sanctioned practices and structured institutions that were unrepresentative. Ordinary people, whether because they were enslaved, because they were women, or because they were working-class people, lived and worked without any real power. Instead, a small minority of wealthy and powerful men ruled over the majority of the population; the source of their power was the undemocratic Constitution of the United States.

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