

Writing the Constitution

Backwards Planning Curriculum Units

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How To Use This Unit

Backwards planning offers an innovative yet simple approach to meeting curriculum goals; it also provides a way to keep students engaged and focused throughout the learning process. Many teachers approach history instruction in the following manner: they identify a topic required by state and/or national standards, they find materials on that topic, they use those materials with their students, and then they administer some sort of standard test at the end of the unit. Backwards planning, rather than just starting with a required instructional topic, goes a step further by identifying exactly what students need to know by the end of the unit—the so-called “enduring understandings.” The next step involves assessment: devising ways to determine whether students have learned what they need to know. The final step involves planning the teaching/learning process so that students can acquire the knowledge needed.

This product uses backwards planning to combine a PowerPoint presentation, activities that involve authentic assessment, and traditional tests (multiple-choice and essay) into a complete curriculum unit. Although the materials have enough built-in flexibility that you can use them in a number of ways, we suggest the following procedure:

1. Start with the “essential questions” listed on slide 2 of the PowerPoint presentation (these also appear in the teacher support materials). Briefly go over them with students before getting into the topic material. These questions will help students focus their learning and note taking during the course of the unit. You can also choose to use the essential questions as essay questions at the end of the unit; one way to do this is to let students know at the outset that one of the essential questions will be on the test—they just won’t know which one.
2. Next, discuss the activities students will complete during the unit. This will also help focus their learning and note taking, and it will lead them to view the PowerPoint presentation in a different light, considering it a source of ideas for authentic-assessment projects.
3. Present the PowerPoint to the class. Most slides have an image and bullet points summarizing the slide’s topic. The Notes page for each slide contains a paragraph or two of information that you can use as a presentation script, or just as background information for your own reference. You don’t need to present the entire PowerPoint at once: it’s broken up into several sections, each of which concludes with some discussion questions that echo parts of the essential questions and also help students to get closer to the “enduring understandings.” Spend some time with the class going over and debating these questions—this will not only help students think critically about the material, but it will also allow you to incorporate different modes of instruction during a single class period, offering a better chance to engage students.
4. Have students complete one or more of the authentic-assessment activities. These activities are flexible: most can be completed either individually or in groups, and either as homework or as in-class assignments. Each activity includes a rubric; many also have graphic organizers. You can choose to have students complete the activities after you have shown them the entire PowerPoint presentation, or you can show them one section of the PowerPoint, go over the discussion questions, and then have students complete an activity.

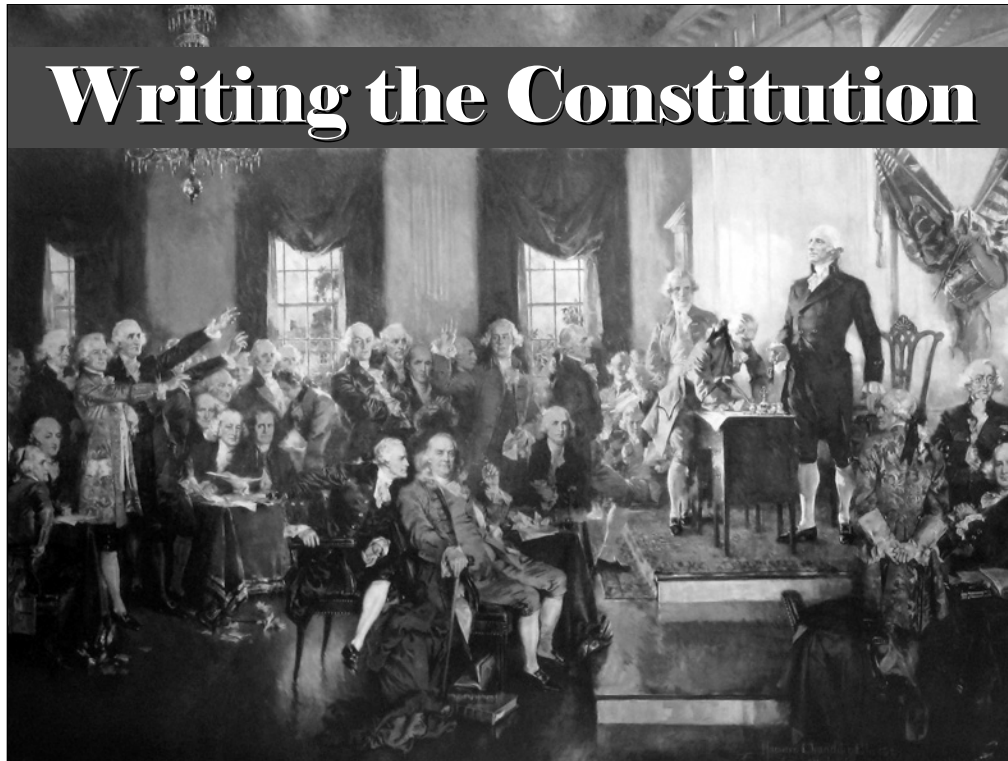
5. End the unit with traditional assessment. The support materials include a 30-question multiple-choice quiz; you can combine this with an essay question (you can use one of the essential questions or come up with one of your own) to create a full-period test.

6. If desired, debrief with students by going over the essential questions with them again and remind them what the enduring understandings are.

We are dedicated to continually improving our products and working with teachers to develop exciting and effective tools for the classroom. We can offer advice on how to maximize the use of the product and share others' experiences. We would also be happy to work with you on ideas for customizing the presentation.

We value your feedback, so please let us know more about the ways in which you use this product to supplement your lessons; we're also eager to hear any recommendations you might have for ways in which we can expand the functionality of this product in future editions. You can e-mail us at access@socialstudies.com. We look forward to hearing from you.

Dr. Aaron Willis
Chief Education Officer
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Soon after delegates from the 13 colonies signed the Declaration of Independence, they began to tackle the daunting task of creating a new national government. The first attempt—the Articles of Confederation—preserved state sovereignty at the cost of a weak central government that soon demonstrated its inability to function effectively. Fifty-five delegates met in Philadelphia in 1787 with the aim of revising the Articles, but quickly realized that only under a new constitution could the central government adequately address the issues that plagued the country. Compromises between various interests marked the proceedings, especially on matters of representation in the new legislature and of taxation. Delegates consulted and synthesized information from several historical sources to provide a foundation for the document, which when finalized, resulted in a three-branch federal government with a two-house legislature, a strong executive to enforce the laws, and a national court system.

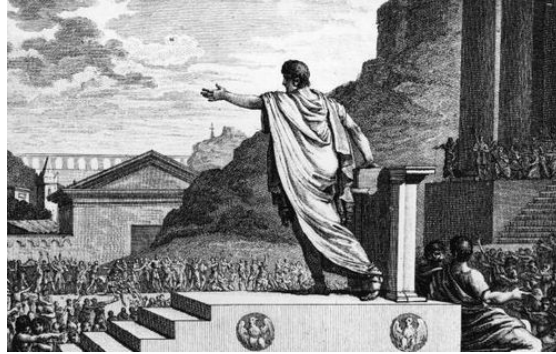
After the convention had finished its work, the process of ratification by state conventions began. Supporters of the Constitution managed through persuasion and deal-making to reach the required number of states for ratification: some conventions agreed to approve the document only if the new government pledged to add several amendments giving explicit protections of individual rights. The Constitution became the supreme law of the land, and the promised amendments, the Bill of Rights.

Essential Questions

- Why did the colonists seek to develop a weak central government at the close of the Revolutionary War?
- What problems were inherent in the Articles of Confederation?
- What philosophical and political ideals did the Framers draw from writing the Constitution?
- How did the Framers use compromise to ensure that the Constitution would reflect different points of view?
- How did the Framers ensure that governmental power would be shared between national and state governments, as well as among the three branches of the federal government?
- How does the Constitution ensure civil liberties?

Foundations: Greece and Rome

- Democratic elements of ancient Greek civilization
- Aristotle's classification of government
- The ancient Roman Republic



A Roman tribune presiding over a council of citizens

Though the U.S. Constitution may be a relatively new document, some of its principles stem from forms of government developed by the ancient civilizations of Greece and Rome. The ancient Greeks (who originated the term) practiced a form of democracy, although not all residents of Greece could participate. A great segment of the population did not qualify as citizens. Some historians estimate that citizens made up only one-eighth of its population. The system did allow for common citizens to have positions of significance in the government.

The Greek philosopher Aristotle was one of the first to classify governments according to the question, “Who rules?” According to his classification scheme, government rule by one person would generally be a monarchy or dictatorship. An oligarchy or aristocracy would be rule by a few, and democracy would be rule by the masses.

The Framers of the Constitution also relied on the concept of a republic as developed by the ancient Romans. The Constitution implemented a three-part system of government, and also borrowed heavily from the Romans to develop a system of checks and balances, as well as the legislative bodies of an assembly and the Senate.

The Magna Carta



- Signed by King John of England in 1215
- Placed monarchs and magistrates under rule of law
- Established English common law
- Influenced the Fifth Amendment

One of the earliest precedents for the U.S. Constitution can be found in the creation of the Magna Carta in 1215. Compelled by the nobles of his kingdom to sign the document, King John of England placed himself (as well as future monarchs) under the “rule of law”; this established that no government official can be above the law, and as such all must follow written law.

The Magna Carta formed the foundation of English common law, which considers basic fundamental legal procedures and traditions as binding precedent. American colonists followed the same rules of law in establishing colonial legislatures and then a national government. The Framers of the United States Constitution considered the Constitution the supreme law of the land, which could not be overturned by subsequent political administrations, just as the Magna Carta stated that no future monarch could take away rights given to the nobles.

Perhaps one of the best examples of the influence of the Magna Carta on American government can be found in the Fifth Amendment to the Constitution. The Magna Carta says that, “No freeman shall be taken, imprisoned,...or in any other way destroyed...except by the lawful judgment of his peers, or by the law of the land. To no one will we sell, to none will we deny or delay, right or justice.” Nearly six centuries later, the Fifth Amendment would assert, “No person shall...be deprived of life, liberty, or property, without due process of law.”

Thomas Hobbes

- *Leviathan* (1651)
- Discusses the origin of centralized government
- Explains the “social contract” theory
- Early humans gave up a “state of nature” for government’s protection

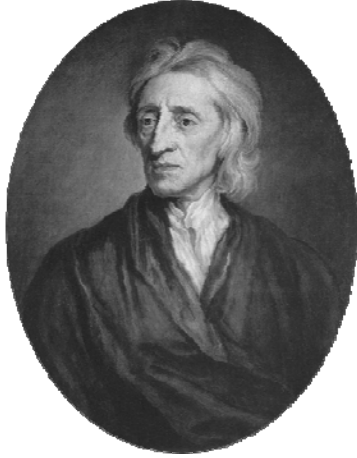


The cover of *Leviathan* depicts government as an unruly monster

Published in 1651 (around the time of the English Civil War), Thomas Hobbes's *Leviathan* attempted to explain the need for the development of governments and states. In Hobbes's view, early humans lived in what he called a “state of nature” in which inevitable and unfettered conflict made life “solitary, poor, nasty, brutish, and short.”

As a result of this conflict, Hobbes asserted that people created a “social contract” with the more powerful and elite of society in order to form governments. In these governments, which Hobbes noted were created with “the consent of the governed,” citizens gave up certain rights under natural law (i.e., that everyone has a right to own all property) in order to receive protection under the government. In return, the government would expect all citizens to obey the law. However, nowhere in *Leviathan* does Hobbes note that the government would be absolutely required to protect the rights of citizens. Other philosophers would later expand on Hobbes's work in order to provide for this protection.

John Locke



John Locke

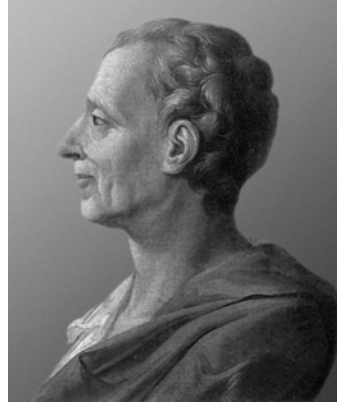
- *Two Treatises of Government* (1689)
- “Natural rights” to “life, liberty, and property”
- Government responsible for protecting the people’s rights
- The people have the right to change their government

Another Enlightenment figure who had a large impact on the Constitution was the English philosopher John Locke. His *Two Treatises of Government* (1689) greatly influenced Thomas Jefferson in writing the Declaration of Independence. Locke expanded on, and sometimes wrote in terms conflicting with, Hobbes’s view of the social contract.

In Locke’s view, not only should citizens rely on government for protection from harm, but that all citizens possessed certain “natural rights,” including “life, liberty, and property.” Locke believed that the social contract ensured that government had a responsibility to protect these natural rights of citizens, and in instances where government failed to do so the people had the right to change the government, or abolish and replace it.

Montesquieu

- *The Spirit of the Laws* (1748)
- Classified government into three types:
 - Monarchies
 - Republics
 - Despotisms
- Developed the concept of separation of powers



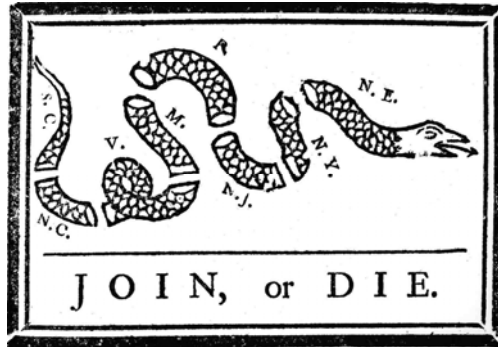
Charles de Secondat,
Baron de Montesquieu

The work of Charles de Secondat, Baron de Montesquieu, also had great influence on the authors of the U.S. Constitution. A French aristocrat, Montesquieu wrote *The Spirit of the Laws* (1748), in which he outlines three types of government, each kept running smoothly according to a specific social “principle”:

- Monarchies, led by a hereditary ruler and driven by a love of honor (i.e., rank and prestige)
- Republics, in which elected officials rule according to the love of virtue (i.e., the willingness to put the people before private interests)
- Despotisms, in which a ruler relies on the people’s fear of his power

Although French, Montesquieu admired England’s government, and believed that incorporating its system of separation of powers—dividing government into branches, each with different functions—made for both effective and efficient government. The Framers of the United States Constitution would borrow heavily from Montesquieu’s ideas in establishing a three-branch federal government.

Albany Plan of Union



Benjamin Franklin's famous "Join Or Die" cartoon, published to support the Albany Plan of Union

- Proposed in 1754 by Benjamin Franklin
- Early attempt at uniting colonies
- Based in part on Iroquois Confederacy
- Never adopted, but served as a rough draft for Articles and Constitution

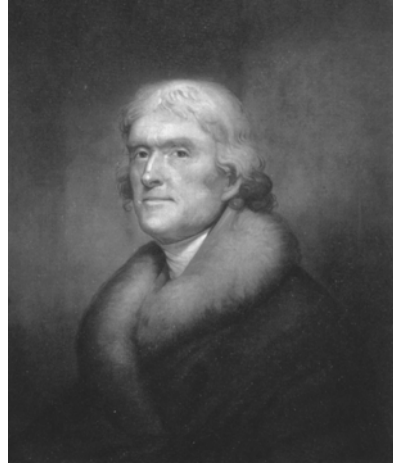
Benjamin Franklin proposed an early attempt at colonial unity in 1754 after several visits to the Iroquois Confederacy, a union of five (later six) equal, sovereign tribes under a representative council, located in present-day northern New York State. In his writings, Franklin frequently promoted the Native American confederacy as a model for the colonies to follow.

Franklin's plan called for the British Parliament to create a "general government" for the colonies, with a Crown-appointed president as well as a Grand Council, a legislature in which wealth determined each colony's representation. In addition, the Albany Plan allowed for a confederation that would include both the colonies and various Native American tribes.

While the colonies never adopted Franklin's plan, it did serve as a model for subsequent schemes of government, including those under the Articles of Confederation and the United States Constitution.

The Declaration of Independence

- Thomas Jefferson (1776)
- Does not institute a government
- Borrowed heavily from Locke's concepts of natural rights
- Designates government as protector of these rights



Thomas Jefferson

By 1776, the American colonists had become frustrated with British authority in general, and particularly with taxation laws that they found unfair—especially in light of their lack of representation in Parliament. Colonial militia and British regular troops had skirmished at Lexington and Concord the previous year, and both sides had suffered tremendous losses at Bunker Hill. In the summer of 1776, Richard Henry Lee proposed as a delegate to the Continental Congress that the American colonies declare their independence. The congress established a committee to create a formal declaration, which selected Virginia delegate Thomas Jefferson to write the document.

While Jefferson's landmark Declaration of Independence did not establish a formal constitution or plan of government, it did note the fundamental rights that John Locke had first discussed in *Two Treatises of Government*. Jefferson specifically stated in the Declaration's preamble that "all men are created equal," while also asserting that they have "certain inalienable rights, among these being life, liberty, and the pursuit of happiness." While later historians and civil rights leaders would debate exactly what Jefferson meant by the former phrase, the document designated government as the protector of human rights.

Subsequent societies wanting to put forth similar cases for human rights, most notably during the French Revolution and the Seneca Falls "Declaration of Sentiments" (from the women's suffrage movement), have borrowed heavily from Jefferson's language in the Declaration of Independence.

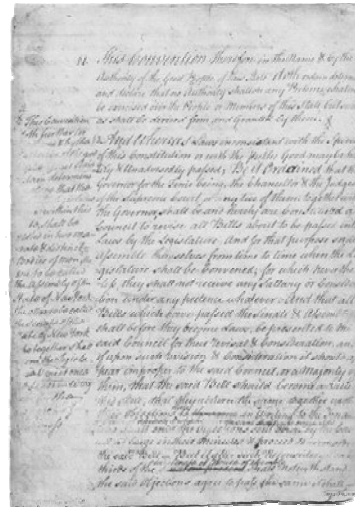
Discussion Questions

1. What elements of ancient Greek and Roman government are evident in the Constitution?
2. What concepts from Enlightenment philosophers influenced the content of the Constitution?
3. What “American” influences does the Constitution include? Why might these sources have been included?

1. Most importantly, the Constitution incorporates the ancient Greek concept of democracy—that a government’s power flows from the people, who freely vote on issues. The work of Aristotle—especially his analysis of government according to the question of “who rules?”—also influenced the Framers of the Constitution. Their study of the Roman Republic helped in the development of a three-branch system of government, a system of checks and balances, and the function of the Senate.
2. Thomas Hobbes’s theory of the social contract was used in part to establish the relationship between citizen and government first in the Declaration of Independence and later in the Constitution. Hobbes’s description of humanity’s “solitary, poor, nasty, brutish, and short” life in its natural state probably weighed heavily on the minds of the Framers, who saw a need for a stronger central government than the Articles of Confederacy had instituted. However, the Framers also took into account Locke’s assertion of “natural rights,” as well as the government’s duty to protect them. Montesquieu’s exploration of the separation of powers also comes out in the Constitution.
3. Two “American” influences on the writing of the Constitution were Franklin’s Albany Plan of Union and Jefferson’s Declaration of Independence. Franklin’s plan proposed a confederation with a legislative and executive branch, while Jefferson’s writings on human rights and the obligation of government to protect those rights would later be evident in the Constitution. The direct participation of these men in colonial government and in the formulation of America’s founding documents undoubtedly helped to involve their ideas in the process.

State Constitutions

- Gave governors limited political power
- Gave state legislatures substantial power
- Several included bills of rights
- Many implemented reforms toward ending slavery and protecting property owners



The New York state constitution

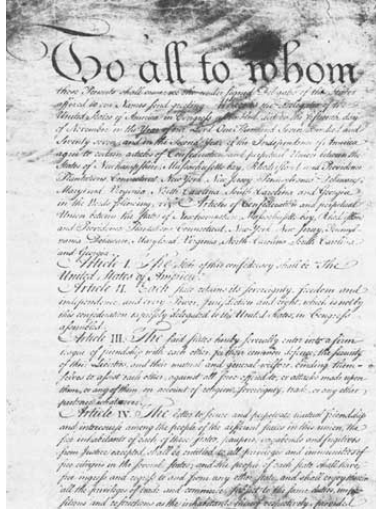
As the Revolution wound down, the newly independent states began to rewrite their constitutions. Limiting the power of state governors became a hallmark of several of these (some abolished the office of governor entirely). In contrast, state legislatures received substantial power to run state affairs. The legislatures often had the authority to declare war, conduct foreign policy, set up courts, and perform other common functions.

Fearful and skeptical of the electorate's abilities, the framers of state constitutions limited the right to vote to male property owners. On the other hand, these framers largely believed that citizens were not entirely subordinate to their legislative officials. Elected officials still had to answer to their constituencies.

In several states—Virginia, for example—a bill of rights accompanied the drafting of the state constitution. While agreements such as the Magna Carta had protected the rights of nobles under the king, the new state constitutions also guaranteed the rights of citizens against abuses by the legislature.

These state constitutions also included social reforms. Several northern colonies took initial steps toward abolishing slavery. In several instances, constitutions also provided that smaller landholders and farmers would have their rights and economic interests protected against the interests of larger landholders.

The Articles of Confederation



- Drafted by the Continental Congress
- Passed in 1777; ratified in 1781
- No central authority or court system
- Each state remains sovereign

Soon after the Continental Congress approved the Declaration of Independence, it began work on a written constitution. What it devised—the Articles of Confederation—formally put into place the system the Continental Congress had been operating under since 1775. There was no president or national executive. The Articles also did not provide for a national court system. While each state could send anywhere from two to seven delegates to Congress, each state had a single vote. Depending on the importance of the legislation, the Articles required the consent of seven, nine, or all 13 states.

Although the Continental Congress approved the Articles in 1777, it took nearly five years for the states to finally ratify them. Several states held claims to territory in the Northwest Territory; five states did not. The states without claims refused to ratify the Articles until they received shares in the territory. Eventually the states without claims compromised with the states with claims, and the final holdout states ratified the Articles in 1781.

The lack of centralized power characterized the shortcomings of government under the Articles of Confederation. Designed as a sort of loose alliance, the Articles allowed each one of the 13 states to retain its sovereignty. The national government had no way to enforce national law or compel the states to do much of anything they preferred not to.

The Articles: Provisions

- States given sovereignty over central government
- Each state had a single vote in Congress
- No power of taxation
- National government afforded certain powers:
 - Declare war and conduct foreign affairs
 - Standardize currency and measures
 - Arbitrate disputes between states

The colonists, still fighting the British in the American Revolution, did not want to create a government that would include a strong central authority. Instead, they ensured that the states would have sovereignty over the national government. Therefore, the national government had little power to enforce its own acts.

In order to assure equal political power between large and small states, congressional delegations had between two and seven members. However, in Congress each state had one single vote. Congress did not have the power of taxation, but instead had to rely on state legislatures to secure the funds necessary to carry out government policies and acts.

However, the Articles of Confederation did give the national government certain powers. Congress had the authority to declare war and conduct foreign affairs. In addition, the national government could define weights and measures, establish a system of currency, and act as a final arbiter in disputes between states. Anticipating that Canada might wish to join the confederacy, the framers also pre-approved Canada for membership.

The Articles: Accomplishments

- Land Ordinance of 1785
- Northwest Ordinance of 1787
- Articles created the first form of American government



The Northwest Ordinance of 1787

Although many began to find fault in the weakness of government under the Articles of Confederation, that government did make some significant achievements. These included the Land Ordinance of 1785 and the Northwest Ordinance of 1787, as well as laying the basic framework for the United States' eventual form of federal government.

The Land Ordinance created an effective and equitable way of surveying and distributing land in the Northwest Territory. The ordinance divided land into six-square-mile blocks known as "townships," and then further into one-square-mile "sections." The land was then parceled for sale at \$1 per acre. In addition, the ordinance reserved certain sections for establishing schools, as well as for raising revenue for the national government.

The Northwest Ordinance provided for the formation of no less than three and no more than five new states from the Northwest Territory. It also allowed for the establishment of territorial and, later, state governments in the region. Eventually, five new states—Indiana, Illinois, Ohio, Michigan, and Wisconsin—were created from the Northwest Territory. The ordinance also prohibited slavery in the Northwest and called for fair dealings with Indians.

The Articles: Weaknesses

- Congress could not:
 - Force states to pay taxes
 - Raise an army without state support
 - Regulate trade
- Each state had one vote in the legislature, regardless of population
- Difficult to pass laws and amend Articles
- No court system or executive branch

While the new nation could point to some significant accomplishments under the Articles, several problems tended to make the new government largely ineffective. Expressly designed to have little authority, the national government could not carry out its duties or protect itself from harm.

Perhaps the most glaring problem stemmed from state sovereignty over the national government. It relied on the states to provide its funding through taxation, but lacked the means to enforce payment. Congress had the power to “provide for the common defense,” but enough to raise and maintain an army; if the central government entered into a war without states’ support, those states would have no obligation to field troops. In addition, Congress could not regulate trade. Each state had its own currency, and values of money fluctuated widely from state to state, making commerce nearly impossible.

Under the Articles, each state had one vote, which frequently meant that the smaller states had an overly large voice in government. Since much of the legislation coming before Congress required a supermajority (nine of 13 states) or unanimous consent for passage, a few states could easily block actions supported by the majority, including amending the Articles.

The Articles did not provide for a national court system and had no executive to enforce the law. While the men who drafted the Articles took care to guard against a single powerful individual controlling affairs of state, they also failed to recognize that a weakened central government could not function effectively. It would only be a matter of time before an event occurred that proved the Articles ineffective and highlighted the necessity for serious revisions to the new nation’s government.

Shays's Rebellion

- MA heavily taxed middle incomes
- Farmers called for revisions to the state constitution
- Shays led a march on a federal arsenal
- Governor sent militia to stop rebellion
- Illustrated starkly the weaknesses of the Articles of Confederation



The militia fires on protesting farmers in this illustration

Frustration over the national government's inability to handle economic problems erupted in Massachusetts in what eventually would be called "Shays's Rebellion." The rebellion occurred when the Massachusetts state legislature began to pass tougher tax laws that required middle-class farmers and others to pay taxes in gold and silver, not paper money.

Farmers protested by holding meetings, but the state government wouldn't yield. Calling for revisions to the Massachusetts state constitution, thousands of aggrieved farmers marched on several area courthouses. A farmer named Daniel Shays led one of these marches. As the protests quickly escalated, Congress became concerned that events in Massachusetts had spiraled out of control, and sought to increase the size of the army to quell the protests. Unable to do so, Congress found itself powerless to stop the rebellion. However, Massachusetts Governor Bowdoin took matters into his own hands by raising a militia and stopping the rebels in an attempt to seize the federal arsenal at Springfield. Four farmers died, and several others were wounded.

After forces under Governor Bowdoin crushed the rebellion, Shays managed to flee to Canada. However, two rebels were hanged for their role, while several others had their death sentences commuted. Many other rebels lost their civil liberties for a time as a result of their involvement.

The most serious consequence of the revolt was that several leaders of the independence movement became concerned that the national government's inability to quell the rebellion had endangered the gains made in the Revolution in regards to forming a new government. Many leaders in the independence movement saw in stark terms that something had to be done to strengthen the Articles of Confederation.

Discussion Questions

1. Why did the government under the Articles first seem effective in the years immediately following the Revolution?
2. What were the characteristics of state constitutions created during the period after the American Revolution?
3. What were some of the main achievements of the Articles? What major weaknesses made the Articles ineffective?
4. What impact did Shays's Rebellion have on concerns about government under the Articles?

1. The leaders of the Revolution felt that the British government had acted oppressively in its dealings with the colonies, and did not want to replace it with a similar government of their own creation. Therefore, they wanted a central government with less power (and therefore control) and saw preserving the sovereignty of the individual states as safe.
2. State constitutions that developed during and after the Revolution had several specific characteristics. They included the power to declare war, conduct foreign policy, and set up courts. In addition, they limited the right to vote to male property owners. Elected officials were responsible to their constituency. Several states incorporated a bill of rights. Some even introduced social reforms such as abolition of slavery and protection of the rights of smaller landholders against larger ones.
3. Two main achievements of the Articles government included the Land Ordinance of 1785—which established a system for the sale, survey, and distribution of the land in the Northwest Territory—as well as the Northwest Ordinance of 1787, which allowed for the formation of new states as well as the creation of government in the Northwest Territory. However, the weaknesses of the Articles made effective government under them extremely difficult: Congress had little power to compel states to follow the policies of the central government. Each state had a single vote in the legislature. Amendments to the Articles required unanimous consent. Congress could not raise an army or regulate trade. Finally, there was no court system or executive branch.
4. Shays's Rebellion arose from an attempt by Massachusetts farmers to reduce taxes levied by the state. While Massachusetts officials eventually quelled the rebellion (with the use of a private militia), many realized that the central government as designed could not effectively react to such situations, planting the seeds for a revision of the Articles.

Revising the Articles: Early Attempts

- Mount Vernon
Conference: delegates
from MD and VA met to
settle commerce disputes
- Meeting of all states
proposed for same reason
- Annapolis Convention
failed
- Hamilton suggested a
convention to correct
defects in the Articles



Mount Vernon

One of the earliest attempts at solving the problems of the Articles took place at George Washington's Virginia home—the so-called Mount Vernon Conference—where representatives from Maryland and Virginia met in an attempt to settle disputes over the use of the Potomac River. Delegates to the Mount Vernon meeting proposed a conference of the 13 states to discuss issues related to commerce.

The Mount Vernon meeting led to an abortive convention at Annapolis, Maryland. Several of the states (including Maryland) did not send delegates. However, one of the delegates who did attend, Alexander Hamilton, proposed a follow-up meeting in Philadelphia in order to correct problems in the Articles of Confederation themselves. The Annapolis delegates supported Hamilton's proposal, and the Continental Congress quickly approved it.

The Philadelphia Convention



The Pennsylvania State House in Philadelphia, where the Constitutional Convention was held

- May 1787, in Philadelphia, PA
- 55 delegates attended
- All states represented except RI
- Some influential figures did not attend, including Thomas Jefferson and Patrick Henry

At the start of the Philadelphia Convention on May 25, 1787, fifty-five delegates from 12 of the 13 colonies began considerations regarding revision of the Articles of Confederation. Rhode Island refused to send delegates, and some of the more famous figures of the Revolution did not or would not attend. For example, Thomas Jefferson was in France serving as the U.S. ambassador. Patrick Henry, on the other hand, “smelt a rat,” suspecting that revisions to the Articles of Confederation would grant the central government too much power, and chose not to attend. Two of the New York delegates walked out during the convention, leaving Hamilton as the state’s lone delegate.

The Philadelphia Convention: Demographics

- Most delegates were wealthy
- Nearly two-thirds were lawyers
- Forty had served in Confederation Congress
- Over half had been officers in the Continental Army
- Seven former state governors
- Eight signers of the Declaration of Independence
- Average age of 42

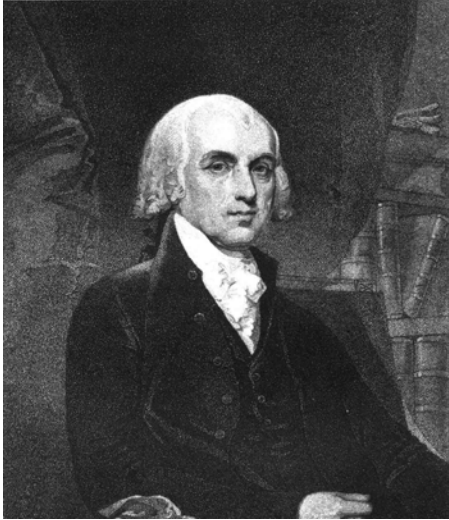
Delegates to the Philadelphia Convention had many things in common. First, most were wealthy and had significant economic interests in the convention's outcome. (Some historians have speculated that ultimately the Constitution served more to protect their economic rights than establish a plan of government.) Nearly two-thirds of the delegates had law degrees, and 40 had served in the Confederation Congress, knowing firsthand the weaknesses of the Articles of Confederation. More than half (including Washington and Hamilton) had served as officers in the Continental Army during the American Revolution. Seven of the delegates had been state governors. Eight had signed the Declaration of Independence. While some older delegates (such as Washington and Franklin) did have prominent roles, most of the delegates were relatively young—their average age was just 42, while several of the more illustrious delegates, such as Alexander Hamilton and James Madison, were in their 30s.

Discussion Questions

1. Why were the Mount Vernon and Annapolis meetings called? How effective do you think they were?
2. For what purpose was the Philadelphia Convention originally called? What was the makeup of its delegates?

1. The Mount Vernon Conference came about when George Washington invited representatives from Virginia and Maryland to visit his home in an effort to settle disputes over commercial use of the Potomac River. Delegates at the Mount Vernon meeting proposed a conference of all 13 colonies to discuss issues related to commerce under the Articles, which took place in Annapolis, MD. Though this convention failed to produce its intended results (especially in light of the fact that several states didn't bother to send delegates), New York delegate Alexander Hamilton suggested that a second meeting be held in Philadelphia during the summer of 1787 to specifically address weaknesses in the Articles of Confederation.
2. The Philadelphia Convention was originally called to address problems with the Articles of Confederation. It became obvious early on that weaknesses in the system made simple revisions impossible, and that a wholly new document was necessary. Most of the 55 delegates who attended the Convention were men of wealth and prominence. Most were lawyers; over half had been officers in the Continental Army during the American Revolution; seven had been state governors; most were relatively young, with an average age of 42.

Profiles: James Madison



- “Father of the Constitution”
- Devised Virginia Plan
- One of the leading authors of *The Federalist*
- Drafted the Bill of Rights

Perhaps no member of the Constitutional Convention proved more instrumental than James Madison, a Virginia delegate who has since received the title “Father of the Constitution.” Madison sat on various committees at the convention, missed very few of its proceedings, and also devised the Virginia Plan, which included a three-branch government with the number of representatives from each state based on population.

Though a relatively poor orator, Madison spoke in debates more than 150 times. He took copious notes during the proceedings, which have been used to help interpret what the Framers meant by various parts of the document.

He also led the fight for the Constitution’s ratification by Virginia, and along with Hamilton and John Jay produced *The Federalist*, a set of essays designed to sway opinions in favor of ratification. When the addition of a bill of rights became a ratification issue, Madison authored the 10 amendments which became the Bill of Rights.

Profiles: George Washington

- Served in VA House of Burgesses
- Leader of Continental Army
- Named president of the convention
- Later elected first president of the U.S.



Of all the convention's delegates, none had greater fame or had earned more respect than George Washington. Already a legend for his military endeavors as the head of the Continental Army, he seemed the logical choice for president of the Constitutional Convention, in light of his experience in the Virginia House of Burgesses, his work in the Mount Vernon meeting between Maryland and Virginia, and his support for the recent Annapolis Convention. Washington did not speak much during the proceedings, but most accounts note his active role in working behind the scenes to guide the document through various debates. Washington's ability and commanding presence soon made him the overwhelming favorite for the nation's first president.

Profiles: Benjamin Franklin



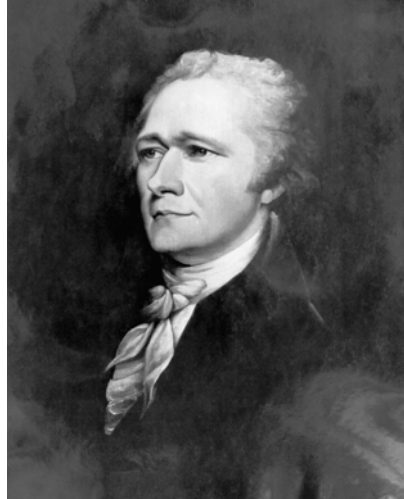
- Although in his 80s, he attended most sessions
- Did not approve of parts of the document
- Lent his prestige to helping along the ratification process
- Gave famous “Rising Sun” speech

The most influential elder statesman at the Constitutional Convention was Pennsylvania’s Benjamin Franklin. Already in his 80s, Franklin still managed to travel to Philadelphia and attend most if not all sessions of the convention. While Franklin did not personally approve of all sections of the document, he still lent his considerable prestige to the ratification process. He also gave an impassioned speech at the end of the convention urging his fellow delegates to sign the Constitution.

In addition, Franklin is noted for his brief “Rising Sun” speech given at the end of the convention. Noting the sun painted on the back of Philadelphia Convention President Washington’s chair, Franklin supposedly noted to other delegates the difficulty for an artist to definitively portray a rising or setting sun. Franklin, too worn out by this time to deliver his own speech, asked a fellow delegate to remark that Franklin “had the happiness to know that it [the new nation] is a rising and not a setting sun.”

Profiles: Alexander Hamilton

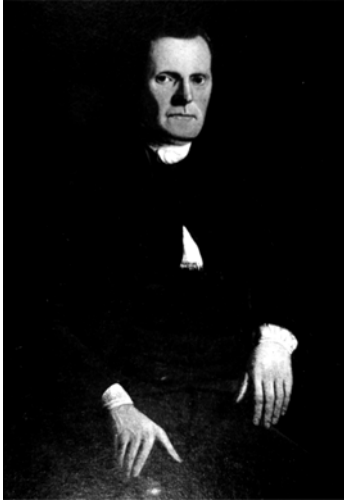
- Proposed Philadelphia Convention
- Disapproved of both Virginia and New Jersey Plans for representation
- Helped lead ratification fight in New York
- Co-author of *The Federalist*



A military leader and aide-de-camp to George Washington during the Revolution, Alexander Hamilton continued to stay active in politics after the end of the war. As an attendee of the failed Annapolis Convention, Hamilton proposed that delegates meet in Philadelphia to correct problems with the Articles of Confederation. Hamilton—the convention’s only remaining delegate from New York—was among those who advocated a strong central government.

During the convention, Hamilton characterized both the Virginia Plan and New Jersey Plan for representation as insufficient, insisting that some compromise be reached (out of which emerged Roger Sherman’s Connecticut Compromise). After the convention, Hamilton led the New York state ratification fight. He also co-authored *The Federalist*, a series of newspaper editorials and essays in favor of the Constitution. After ratification, Washington appointed Hamilton the nation’s first Secretary of the Treasury.

Profiles: Roger Sherman



- One of two who signed Declaration, Articles, and Constitution
- Influential in passing Connecticut (or Great) Compromise
- Instrumental in Connecticut's ratification

Roger Sherman of Connecticut was one of only two delegates to the Philadelphia Convention who was a signer of the Constitution, Declaration of Independence, and Articles of Confederation. He had been a member of the "Committee of Five" whom the Continental Congress appointed to write the Declaration of Independence. He proved instrumental at the Constitutional Convention in advancing the Connecticut (or "Great") Compromise, which settled the representation controversy between big and small states. After the convention ended, Sherman led the fight for ratification in his home state. He later served in both houses of Congress in the late 1780s and early 1790s.

Profiles: Gouverneur Morris

- Delegate from Pennsylvania
- Wrote Preamble to the Constitution
- Also wrote “obligations of contracts” clause
- Became U.S. ambassador to England, later France



Gouverneur Morris served alongside Benjamin Franklin as a delegate from Pennsylvania to the Philadelphia Convention, where he spoke more often than any other attendee. His direct contributions to the Constitution include the Preamble and the “obligation of contracts” clause of Article I, Section 10, which limited state power. Morris believed in a strong central government run by an aristocracy and thus that only property owners should be able to vote. After the convention, Morris served as U.S. ambassador to England and replaced Thomas Jefferson as U.S. ambassador to France. He later served in the U.S. Senate.

Points of Agreement

- Revisions to the Articles would not solve their problems
- A written constitution
- Federal system with republican form of government
- Limited government power
- Separation of powers
- Debate in secret

The delegates to the Constitutional Convention found at the outset that they agreed on certain issues:

- Simple revisions to the existing Articles of Confederation would not solve their inherent shortcomings, so the convention elected to devise a completely new document.
- The new constitution must be written down, so that later generations could interpret the meaning of a specific article or clause.
- The document should establish a republican form of government. In the delegates' view, the people could not rule both directly and effectively, but instead should vote for representatives who would handle the duties of government.
- Government power as a whole must be limited. The central government should have sufficient power to carry out its duties, but not enough to overly limit the authority of the states.
- Each branch of government should have certain exclusive functions (separation of powers), while at the same time exercising specific checks and balances over the other two.
- The proceedings of the convention must be kept secret. By doing so, they felt that no delegate could gain a political advantage or feel threatened against speaking his mind.

Issues to Resolve

- What powers the government should have
- This involved the states relinquishing some of their sovereignty
- How to determine states' representation in the new national government
- This issue would have to be decided by compromise

While the delegates agreed on several fundamental issues, two important questions still remained. One of the questions dealt with what powers the central government should be granted. Most agreed that the government needed to have sufficient power to carry out those duties assigned to it by the Constitution; however, this required that the states relinquish some of their sovereign rights. The national government was given the power to coin money, as well to regulate interstate commerce. This required the states to give up powers which had traditionally been theirs under the Articles. However, the states did not seem to overly object to this.

The second question did require some debate and later compromise. Delegates from larger states realized that representation based on population would put them in a position of advantage in the new legislature, which they naturally saw as a benefit. States with smaller populations envisioned themselves being marginalized and dominated by larger-state interests, so they continued to lobby for the “one state, one vote” rule established by the Articles of Confederation.

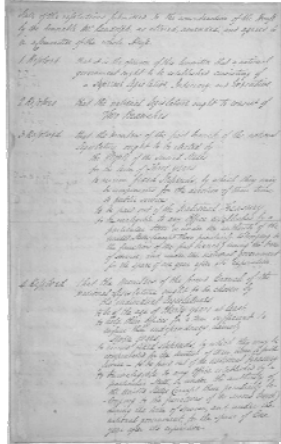
As neither side proved willing to grant the wishes of the other, it became obvious that only compromise could settle this issue. At the convention, the larger states had already submitted their plan allowing for representation based on population, referred to as the Virginia Plan. The smaller states countered with their own plan, called the New Jersey Plan.

Discussion Questions

1. On what points did the Philadelphia Convention delegates agree at the start of the convention?
2. What basic questions of government did the convention have yet to address? Which of these do you feel was the most important? Why?

1. The Philadelphia Convention delegates agreed immediately on several points, including that (1) the Articles could not be revised, and must be discarded, (2) in order to avoid later disputes or questions, the constitution must be written down, (3) the new constitution should include a federal system that divided authority between the central and state governments, (4) the government would also be a republic, in which representatives would vote the will of the people, (5) government power should be limited, with a separation of powers, and (6) that the proceedings be conducted in secret, so that all delegates would feel free to speak their minds.
2. Delegates also recognized certain basic questions that the convention would have to address, such as the powers that the central government needed to carry out its duties effectively (and conversely, how much sovereignty the states would surrender) and the means of determining each state's representation in the new legislature. Answers to the second part of the question will vary.

The Virginia Plan



First page of the
Virginia Plan

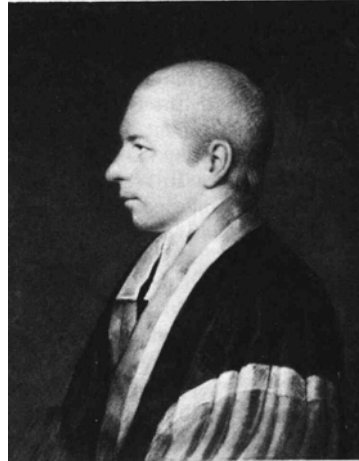
- Also known as the “Randolph Plan”
- Drafted by Madison
- Called for bicameral legislature
- Upper house selected by lower house
- Representatives determined by population

To solve the issue of the big state/small state debate, the larger states put forward the Virginia Plan, also known as the “Randolph Plan” after the delegate who introduced it, Virginia Governor Edmund Randolph. However, James Madison had actually devised the plan.

The Virginia Plan called for a two-house (or bicameral) legislature. Each state would have representation in both houses based on population, and the lower house would select the members of the upper house. This of course would greatly benefit the more populated states, such as Virginia. The smaller states refused to accept this arrangement; they instead supported the New Jersey Plan, which better protected their interests.

The New Jersey Plan

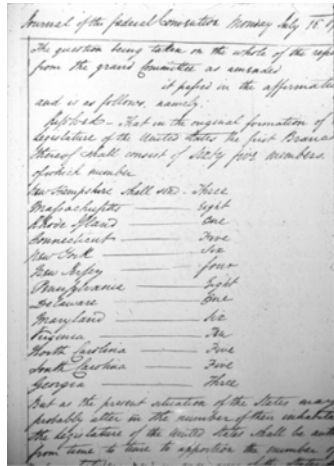
- Proposed by Paterson
- Legislative plan advocated by small states
- Equal representation regardless of size
- Same legislative structure as the Articles



William Paterson

While the large states supported Randolph and Madison's Virginia Plan, smaller states backed the New Jersey Plan introduced by former New Jersey Attorney General William Paterson. The legislative branch under this arrangement would retain the structure of the legislature under the Articles of Confederation. Each state would have the same number of representatives in the legislature, regardless of population. This would have successfully protected the interests of the smaller states, but larger states rejected the scheme. The delegates realized that they needed to reach some sort of compromise to ensure the convention would not stall and that the Constitution would not get voted down.

The Great Compromise



Text of the Great Compromise
establishing numbers of delegates
per state

- Also called the “Connecticut Compromise”
- Introduced by Sherman
- Representation in lower house by population
- Fixed number of representatives in upper house

Delegate Roger Sherman helped break the deadlock over the issue of representation with a scheme now called the “Great Compromise” (also known as the “Connecticut Compromise”, after his home state). The final plan contained elements of both the Virginia and New Jersey plans. It provided for a bicameral legislature, as with the Virginia Plan. Population would determine the number of votes each state had in the lower house (or the House of Representatives), another nod to the Virginia Plan. However, each state would send a fixed number of representatives to the upper house (or Senate), in accordance with the New Jersey Plan. Voters would elect the members of the House of Representatives. However, the legislature of each state would select its state’s senators. (The ratification of the 17th Amendment, which allows for direct popular election of senators, changed this in 1913.)

The House and Senate: Differences

- House considered to represent “ordinary Americans” because voters elect members directly
- Bills for raising revenue must originate in House
- Senate viewed as “advisory” in nature:
 - Ratifies treaties
 - Approves presidential appointments
- Senate designed to represent the “aristocracy”

The Framers designed the House of Representatives and Senate to fulfill different purposes in the new government. Since voters directly elected House members, the chamber was intended to represent the views of the people. In addition, the two-year term of representatives ensured significant oversight of House members by the voters. However, the Framers ensured that the House hold one exclusive power—all bills designed to raise revenue (tax bills) must originate there.

The Framers established the Senate as more advisory in nature than the House. The Senate received the power to approve treaties negotiated by the executive branch, as well to approve presidential appointments to government offices, such as the Cabinet and Supreme Court. Since state legislatures originally appointed senators, rather than having the people elect them, the Framers saw the Senate as catering more to the aristocratic elements of the people. In addition, the six-year term given senators lowered the likelihood that state legislatures would remove them from office on political whims.

The “Three-Fifths Compromise”

- North wanted to count slaves for taxation purposes, not representation in Congress
- South wanted to count slaves for representation, not taxation
- Compromise counted three-fifths of “other persons” for both representation and taxation
- Congress also forbidden to interfere with slave trade until 1808

The Virginia Plan’s rule determining House membership by population led to yet another thorny issue that endangered ratification. Delegates from Northern states insisted that slaves be counted as property for taxation purposes, but not for representation, since slaves did not have the rights of citizens. Southern delegates, on the other hand, wanted to include slave populations for purposes of representation, but not for taxation. Neither side wanted to budge on this controversial issue. In response, Connecticut’s Roger Sherman and Pennsylvania’s James Wilson proposed the so-called Three-Fifths Compromise.

According to the compromise, three-fifths of the number of slaves would count toward both representation and taxation. The Framers also took care that the three-fifths not apply to Native Americans or “those bound to service for a term of years” (i.e., indentured servants).

In another concession, the Framers included a provision that Congress not abolish the slave trade for a period of 20 years, until 1808. The Three-Fifths Compromise is recognized as a major victory for the South, since slavery continued unabated and Congress rarely passed laws affecting direct taxation until after the 1860s.

Discussion Questions

1. What were the main points of the Virginia Plan? The New Jersey Plan?
2. How did the Great Compromise solve the controversy between supporters of the Virginia Plan and those favoring the New Jersey Plan?

1. The Virginia Plan allowed for a bicameral Congress in which population determined representation; the people would elect the members of the lower house, who would then select the members of the upper house. The New Jersey Plan included a unicameral Congress in which each state would have the same number of representatives; it would have maintained the legislative structure as under the Articles of Confederation.
2. The Great Compromise (or Connecticut Compromise) took elements from both the Virginia Plan and the New Jersey Plan, satisfying the concerns of both groups. The compromise provided for a bicameral legislature in which the lower house based representation on population, and an upper house with the same number of delegates from each state. The people would elect the members of the lower house (the House of Representatives), while state legislatures would select the members of the upper house (the Senate).

Discussion Questions (cont.)

3. What were some ways in which the House and Senate differed in philosophy and in function?
4. What compromise did the Framers reach in regards to slavery and representation?

3. The Framers thought that the House would better represent the people, since the people directly elected them. However, the House had a unique power, in that bills designed to raise revenue could only originate there. The Senate took more of an advisory role, and would approve treaties and appointments. Since state legislatures would appoint senators, the body would better represent the elite.
4. The Framers debated intensely whether slaves should count toward representation in Congress, for taxation, or both. Northern delegates wanted to count them for taxation but not representation; Southern delegates wanted the opposite, to tally slaves for representation purposes but not taxation. The delegates solved this issue via the “Three-Fifths Compromise,” which would count three-fifths of “other persons” for both representation and taxation purposes. In addition, the convention agreed that Congress not have the ability to interfere with the slave trade until 1808.

Separation of Powers

- Based on Montesquieu's theories
- Government is divided into three distinct branches:

Legislative Branch

Makes the law

Executive Branch

Enforces the
law

Judicial Branch

Interprets the
law

While the Framers recognized the need for a strong central government in order to respond effectively and efficiently to problems, they also took steps to ensure that no one person or group in the government gained too much power. Taking a page from the French Enlightenment philosopher Montesquieu, they incorporated the concept of separation of powers into the Constitution. As the Framers devised, the government functions as three distinct entities with specific powers. The Legislative Branch (defined in Article I) creates legislation. The Executive Branch (Article II) has the authority to carry out the law as enacted by Congress, and similarly places the armed forces under civilian command (i.e., the president). The Judicial Branch (Article III) interprets the law, primarily through the power of judicial review.

The Executive Branch

- Headed by the Office of the President
- Responsible for carrying out the law
- Can veto bills
- Appointment power
- Commander-in-chief of armed forces
- Also in charge of foreign relations



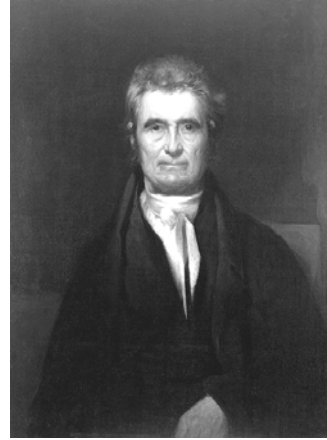
To ensure that the nation's laws get effectively carried out, the Framers created a strong executive branch, headed by the Office of the President of the United States. Article II of the Constitution spells out the president's powers and duties:

- To execute (or carry out) the law as established by Congress
- The right to send bills he or she disagrees with back to Congress, also known as "veto power." Congress can override a presidential veto, but such a measure takes a supermajority of two-thirds of both houses to pass.
- The right to appoint the judiciary (with the Senate's "advice and consent")
- The power, as a civilian, of commander-in-chief over all American armed forces. By the mid-20th century, the president gained the authority to order the use of nuclear weapons. The Executive Branch also has the authority to develop the nation's foreign policy (again, with "the advice and consent" of the Senate).
- The obligation to provide a yearly address to Congress. For many years, presidents treated the State of the Union address as a mere formality, but 20th- and 21st-century presidents have found it to be a huge national forum for announcing new legislative programs.

Article II also spells out basic requirements for anyone seeking the office. Candidates must be at least 35 years old, be natural-born U.S. citizens, and must have resided in the United States for at least 14 years prior to their election.

The Judicial Branch

- Judicial powers and offices left vague in the Constitution
- Called for Supreme Court with a chief justice
- Allowed for “inferior courts” as Congress sees necessary
- Branch evolved through legislation
- *Marbury v. Madison* established judicial review



John Marshall

While the Framers devised the Constitution to provide a strong legislative and executive branch, based on the detail it offers the judicial branch seems almost an afterthought. Article III, which describes the judiciary, simply institutes a Supreme Court to be headed by a chief justice, and “inferior courts” to be established as Congress sees fit.

As the new nation grew, legislation shaped the judicial branch. The Judiciary Act of 1789 set the number of associate judges added to the Supreme Court (five) and also established a federal court system throughout the 13 states. However, the Supreme Court case of *Marbury v. Madison* likely provided the most significant power to the Judicial Branch by defining the court’s power of judicial review, or the opportunity to declare an act of Congress unconstitutional. Chief Justice John Marshall, a strong federalist, also enhanced the court’s power in several cases that affirmed the supremacy of the federal government.

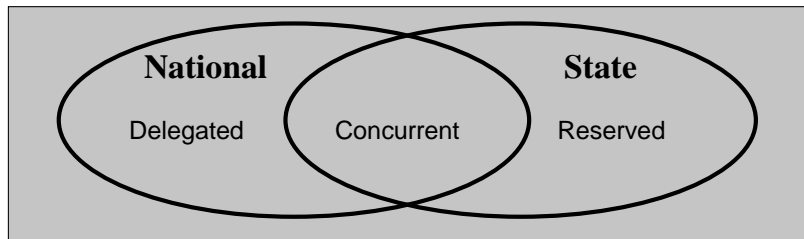
Discussion Questions

1. On whose theories did the Framers base the Constitution's separation of powers? What duties does each branch perform?
2. What powers and responsibilities does the Constitution give the executive branch?
3. What structure does the Constitution describe for the judicial branch? What power does the judicial branch have over Congress?

1. The French philosopher Montesquieu developed his concept of the separation of powers in his *The Spirit of the Laws*. As incorporated into the Constitution, the legislative branch makes the law, the executive branch carries out (or executes) the law, and the judicial branch interprets the law.
2. The executive branch, headed by the Office of the President, has several powers under the Constitution, including the obligation to execute the law. The president has the power to make appointments, as well as to veto bills passed by the legislative branch (though the legislature can override a presidential veto with a supermajority of both houses). The president conducts foreign relations and has the authority to negotiate treaties with other countries (with the approval of the Senate). He also serves as commander-in-chief of the armed forces.
3. The Framers left the makeup of the judicial branch relatively vague, establishing a supreme court to be headed by a chief justice. Article III also allows for Congress to institute a system of inferior courts as necessary. As such, laws like the Judiciary Act of 1789 created a better-defined federal court system. The Supreme Court can declare acts of Congress unconstitutional through the process of judicial review, as first practiced in the 1803 case *Marbury v. Madison*.

Division of Power

- Also known as “federalism”
- Allows for state sovereignty
- Types of powers:
 - Delegated: those granted the federal government
 - Reserved: those granted the states
 - Concurrent: those shared at both levels



Another issue that the Framers had to deal with involved giving the national government sufficient power to carry out its duties, while leaving the states a measure of sovereignty as well. The solution is known as the division of power, or federalism.

- In the federal system, certain powers are granted to the national government. These “delegated” powers include the power to declare war, establish a postal service and a system of weights and measures, as well as maintaining an army and navy.
- Other powers are “reserved” to the states. Examples include education, marriage and divorce laws, and speed limits. However, federal laws and court rulings, such as those declaring public-school segregation unconstitutional, have blurred the lines between federal and state authority.
- Still other powers are called “concurrent”—i.e., belonging to both the federal and state governments. These include the power to tax and the use of eminent domain (taking private property for the public good).

Implied Powers

- Powers not written in the Constitution
- Federal government can exercise them by assuming the delegated powers
- Stem from the “necessary and proper” (or “elastic”) clause
- Examples include regulating airlines and radio and television



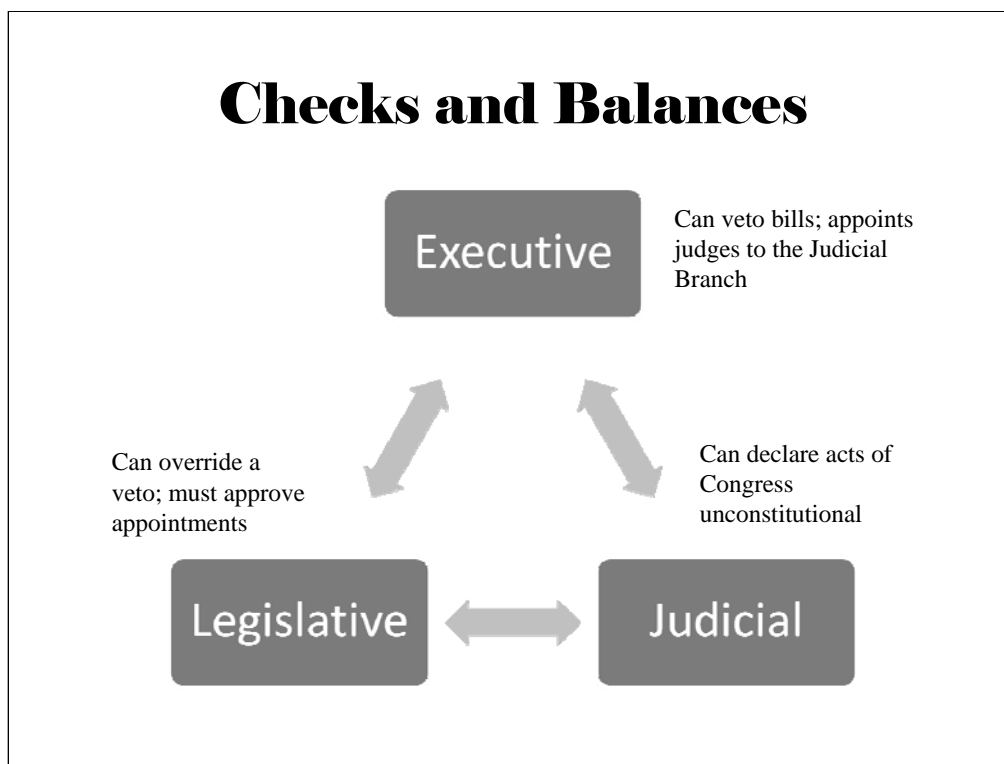
“Necessary and proper”

While the Framers listed a series of powers delegated to the national government, some had concern about circumstances for which no specific constitutional clause existed that might require government action. Their solution was Article I, Section 8, clause 18 of the Constitution, also known as the “necessary and proper” clause, or “elastic” clause.

The text of this clause states: “The Congress shall have Power...[t]o make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.”

In other words, the federal government could enact laws and make policies in instances where there wasn’t a specific constitutional provision, as long as the law or policy allowed the government to carry out a delegated power. For example, the Constitution doesn’t mention regulating airline travel or radio and television signals. However, the Constitution does give the federal government the power to regulate trade, as well as provide for the common defense and secure the general welfare. The elastic clause, therefore, allows for these types of laws to be enacted.

Checks and Balances



Along with the doctrine of separation of powers, the Framers took further measures against any one branch having too much control over the federal government. To do this, they created a system known as “checks and balances.”

Each branch has certain checks (or controls) it places over the other two branches. For example, the legislative branch makes the law. However, before a bill becomes law, the president must sign it. Alternatively, the president can veto a bill, sending it back to Congress. If Congress can secure a two-thirds majority in both houses, it can override the president’s veto and enact the bill into law. The legislative branch also acts as a grand jury and trial jury in cases of impeachment.

The judicial branch has the power of judicial review—that is, it can declare acts of Congress (and state legislatures) unconstitutional. However, the Supreme Court may need to rely on the other branches to actually enforce its ruling. In addition, the president has the power to appoint new judges to vacancies in the judicial branch, and the legislative branch must approve these appointments.

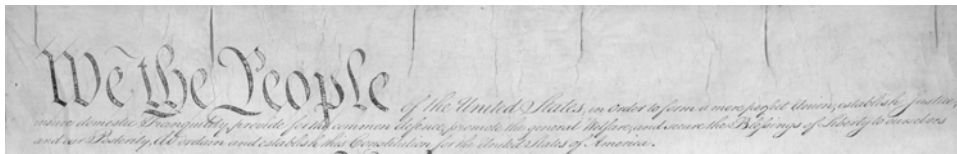
Discussion Questions

1. How does federalism deal with the issue of government authority vs. state sovereignty?
2. How does the Constitution allow for the addition of implied powers? What are some examples of implied powers?
3. What purpose does a system of checks and balances serve? Give an example of how it works.

1. The federal system functions by giving powers to both the national government (delegated powers) and the individual states (reserved powers). Certain powers, such as taxation, belong to both the national government and the states, and are called “concurrent” powers.
2. Via the elastic clause (also called the “necessary and proper” clause), the national government has the authority to do whatever is “necessary and proper” in order to carry out its delegated powers. For example, while the Constitution doesn’t specifically give the federal government the authority to regulate air travel, it does allow it the authority to regulate commerce, as well as to “provide for the general welfare.” Therefore, the federal government can regulate air travel.
3. The system of checks and balances provides a way of ensuring that no one branch of government gains too much power. It does this by allowing each branch certain controls (or checks) on the others. For example, Article II gives the president the power to appoint government officials; however, appointment require the consent of the Senate. Furthermore, the legislative branch (i.e., Congress) can make laws, but the judicial branch can declare an act of Congress unconstitutional.

The Preamble

- Provides an conceptual introduction to the Constitution
- States the aims and goals the Framers wanted to attain
- Firmly establishes popular sovereignty by stating that “We, the People” are the source of governmental authority



The Preamble serves as an introduction to the Constitution, providing a way for the Framers to state the aims and goals to be met in the finished document. These aims include “form[ing] a more perfect union,” “establish[ing] justice,” “provid[ing] for the common defense,” and “promot[ing] the general welfare,” as well as other goals and aims. Moreover, the Framers also wanted to make clear the origin of governmental power. The words, “We, the People,” label the American people as the source of authority over the government and its leaders.

The Preamble: Excerpt

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Discussion question:

Ask students to read the text of the Preamble. After giving them time to review, ask them to give modern-day examples of how the federal government seeks to achieve these goals. Students may suggest several government programs or laws, such as welfare, food stamps, Social Security, laws that regulate individuals' behavior and protect persons' lives and property, or sending American troops to fight various wars.

The Supremacy Clause

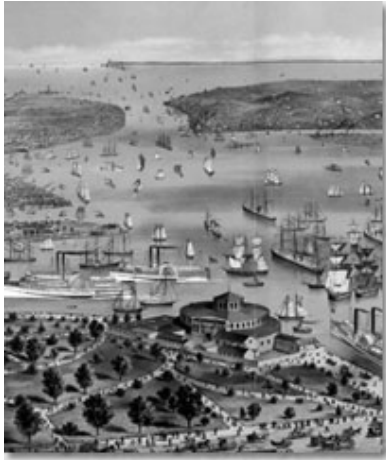
- Establishes the Constitution as the “supreme law of the land”
- Federal law supersedes state laws when a conflict exists
- Also known as the “linchpin clause”



The “linchpin clause” guarantees federal supremacy

One of the Constitution’s more innovative features is known as the “supremacy clause,” which guarantees that in cases of conflict, federal law always supersedes any state statute. Some also refer to it as the “linchpin clause,” because it joins the powers of government under the Constitution, in much the way that a linchpin (common in many 18th-century machines) holds together different parts or elements that function as a unit. While states maintained some sovereignty through their reserved powers, the supremacy clause guarantees a streamlined governmental system as well as protection against state abuses.

The Commerce Clause



The landmark 1824 commerce clause case *Gibbons v. Ogden* dealt with steamboats sailing from New Jersey to New York harbor (shown here)

- Allows the government to regulate trade with foreign countries
- Also interstate commerce (trade between states)
- Used along with the elastic clause to expand federal authority:
 - Interstate navigation
 - Modern civil rights law

Another fundamental clause of the U.S. Constitution deals with the regulation of commerce. The so-called “commerce clause” has been used by the Supreme Court in cases to assert federalism as well as to uphold certain legislation.

The federal government has the authority to regulate interstate commerce (between the states), as well as commerce with foreign nations and commerce with the Indian tribes. The states maintain the right to regulate intrastate commerce (commerce within a single state).

In the Supreme Court case *Gibbons v. Ogden* (1824), Chief Justice John Marshall asserted that the commerce clause also gave the federal government the right to regulate interstate navigation. In the cases *Heart of Atlanta Motel v. U.S.* and *Katzenbach v. McClung* (both 1964), the Supreme Court also affirmed that the federal government could enforce provisions of the Civil Rights Act of 1964 (which made racial discrimination illegal) via the commerce clause.

The Electoral College

- Used for presidential elections
- Framers had concerns that voters wouldn't make informed decisions
- Each state selects electors equal in number to its congressional representation
- Electors vote twice: once for president, once for vice president
- Political parties have made the Electoral College a “rubber stamp”

The creation of a powerful executive in Article II of the Constitution concerned many Framers, who believed the average voter might not be informed enough to make a legitimate decision about who should be president. While no one questioned George Washington's ability or character, there was no guarantee that men of lesser ability or character might not be elected in later years.

The Framers answered with the Electoral College. Each state has a slate of “electors” equal in number to its congressional representation. After the popular vote for president, these electors would then travel to their respective state capitals and cast votes for two different candidates. The total electoral vote would be counted and announced in a joint session of Congress. Originally, the candidate receiving a majority of electoral votes would win the presidency, with the runner-up elected vice president.

The system did (and does) have its drawbacks: In 1800 and 1824, no candidate received a majority of electoral votes, or the vote came to a tie, with the House of Representatives deciding the election. In other instances (most recently in the election of 2000), the candidate who received a majority of the popular vote lost the electoral vote. The entrenchment of political parties soon after Washington's election relegated the Electoral College to a “rubber stamp” system, in which electors who could technically vote for anybody would pledge loyalty to the candidate of their political party. Any dramatic changes to the Electoral College system seem unlikely. Even the smallest state has three electoral votes, which gives small states more leverage that they might otherwise in the election process. In addition, election law makes it difficult for third parties to win electoral votes, since they usually do not get enough of the popular vote to win a state's entire slate of electors.

The Constitution: Problems Solved

- System of checks and balances curbed excessive power by a single branch
- Created powerful executive who can veto acts of Congress
- Established national judiciary
- Different constituencies select members of each branch
- Elastic clause allows for expansions to federal authority

The Constitution fixed several problems that had plagued the government under the Articles of Confederation:

- While the Constitution allows for a strong central government, a system of separation of powers and of checks and balances ensures that no branch of government becomes overly powerful.
- The Articles did not provide for an executive branch. However, the Constitution creates a powerful executive with the ability to propose legislation as well as veto bills passed by the legislative branch (though Congress can, by a two-thirds majority, override a presidential veto).
- Another glaring weakness of the Articles was eliminated by the creation of a national judiciary, including a supreme court and a hierarchy of lower regional courts.
- To keep the various branches of government under control, the Framers made each answerable to a separate constituency: Since all bills to raise revenue had to originate in the House, the people would vote for their representatives directly. State legislatures would select the members of the Senate, whose function the Framers saw as akin to the aristocratic upper houses of parliamentary systems. The Electoral College (and not the people) would elect the president.
- Finally, in an effort to keep the government vital enough to face new challenges, the Framers added the “necessary and proper” (or elastic) clause.

Discussion Questions

1. What purpose does the Preamble serve relative to the entire Constitution?
2. What does the supremacy clause provide for? How does it do this?
3. What does the commerce clause allow the federal government to do? How was this an improvement over the Articles of Confederation?

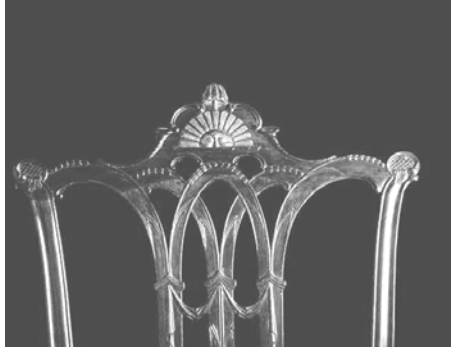
1. The Preamble lists the aims to be achieved by the government formed by the Constitution, including to “form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty.” In addition, the Preamble specifically states that the people are the source of the government’s power.
2. The supremacy clause (also known as the “linchpin clause”) declares that when federal and state law conflict, federal law wins. It specifically states that the Constitution and the laws of the United States are the “supreme law of the land.”
3. The commerce clause allows the federal government to regulate interstate commerce (trade between states), as well as commerce with other countries. The Articles of Confederation did not give the central government any power to regulate trade, which led to conflicts between states and eventually spawned the Mount Vernon Conference.

Discussion Questions (cont.)

4. Why did the Framers include the Electoral College in the Constitution? How did this system originally work?
5. What were some problems of governance under the Articles of Confederation that the Constitution solved?

4. The Framers had concerns about the voters' ability or interest in making an informed decision in choosing the president. The Electoral College could therefore override the decision of the voters and select someone more acceptable, if necessary. In the original system, each state had a number of electors equal to its representation in the House and the Senate. After the presidential election, the electors would cast two votes for two separate candidates; the candidate receiving the highest number of electoral votes became president, while the second-highest became vice president.
5. The Constitution corrected several errors that plagued government under the Articles of Confederation. The new government included a system of checks and balances to curb abuses of government power. It also created a strong executive as well as a national judiciary. Different constituencies selected members of each branch of government (the House by the people, the Senate by state legislatures, and the president by the Electoral College). The "necessary and proper" clause allowed for expansion of the authority of the federal government, if needed.

The Convention Ends



Franklin's concluding speech compared the new nation to the "rising sun" on Washington's chair

- July 1787: Writing began
- August: Committee of Style and Arrangement selected
- September 17, 1787: Constitution submitted for signing
- 39 delegates signed; others refused

By July 1787, the delegates to the Philadelphia convention had agreed to various compromises and resolved several points of contention. The convention then turned to the process of writing the final document. That month, work continued on putting the document into written form, and in August, the convention selected a Committee of Style and Arrangement to polish the language. Gouverneur Morris led this committee, and many believe that primarily he developed the document's style and as well wrote its Preamble.

On September 17, the committee completed its work and submitted the Constitution to the entire body for signing. Several delegates did not sign the finished document, including Elbridge Gerry, Edmund Randolph, and George Mason, who objected to the lack of a bill of rights. Thirty-nine delegates did sign, however—enough to send it to the states for ratification.

Franklin on the Finished Constitution

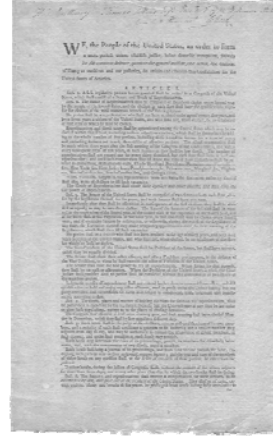
...[T]here are several parts of this Constitution which I do not at present approve, but I am not sure I shall never approve them... I doubt too whether any other Convention we can obtain, may be able to make a better Constitution. ...It therefore astonishes me...to find this system approaching so near to perfection as it does; and I think it will astonish our enemies...

Discussion questions:

1. How does Franklin indicate the convention's success in reaching a set of compromises that could be accepted by various groups and interests? Students will probably note Franklin's statement that he doesn't approve of the whole Constitution, but he doubts if they could make a better one.
2. Who does Franklin refer to in the phrase, "I think it will astonish our enemies..."? Why might he say this? Some students may say that Franklin is referring to the British as "our enemies." While the British had signed the 1783 Treaty of Paris granting American independence, many Americans still saw them as a threat to the nation's security; moreover, the Framers knew that the British assumed that American independence would not last, and that the new nation would collapse and look for protection under the British system. However, other students may feel that Franklin's "enemies" were domestic—i.e., those who might have preferred the government under the Articles, or who favored another form of government (such as a monarchy) to replace the ineffective Articles.

Ratification Procedure

- Addressed in Article VII
- Ratification to occur in “special state conventions”
- Nine of 13 states needed for ratification
- Supporters of the Constitution nicknamed “Federalists”
- Opponents called “Anti-Federalists”

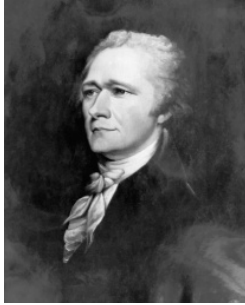


The first printed copy of the Constitution, 1787

Once the convention had completed its work writing the Constitution, it sent the document to the states for ratification. Article VII of the Constitution addresses this process, and required the Constitution to be ratified through “special conventions” held by the states. To avoid the logjams that frequently occurred over proposed amendments to the Articles, the Framers mandated that only nine of the 13 states needed to ratify the Constitution for it to become a law, rather than unanimous consent.

Quickly, two groups emerged in the ratification struggle. Those who supported the Constitution and urged its ratification became known as “Federalists,” while those who disapproved of the document were called “Anti-Federalists.”

Federalists



Hamilton

- In favor of ratification
- Favored government by “rich and well-born”
- Support concentrated in coastal areas and large cities
- Leaders included Hamilton and Madison



Madison

Those in favor of ratification received the name “Federalists” because of their support for the federal government. Many of the Federalist leaders represented the country’s elite, and so advocated government by the rich and well-born, or what many called the “virtuous democracy.” Unlike the Anti-Federalists, whose support tended to come from the interior of the country, Federalists counted as strongholds the larger cities and coastal areas. Major Federalist leaders included Alexander Hamilton and James Madison.

Anti-Federalists

- Opposed ratification
- Tended to be middle-class, farmers, and those who favored civil liberties over a strong government
- Included Patrick Henry, George Clinton, Mercy Otis Warren



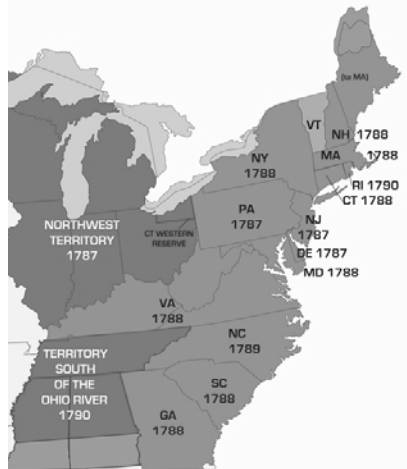
Anti-Federalist leader Patrick Henry refused to attend the Philadelphia Convention, saying he “smelt a rat”

Some were automatically suspicious of the new Constitution, fearing the prospect of a strong central government along with no federal guarantee of civil liberties, such as those included in a bill of rights. While the Anti-Federalists included some wealthy and well-born, most lived in rural areas or were common farmers.

Many Anti-Federalists worried about the make-up of the legislative branch, including the size of legislative districts in the new House of Representatives. In addition, many Anti-Federalists feared that the elite would dominate the new Congress. Others felt that the Constitution’s Preamble (“We, the People”) invited a strong central government uncontrolled by the states.

Perhaps the best known of the Anti-Federalist leaders was patriot and former Virginia governor Patrick Henry, who refused to attend the Philadelphia Convention because he “smelt a rat, tending toward the monarchy.” Other well-known Anti-Federalists included George Clinton and Mercy Otis Warren.

The Ratification Fight



- Nine states needed for ratification
- Well-organized resistance in NY and VA; RI and NC held convention
- Federalists agreed to include statement of civil liberties
- NH the ninth state to ratify

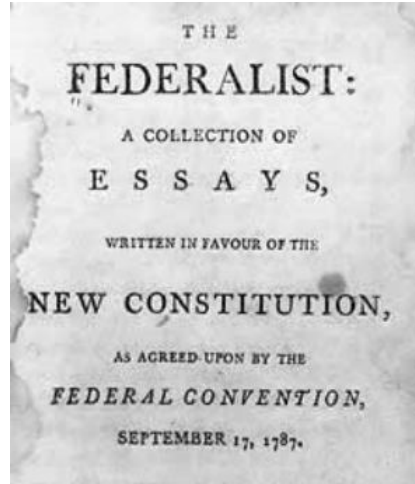
The Framers avoided the deadlock that plagued the Articles of Confederation by only requiring the approval of nine states instead of all 13 for ratification. However, even with this sort of majority, ratification seemed far from certain. Several states—most notably Virginia, New York, and Massachusetts—held strong majorities of Anti-Federalists in their state conventions. Neither Rhode Island nor North Carolina held ratification conventions (Rhode Island had not sent delegates to Philadelphia Convention).

The Federalists devised a strategy for ratification, targeting states that would likely ratify quickly and either unanimously or nearly unanimously. By December 1787, Delaware had become the first to ratify, doing so unanimously. Soon, Pennsylvania, New Jersey, and Georgia also approved it. Anti-Federalists had significant influence in Massachusetts's convention, with opposition to the Constitution heaviest in the western part of the state, where Shays's Rebellion had originated. However, the Federalists overcome this by promising that the first session of the new Congress would consider amendments protecting civil liberties. After fervent campaigning on the part of the Federalists, Massachusetts ratified the Constitution by a small margin.

Although Anti-Federalist sentiment in New Hampshire was also strong, Federalists managed to postpone the state convention for four months in order to lobby delegates for ratification. New Hampshire ratified the Constitution on June 21, 1788, becoming the crucial ninth state. However, the Federalists still sought to gain ratification in the two biggest holdout states, Virginia and New York. In their view, only by gaining ratification in all states holding conventions could the Constitution gain legitimacy.

The Federalist

- Written by Federalists Hamilton, Madison, and Jay
- Essays explaining and supporting ratification
- Published first in leading newspapers, later in book form
- Impact on public opinion debatable



As debate over ratification continued, three leading Federalists—Alexander Hamilton, James Madison, and John Jay—wrote a series of essays supporting ratification. They wrote under various pseudonyms (most commonly, Publius), and several leading newspapers of the day published the essays. Later, the essays were released in book form and titled *The Federalist*.

While scholars and legal experts would later use these essays to help interpret the Constitution, it is debatable whether *The Federalist* substantially changed public opinion regarding ratification. Its authors wrote for a New York audience and published the essays in local newspapers, although their arguments applied to mostly every state. By the time of New York's ratification convention, enough states had already ratified the Constitution to make it the law of the land, rendering the vote essentially moot. Some historians believe that the public actions of illustrious men such as Hamilton, Madison, and Jay in support of ratification had as much if not more influence on the debate.

From Federalist #10

A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect, and promises the cure for which we are seeking. Let us examine the points in which it varies from pure democracy, and we shall comprehend both the nature of the cure and the efficacy which it must derive from the Union...

Hence, it clearly appears, that the same advantage which a republic has over a democracy, in controlling the effects of faction, is enjoyed by a large over small republic—is enjoyed by the Union over the States composing it. Does the advantage consist in the substitution of representatives whose enlightened views and virtuous sentiments render them superior to local prejudices and schemes of injustice? It will not be denied that the representation of the Union will be most likely to possess these requisite endowments.

“Federalist #10,” one of the more famous of the *Federalist* essays, defends the strength of a republican form of government over “factions” (i.e., political parties). Although he published it under the pseudonym Publius, James Madison wrote the essay. Here, he highlights the arguments in favor of a republican form of government over direct democracy.

More From Federalist #10

Does it consist in the greater security afforded by a greater variety of parties, against the event of any one party being able to outnumber and oppress the rest? In an equal degree does the increased variety of parties comprised within the Union, increase this security. Does it, in fine, consist in the greater obstacles opposed to the concert and accomplishment of the secret wishes of an unjust and interested majority? Here, again, the extent of the Union gives it the most palpable advantage...

In the extent and proper structure of the Union, therefore, we behold a republican remedy for the diseases most incident to republican government. And according to the degree of pleasure and pride we feel in being republicans, ought to be our zeal in cherishing the spirit and supporting the character of Federalists.

PUBLIUS

Discussion questions:

1. Allow sufficient time for students to review the two slides containing the excerpts from “Federalist #10.” After reading the excerpts, ask students to speculate as to what Madison meant by a “faction.” What reasons do you think Madison might give for avoiding government ruled by factions?

Most students will probably note that a “faction” could possibly refer to a set of special interest groups, each with its own agenda as to how to run the nation. If factions were allowed to rule, the overall needs and wishes of the government would likely be ignored in order to maintain the interests of the faction. Some students may also note that “faction” could refer to political parties as well. You may wish to take a few minutes to discuss the implications of this interpretation.

2. What concerns or fears would Madison have regarding rule by a direct democracy?

Madison (as did many of the Founding Fathers) distrusted direct democracy, fearing that the masses might not have the ability or interest to make realistic and legitimate decisions which would benefit the nation as a whole. Rather, Madison supported a republican form of government in which representatives vote the will of their constituencies.

From Federalist #84

“WE, THE PEOPLE of the United States, to secure the blessings of liberty to ourselves and our posterity, do ORDAIN and ESTABLISH this Constitution for the United States of America.” Here is a better recognition of popular rights, than volumes of those aphorisms which make the principal figure in several of our State bills of rights, and which would sound much better in a treatise of ethics than in a constitution of government.

...I go further, and affirm that bills of rights, in the sense and to the extent in which they are contended for, are not only unnecessary in the proposed Constitution, but would even be dangerous. They would contain various exceptions to powers not granted; and, on this very account, would afford a colorable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do? Why, for instance, should it be said that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed?

Federalist #84, written by Alexander Hamilton and addressed to the people of New York, questioned the need for a bill of rights to be added to the Constitution, in an attempt to sway support for ratification without adding a statement of civil liberties.

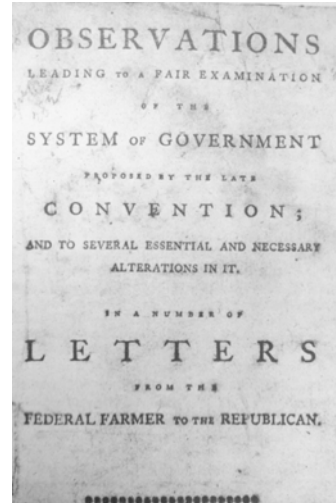
Discussion question:

Allow students sufficient time to read the excerpt. Ask them if they agree or disagree with Hamilton’s view that a bill of rights in the Constitution was unnecessary. Ask them to explain their answer. Why might Hamilton have backed away from this view and eventually supported adding a bill of rights?

Most students will probably disagree with Hamilton’s point of view, if only because the Constitution eventually did incorporate a bill of rights. They may feel it important to have a bill of rights to ensure that a strong central government would not trample on individual liberties. However, other students may note (as Hamilton does) that since most state constitutions already contained bills of rights, the federal constitution would not need its own. Students will also probably feel that Hamilton backed away from this view simply because many state convention delegates saw a bill of rights as a make-or-break issue.

Opposition Writings

- Similar to the writers of *The Federalist*, some wrote urging rejection of the Constitution:
 - *Letters From the Federal Farmer* (Lee and Smith)
 - *Observations on the New Constitution* (Warren)
 - “Objections to This Constitution of Government” (Mason)



While Hamilton, Madison, and Jay wrote in support of ratification, others wrote extensively in opposition to it. *Letters From the Federal Farmer* (probably written by Richard Henry Lee and Melancton Smith), Mercy Otis Warren’s *Observations on the New Constitution*, and George Mason’s “Objections to This Constitution of Government” intended to sway public opinion (and the opinions of state-convention delegates) against ratification.

From *Observations on the New Constitution*

2. There is no security in the proffered system, either for the rights of conscience or the liberty of the Press: Despotism usually while it is gaining ground, will suffer men to think, say, or write what they please; but when once established, if it is thought necessary to subserve the purposes, of arbitrary power, the most unjust restrictions may take place in the first instance, and an imprimatur on the Press in the next, may silence the complaints, and forbid the most decent remonstrances of an injured and oppressed people...

14. There is no provision by a bill of rights to guard against the dangerous encroachments of power in too many instances to be named: but I cannot pass over in silence the insecurity in which we are left with regard to warrants unsupported by evidence—the daring experiment of granting writs of assistance in a former arbitrary administration is not yet forgotten in...Massachusetts; nor can we be so ungrateful to the memory of the patriots who counteracted their operation, as so soon after their manly exertions to save us from such a detestable instrument of arbitrary power, to subject ourselves to the insolence of any petty revenue officer to enter our houses, search, insult, and seize at pleasure...

In Mercy Otis Warren's *Observations on the New Constitution*, she speculates as to several issues regarding the legality of the Constitution. In her listing of objections, she notes her specific concerns about the document's lack of protection of civil liberties.

Discussion questions:

Allow students sufficient time to read the excerpts from Warren's work. Lead discussion over the following questions: Why do you think the Anti-Federalists saw the protection of civil liberties as such a profoundly important issue? What evidence does Warren give that supports her case for a bill of rights?

Many Anti-Federalists had been leaders in the independence movement and had expressed concerns over the possibility that the new government under the Constitution would be overly oppressive and would cause a significant limitation of individual rights. Warren reminds the reader of the "writs of assistance" common in Massachusetts during the period prior to the Revolution, and the arbitrary power wielded by the British, as well as the efforts by the patriots to stop the use of that power. Warren rejects the possibility of replacing one oppressive form of government with a similar, equally oppressive system.

From “Objections to This Constitution of Government”

There is no Declaration of Rights, and the laws of the general government being paramount 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...

This government will set out a moderate aristocracy: it is at present impossible to foresee whether it will, in its operation, produce a monarchy, or a corrupt, tyrannical aristocracy; it will most probably vibrate some years between the two, and then terminate in the one or the other...

George Mason

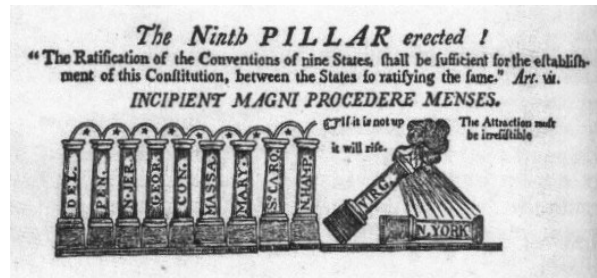
Discussion questions:

Ask students to compare and contrast Mason’s concerns regarding the Constitution with those of Warren’s. What is similar? What seems different? Do Mason’s arguments seem stronger or weaker than Warren’s? Explain your answer.

Most students will note similarities regarding the concern over the lack of a bill of rights. Students may see Mason as more directly expressing the fear that the new government might grow overly oppressive and eventually become a dictatorship. Some students may feel that Warren’s arguments are more convincing because she uses specific historical evidence (the Massachusetts writs of assistance) to support her argument that a only a bill of rights could ensure that the new government did not become too oppressive.

Ratification in Virginia

- Crucial to the legitimacy of the new government
- Henry and Mason led the Anti-Federalists
- Washington and Madison led the Federalists
- Federalists won after proposing 20 amendments that the legislature would consider after ratification



Federalists viewed the ratification struggles in Virginia and New York as crucial if the new government were to have any legitimacy at all. In Virginia, the home of both Washington (the president of the Philadelphia Convention) and Madison (considered the “Father of the Constitution”) had a strong Anti-Federalist movement led by Patrick Henry and George Mason. Throughout the ratification convention, the outcome seemed uncertain until the Federalists finally prevailed in a close vote by promising 20 amendments that the new legislature would consider following ratification.

Ratification in New York

- Anti-Federalists believed NY too large to cede authority to a central government
- Hamilton's influence and *The Federalist* swayed some Anti-Federalists' opinion
- Virginia's ratification tipped the balance in NY
- NC and RI ratified later

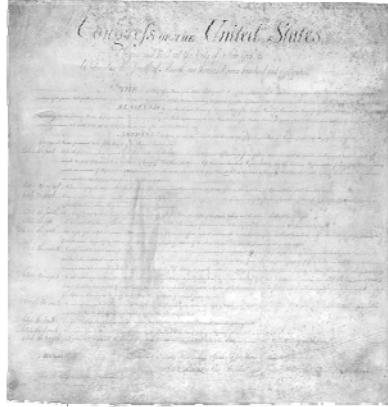


New York celebrates the ratification of the Constitution

Some opponents to the Constitution in New York cited the size of the state as a reason that a strong central government would not be effective. However, Hamilton, as one of the most persuasive Federalists, used his considerable influence to help sway opinion, particularly with the publication of *The Federalist* essays. Madison's Federalist #10, which explained how a larger state could have a republican form of government, also helped sway some Anti-Federalists to support the new Constitution.

Virginia's recent ratification also helped tip the balance in New York, and by 1789, New York had voted to ratify. Nearly 18 more months passed before North Carolina and Rhode Island finally voted in favor of ratification, providing unanimous consent for the Constitution.

The Bill of Rights



- Lack of protection of civil liberties in Constitution hotly debated
- Madison given task of writing series of amendments
- 12 amendments proposed, 10 ratified
- Amendment dealing with congressional pay raises not ratified until 1992

The lack of a statement of civil liberties—a bill of rights—caused much controversy in the ratification debate in several states. In order to ensure ratification, the Framers agreed to add a bill of rights as a series of amendments once at least nine states had ratified. James Madison, already known as the “Father of the Constitution,” received the task of writing the prospective amendments. He culled hundreds of suggestions and looked at various historical examples of statements of civil liberties, including the English Bill of Rights, the Virginia Declaration of Rights (which he himself had helped develop), and the writings of John Locke. Madison eventually settled on a package of 12 amendments to be considered by Congress.

Ten of the amendments passed. Two of the amendments—one dealing with reapportionment of representatives and the other with constraints on congressional pay raises—did not get enough votes to be proposed by Congress and sent to the states for ratification. However, since the congressional pay-raise amendment did not include a time limit for ratification, the states later resurrected it and ratified in 1992 as the 27th Amendment.

The Bill of Rights: A Summary

1. Freedom of speech, press, religion, assembly, and petition
2. Right to keep and bear arms
3. Conditions for quartering of soldiers
4. Regulation of search and seizure
5. Provisions concerning prosecution
6. Trial by jury and the rights of the accused
7. Right to civil trial by jury
8. No excessive bail or punishments
9. Protection of unenumerated rights
10. Powers reserved to the states or the people

While the Bill of Rights as a whole preserves citizens' civil liberties, each amendment falls into a particular category of rights. One hallmark of Madison's work is that the Bill of Rights tends to protect against governmental abuses of people's fundamental rights, rather than positively guarantee people certain rights.

The First Amendment guarantees basic rights concerning freedom of expression, including freedom of speech, the press, religion, assembly, and petition.

Amendments 2 and 3 protect against oppression by the military. The Second Amendment, frequently the subject of a great deal of political debate, ensures a "well-regulated militia" by allowing citizens to keep and bear arms. The Third Amendment may seem outdated by 21st-century standards, but it prevents citizens from being forced to quarter soldiers in their homes in peacetime, as the colonists did.

Amendments 4–8 concern legal rights, including protection against unreasonable searches and seizures, self-incrimination, and double jeopardy. The amendments guarantee public and speedy trials of persons accused of crimes, the right to legal counsel, and prohibition of "cruel and unusual punishments."

The final two amendments promote government by the people, stating first that the people may have protected rights other than those in the Constitution, which doesn't attempt to exhaustively list them all. The Tenth Amendment gives to the states or the people all rights not specifically addressed by the Constitution.

Discussion Questions

1. What system did the Framers devise for ratifying the Constitution? How did this improve upon the Articles' method?
2. What were some characteristics of the Federalists? The Anti-Federalists? What did opponents of the Constitution dislike the most?
3. How did the Constitution gain ratification in Virginia and New York, despite major objections?

1. The Framers called for ratification to occur in state conventions. Delegates to the conventions would vote in favor of or against ratification. The Constitution required the approval of nine of 13 states for ratification, a much easier and more realistic goal than the unanimous consent the Articles stipulated.
2. Federalists often represented the elite and government by the “rich and well-born”; they tended to live in large cities and coastal areas. Anti-Federalists spoke for the interests of the “common man,” such as farmers and small-business owners; they were primarily located in the South, the west, and in rural areas. Major concerns voiced by Anti-Federalists involved the amount of power afforded the central government (too much) and that it did not include a statement protecting civil liberties.
3. In Virginia, the ratification convention voted to approve the Constitution when Federalist leaders agreed that the first Congress would consider 20 amendments addressing opponents' concerns (mostly protections of individual rights). In New York, constant persuasion by the authors of *The Federalist*, and most significantly that Virginia had already approved the Constitution, probably served to ensure ratification.

Discussion Questions (cont.)

4. Who received the task of writing a bill of rights?
What sources did he rely on for developing a list of amendments?
5. What four general categories of rights does the Bill of Rights protect?

4. Congress gave James Madison the task of writing the new bill of rights. Madison consulted several sources, including the work of John Locke, the English Bill of Rights, and the Virginia Declaration of Rights (which he had helped draft). Madison proposed 12 amendments, with ten passing—known today as the Bill of Rights.
5. The Bill of Rights can be placed into four specific categories: guarantees of the freedom of expression (First Amendment); protections against oppression by the military (Second and Third Amendments); individual rights under due process of law (Fourth through Eighth Amendments); and the rights of the people and the states (Ninth and Tenth Amendments).

Writing the Constitution



Essential Questions

- Why did the colonists seek to develop a weak central government at the close of the Revolutionary War?
- What problems were inherent in the Articles of Confederation?
- What philosophical and political ideals did the Framers draw from writing the Constitution?
- How did the Framers use compromise to ensure that the Constitution would reflect different points of view?
- How did the Framers ensure that governmental power would be shared between national and state governments, as well as among the three branches of the federal government?
- How does the Constitution ensure civil liberties?

Foundations: Greece and Rome

- Democratic elements of ancient Greek civilization
- Aristotle's classification of government
- The ancient Roman Republic



A Roman tribune presiding over a council of citizens

The Magna Carta



- Signed by King John of England in 1215
- Placed monarchs and magistrates under rule of law
- Established English common law
- Influenced the Fifth Amendment

Thomas Hobbes

- *Leviathan* (1651)
- Discusses the origin of centralized government
- Explains the “social contract” theory
- Early humans gave up a “state of nature” for government’s protection



The cover of *Leviathan* depicts government as an unruly monster

John Locke



John Locke

- *Two Treatises of Government* (1689)
- “Natural rights” to “life, liberty, and property”
- Government responsible for protecting the people’s rights
- The people have the right to change their government

Montesquieu

- *The Spirit of the Laws* (1748)
- Classified government into three types:
 - Monarchies
 - Republics
 - Despotisms
- Developed the concept of separation of powers



Charles de Secondat,
Baron de Montesquieu

Albany Plan of Union

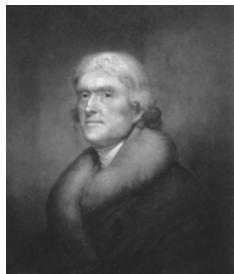


Benjamin Franklin's famous "Join Or Die"
cartoon, published to support the Albany
Plan of Union

- Proposed in 1754 by Benjamin Franklin
- Early attempt at uniting colonies
- Based in part on Iroquois Confederacy
- Never adopted, but served as a rough draft for Articles and Constitution

The Declaration of Independence

- Thomas Jefferson (1776)
- Does not institute a government
- Borrowed heavily from Locke's concepts of natural rights
- Designates government as protector of these rights



Thomas Jefferson

Discussion Questions

1. What elements of ancient Greek and Roman government are evident in the Constitution?
2. What concepts from Enlightenment philosophers influenced the content of the Constitution?
3. What "American" influences does the Constitution include? Why might these sources have been included?

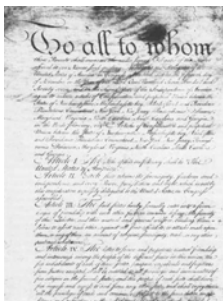
State Constitutions

- Gave governors limited political power
- Gave state legislatures substantial power
- Several included bills of rights
- Many implemented reforms toward ending slavery and protecting property owners



The New York state constitution

The Articles of Confederation



- Drafted by the Continental Congress
- Passed in 1777; ratified in 1781
- No central authority or court system
- Each state remains sovereign

The Articles: Provisions

- States given sovereignty over central government
- Each state had a single vote in Congress
- No power of taxation
- National government afforded certain powers:
 - Declare war and conduct foreign affairs
 - Standardize currency and measures
 - Arbitrate disputes between states

The Articles: Accomplishments

- Land Ordinance of 1785
- Northwest Ordinance of 1787
- Articles created the first form of American government



The Northwest Ordinance of 1787

The Articles: Weaknesses

- Congress could not:
 - Force states to pay taxes
 - Raise an army without state support
 - Regulate trade
- Each state had one vote in the legislature, regardless of population
- Difficult to pass laws and amend Articles
- No court system or executive branch

Shays's Rebellion

- MA heavily taxed middle incomes
- Farmers called for revisions to the state constitution
- Shays led a march on a federal arsenal
- Governor sent militia to stop rebellion
- Illustrated starkly the weaknesses of the Articles of Confederation



The militia fires on protesting farmers in this illustration

Discussion Questions

1. Why did the government under the Articles first seem effective in the years immediately following the Revolution?
2. What were the characteristics of state constitutions created during the period after the American Revolution?
3. What were some of the main achievements of the Articles? What major weaknesses made the Articles ineffective?
4. What impact did Shays's Rebellion have on concerns about government under the Articles?

Revising the Articles: Early Attempts

- Mount Vernon Conference: delegates from MD and VA met to settle commerce disputes
- Meeting of all states proposed for same reason
- Annapolis Convention failed
- Hamilton suggested a convention to correct defects in the Articles



Mount Vernon

The Philadelphia Convention



The Pennsylvania State House in Philadelphia, where the Constitutional Convention was held

- May 1787, in Philadelphia, PA
- 55 delegates attended
- All states represented except RI
- Some influential figures did not attend, including Thomas Jefferson and Patrick Henry

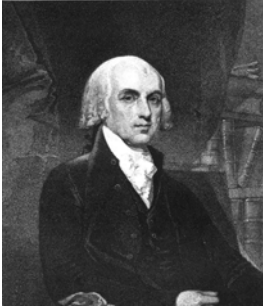
The Philadelphia Convention: Demographics

- Most delegates were wealthy
- Nearly two-thirds were lawyers
- Forty had served in Confederation Congress
- Over half had been officers in the Continental Army
- Seven former state governors
- Eight signers of the Declaration of Independence
- Average age of 42

Discussion Questions

1. Why were the Mount Vernon and Annapolis meetings called? How effective do you think they were?
2. For what purpose was the Philadelphia Convention originally called? What was the makeup of its delegates?

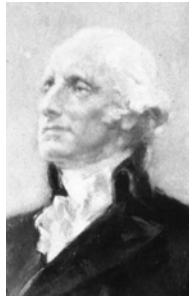
Profiles: James Madison



- “Father of the Constitution”
- Devised Virginia Plan
- One of the leading authors of *The Federalist*
- Drafted the Bill of Rights

Profiles: George Washington

- Served in VA House of Burgesses
- Leader of Continental Army
- Named president of the convention
- Later elected first president of the U.S.



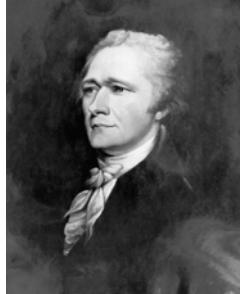
Profiles: Benjamin Franklin



- Although in his 80s, he attended most sessions
- Did not approve of parts of the document
- Lent his prestige to helping along the ratification process
- Gave famous “Rising Sun” speech

Profiles: Alexander Hamilton

- Proposed Philadelphia Convention
- Disapproved of both Virginia and New Jersey Plans for representation
- Helped lead ratification fight in New York
- Co-author of *The Federalist*



Profiles: Roger Sherman



- One of two who signed Declaration, Articles, and Constitution
- Influential in passing Connecticut (or Great) Compromise
- Instrumental in Connecticut's ratification

Profiles: Gouverneur Morris

- Delegate from Pennsylvania
- Wrote Preamble to the Constitution
- Also wrote "obligations of contracts" clause
- Became U.S. ambassador to England, later France



Points of Agreement

- Revisions to the Articles would not solve their problems
- A written constitution
- Federal system with republican form of government
- Limited government power
- Separation of powers
- Debate in secret

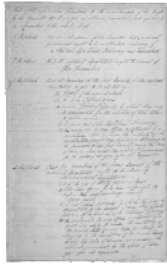
Issues to Resolve

- What powers the government should have
- This involved the states relinquishing some of their sovereignty
- How to determine states' representation in the new national government
- This issue would have to be decided by compromise

Discussion Questions

1. On what points did the Philadelphia Convention delegates agree at the start of the convention?
2. What basic questions of government did the convention have yet to address? Which of these do you feel was the most important? Why?

The Virginia Plan



First page of the Virginia Plan

- Also known as the “Randolph Plan”
- Drafted by Madison
- Called for bicameral legislature
- Upper house selected by lower house
- Representatives determined by population

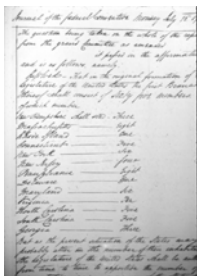
The New Jersey Plan

- Proposed by Paterson
- Legislative plan advocated by small states
- Equal representation regardless of size
- Same legislative structure as the Articles



William Paterson

The Great Compromise



Text of the Great Compromise establishing numbers of delegates per state

- Also called the “Connecticut Compromise”
- Introduced by Sherman
- Representation in lower house by population
- Fixed number of representatives in upper house

The House and Senate: Differences

- House considered to represent “ordinary Americans” because voters elect members directly
- Bills for raising revenue must originate in House
- Senate viewed as “advisory” in nature:
 - Ratifies treaties
 - Approves presidential appointments
- Senate designed to represent the “aristocracy”

The “Three-Fifths Compromise”

- North wanted to count slaves for taxation purposes, not representation in Congress
- South wanted to count slaves for representation, not taxation
- Compromise counted three-fifths of “other persons” for both representation and taxation
- Congress also forbidden to interfere with slave trade until 1808

Discussion Questions

1. What were the main points of the Virginia Plan? The New Jersey Plan?
2. How did the Great Compromise solve the controversy between supporters of the Virginia Plan and those favoring the New Jersey Plan?

Discussion Questions (cont.)

3. What were some ways in which the House and Senate differed in philosophy and in function?
4. What compromise did the Framers reach in regards to slavery and representation?

Separation of Powers

- Based on Montesquieu's theories
- Government is divided into three distinct branches:

Legislative Branch

Makes the law

Executive Branch

Enforces the law

Judicial Branch

Interprets the law

The Executive Branch

- Headed by the Office of the President
- Responsible for carrying out the law
- Can veto bills
- Appointment power
- Commander-in-chief of armed forces
- Also in charge of foreign relations



The Judicial Branch

- Judicial powers and offices left vague in the Constitution
- Called for Supreme Court with a chief justice
- Allowed for “inferior courts” as Congress sees necessary
- Branch evolved through legislation
- *Marbury v. Madison* established judicial review



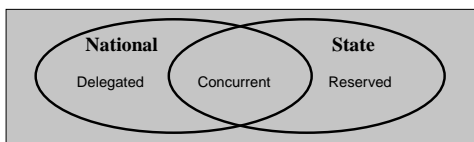
John Marshall

Discussion Questions

1. On whose theories did the Framers base the Constitution's separation of powers? What duties does each branch perform?
2. What powers and responsibilities does the Constitution give the executive branch?
3. What structure does the Constitution describe for the judicial branch? What power does the judicial branch have over Congress?

Division of Power

- Also known as “federalism”
- Allows for state sovereignty
- Types of powers:
 - Delegated: those granted the federal government
 - Reserved: those granted the states
 - Concurrent: those shared at both levels



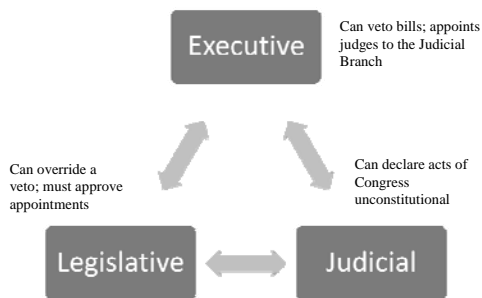
Implied Powers

- Powers not written in the Constitution
- Federal government can exercise them by assuming the delegated powers
- Stem from the “necessary and proper” (or “elastic”) clause
- Examples include regulating airlines and radio and television



“Necessary and proper”

Checks and Balances

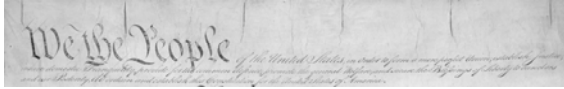


Discussion Questions

1. How does federalism deal with the issue of government authority vs. state sovereignty?
2. How does the Constitution allow for the addition of implied powers? What are some examples of implied powers?
3. What purpose does a system of checks and balances serve? Give an example of how it works.

The Preamble

- Provides an conceptual introduction to the Constitution
- States the aims and goals the Framers wanted to attain
- Firmly establishes popular sovereignty by stating that “We, the People” are the source of governmental authority



The Preamble: Excerpt

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

The Supremacy Clause

- Establishes the Constitution as the “supreme law of the land”
- Federal law supersedes state laws when a conflict exists
- Also known as the “linchpin clause”



The “linchpin clause” guarantees federal supremacy

The Commerce Clause



The landmark 1824 commerce clause case *Gibbons v. Ogden* dealt with steamboats sailing from New Jersey to New York harbor (shown here)

- Allows the government to regulate trade with foreign countries
- Also interstate commerce (trade between states)
- Used along with the elastic clause to expand federal authority:
 - Interstate navigation
 - Modern civil rights law

The Electoral College

- Used for presidential elections
- Framers had concerns that voters wouldn't make informed decisions
- Each state selects electors equal in number to its congressional representation
- Electors vote twice: once for president, once for vice president
- Political parties have made the Electoral College a "rubber stamp"

The Constitution: Problems Solved

- System of checks and balances curbed excessive power by a single branch
- Created powerful executive who can veto acts of Congress
- Established national judiciary
- Different constituencies select members of each branch
- Elastic clause allows for expansions to federal authority

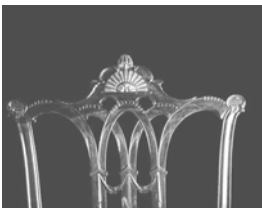
Discussion Questions

1. What purpose does the Preamble serve relative to the entire Constitution?
2. What does the supremacy clause provide for? How does it do this?
3. What does the commerce clause allow the federal government to do? How was this an improvement over the Articles of Confederation?

Discussion Questions (cont.)

4. Why did the Framers include the Electoral College in the Constitution? How did this system originally work?
5. What were some problems of governance under the Articles of Confederation that the Constitution solved?

The Convention Ends



Franklin's concluding speech compared the new nation to the "rising sun" on Washington's chair

- July 1787: Writing began
- August: Committee of Style and Arrangement selected
- September 17, 1787: Constitution submitted for signing
- 39 delegates signed; others refused

Franklin on the Finished Constitution

...[T]here are several parts of this Constitution which I do not at present approve, but I am not sure I shall never approve them... I doubt too whether any other Convention we can obtain, may be able to make a better Constitution. ...It therefore astonishes me...to find this system approaching so near to perfection as it does; and I think it will astonish our enemies...

Ratification Procedure

- Addressed in Article VII
- Ratification to occur in “special state conventions”
- Nine of 13 states needed for ratification
- Supporters of the Constitution nicknamed “Federalists”
- Opponents called “Anti-Federalists”



The first printed copy of the Constitution, 1787

Federalists



Hamilton

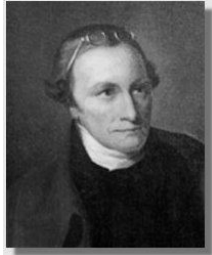
- In favor of ratification
- Favored government by “rich and well-born”
- Support concentrated in coastal areas and large cities
- Leaders included Hamilton and Madison



Madison

Anti-Federalists

- Opposed ratification
- Tended to be middle-class, farmers, and those who favored civil liberties over a strong government
- Included Patrick Henry, George Clinton, Mercy Otis Warren



Anti-Federalist leader Patrick Henry refused to attend the Philadelphia Convention, saying he "smelt a rat"

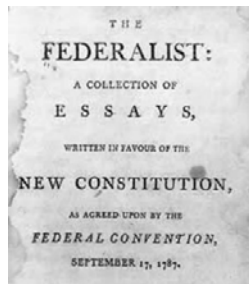
The Ratification Fight



- Nine states needed for ratification
- Well-organized resistance in NY and VA; RI and NC held convention
- Federalists agreed to include statement of civil liberties
- NH the ninth state to ratify

The Federalist

- Written by Federalists Hamilton, Madison, and Jay
- Essays explaining and supporting ratification
- Published first in leading newspapers, later in book form
- Impact on public opinion debatable



From Federalist #10

A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect, and promises the cure for which we are seeking. Let us examine the points in which it varies from pure democracy, and we shall comprehend both the nature of the cure and the efficacy which it must derive from the Union...

Hence, it clearly appears, that the same advantage which a republic has over a democracy, in controlling the effects of faction, is enjoyed by a large over small republic—is enjoyed by the Union over the States composing it. Does the advantage consist in the substitution of representatives whose enlightened views and virtuous sentiments render them superior to local prejudices and schemes of injustice? It will not be denied that the representation of the Union will be most likely to possess these requisite endowments.

More From Federalist #10

Does it consist in the greater security afforded by a greater variety of parties, against the event of any one party being able to outnumber and oppress the rest? In an equal degree does the increased variety of parties comprised within the Union, increase this security. Does it, in fine, consist in the greater obstacles opposed to the concert and accomplishment of the secret wishes of an unjust and interested majority? Here, again, the extent of the Union gives it the most palpable advantage...

In the extent and proper structure of the Union, therefore, we behold a republican remedy for the diseases most incident to republican government. And according to the degree of pleasure and pride we feel in being republicans, ought to be our zeal in cherishing the spirit and supporting the character of Federalists.

PUBLIUS

From Federalist #84

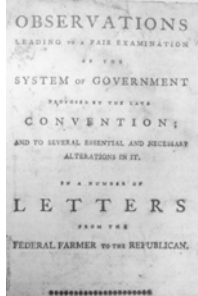
"WE, THE PEOPLE of the United States, to secure the blessings of liberty to ourselves and our posterity, do ORDAIN and ESTABLISH this Constitution for the United States of America." Here is a better recognition of popular rights, than volumes of those aphorisms which make the principal figure in several of our State bills of rights, and which would sound much better in a treatise of ethics than in a constitution of government.

...I go further, and affirm that bills of rights, in the sense and to the extent in which they are contended for, are not only unnecessary in the proposed Constitution, but would even be dangerous. They would contain various exceptions to powers not granted; and, on this very account, would afford a colorable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do? Why, for instance, should it be said that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed?

Opposition Writings

- Similar to the writers of *The Federalist*, some wrote urging rejection of the Constitution:

- *Letters From the Federal Farmer* (Lee and Smith)
- *Observations on the New Constitution* (Warren)
- “Objections to This Constitution of Government” (Mason)



From *Observations on the New Constitution*

2. There is no security in the proffered system, either for the rights of conscience or the liberty of the Press: Despotism usually while it is gaining ground, will suffer men to think, say, or write what they please; but when once established, if it is thought necessary to subserve the purposes, of arbitrary power, the most unjust restrictions may take place in the first instance, and an imprimatur on the Press in the next, may silence the complaints, and forbid the most decent remonstrances of an injured and oppressed people...

14. There is no provision by a bill of rights to guard against the dangerous encroachments of power in too many instances to be named: but I cannot pass over in silence the insecurity in which we are left with regard to warrants unsupported by evidence—the daring experiment of granting writs of assistance in a former arbitrary administration is not yet forgotten in...Massachusetts; nor can we be so ungrateful to the memory of the patriots who counteracted their operation, as so soon after their manly exertions to save us from such a detestable instrument of arbitrary power, to subject ourselves to the insolence of any petty revenue officer to enter our houses, search, insult, and seize at pleasure...

From “Objections to This Constitution of Government”

There is no Declaration of Rights, and the laws of the general government being paramount 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...

This government will set out a moderate aristocracy: it is at present impossible to foresee whether it will, in its operation, produce a monarchy, or a corrupt, tyrannical aristocracy; it will most probably vibrate some years between the two, and then terminate in the one or the other...

George Mason

Ratification in Virginia

- Crucial to the legitimacy of the new government
- Henry and Mason led the Anti-Federalists
- Washington and Madison led the Federalists
- Federalists won after proposing 20 amendments that the legislature would consider after ratification



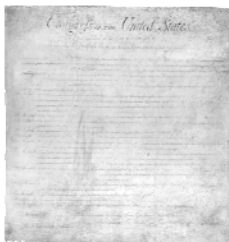
Ratification in New York

- Anti-Federalists believed NY too large to cede authority to a central government
- Hamilton's influence and *The Federalist* swayed some Anti-Federalists' opinion
- Virginia's ratification tipped the balance in NY
- NC and RI ratified later



New York celebrates the ratification of the Constitution

The Bill of Rights



- Lack of protection of civil liberties in Constitution hotly debated
- Madison given task of writing series of amendments
- 12 amendments proposed, 10 ratified
- Amendment dealing with congressional pay raises not ratified until 1992

The Bill of Rights: A Summary

1. Freedom of speech, press, religion, assembly, and petition
2. Right to keep and bear arms
3. Conditions for quartering of soldiers
4. Regulation of search and seizure
5. Provisions concerning prosecution
6. Trial by jury and the rights of the accused
7. Right to civil trial by jury
8. No excessive bail or punishments
9. Protection of unenumerated rights
10. Powers reserved to the states or the people

Discussion Questions

1. What system did the Framers devise for ratifying the Constitution? How did this improve upon the Articles' method?
2. What were some characteristics of the Federalists? The Anti-Federalists? What did opponents of the Constitution dislike the most?
3. How did the Constitution gain ratification in Virginia and New York, despite major objections?

Discussion Questions (cont.)

4. Who received the task of writing a bill of rights? What sources did he rely on for developing a list of amendments?
5. What four general categories of rights does the Bill of Rights protect?

Writing the Constitution: Backwards Planning Activities

Enduring understandings:

- The Articles of Confederation established a weak central government that could not meet the needs of the new nation
- Various incidents demonstrated the weaknesses of the Articles of Confederation during the 1780s
- The Philadelphia Convention was called to revise the Articles of Confederation
- The delegates attending the Philadelphia Convention represented various economic interests and political views
- The Constitution contains compromises that satisfied various economic and political interests
- The Constitution has extensively shaped American history since its ratification

Essential questions:

- Why did the colonists seek to develop a weak central government at the close of the Revolutionary War?
- What problems were inherent in the Articles of Confederation?
- What philosophical and political ideals did the Framers draw from in writing the Constitution?
- How did the Framers use compromise to ensure that the Constitution would reflect different points of view?
- How did the Framers ensure that governmental power would be shared between national and state governments, as well as among the three branches of the federal government?
- How does the Constitution ensure civil liberties?

Learning Experiences and Instruction

Students will need to know...	Students will need to be able to...
<ol style="list-style-type: none"> 1. Conditions that led to the decision to change the makeup of the government 2. Major figures of the Philadelphia Convention 3. Basic philosophical and cultural differences between convention delegates 4. The compromises that delegates reached to satisfy various interests 5. Basic tenets of American government, such as separation of powers, federalism, and checks and balances 6. The process of ratification of the Constitution 7. The reasons for the development of the Bill of Rights 	<ol style="list-style-type: none"> 1. Read and interpret primary source documents from the period 2. Make conclusions about various events and theories developed during the period 3. Identify key persons associated with the period, either political or philosophical 4. Make conclusions as to the effectiveness of the government under the Articles of Confederation 5. Recognize how social and economic conditions affected the writing of the Constitution 6. Compare and contrast varying views regarding ratification of the Constitution 7. Understand how the Constitution protects national interests and civil liberties

Teaching and learning activities that will equip students to demonstrate targeted understandings:

- Overview of essential questions and basic understandings
- Class discussion of subject-matter questions in the *Writing the Constitution* presentation
- Teacher introduction of common terms in the essential questions and related projects
- Providing students with primary source materials with which they complete the unit's related projects
- Student-conducted group research to be used later in individual and group projects
- Informal observation and coaching of students as they work in groups
- Evaluation and delivered feedback on projects and research projects
- Student creation and presentation of their unit projects
- Posttest made up of multiple-choice questions covering the presentation, and one or more essential questions as essay questions

Project #1: Mr. Madison's Blog

Overview:

In this lesson, students assume the role of leading delegates to the 1787 Philadelphia Convention. Using 21st-century “Web 2.0” tools (in this case, a blog), student “delegates” respond to various posts about convention debates and delegates’ views.

Objectives:

As a result of completing the lesson, students will:

- Understand the views of different delegates at the Philadelphia Convention
- Collect information about the delegates and make conclusions as to the impact of their views on the outcome of the convention
- Speculate as to how the delegates’ thoughts, debates, and philosophies shaped the development of the Constitution

Time Required:

Four to five class periods, though you may elect to take longer in order to accommodate technology concerns or extend the lesson methodology

Materials:

Computers with Internet access; access to a blogging site; printer

Methodology:

Prior to beginning the project, review biographies of the various delegates to the Philadelphia Convention. The presentation includes capsule biographies of some of the more influential delegates. The “Suggested Web resources” section (below) will also help.

Introduce the lesson with a quick overview of the “areas of agreement” as discussed in the presentation (slide 28). Ask students if they agree with the Framers’ belief that the proceedings of the convention be kept secret. (Most students, who have grown up in a media-saturated world, would probably disagree and say that the country had a right to know what was discussed at the convention, and would probably expect “gavel-to-gavel” coverage.)

Next ask students to relate what they know about “Web 2.0” tools, such as blogging, social networking sites, etc. Most students will have at least a basic concept of these resources, and several will probably have used them. Ask students about which resources

they are familiar with. (Most will probably mention Blogger, Facebook, MySpace, and similar sites.)

Note: If you are not familiar with the concept of blogging, or wish to further explain blogging to students, http://codex.wordpress.org/Introduction_to_Blogging offers a rudimentary introduction to the process.

After allowing a few minutes for discussion, explain to the students that they will be role-playing a specific delegate to the Philadelphia Convention, and developing a blog in which they will include posts about that delegate's views on the convention, as well as replying to the blog posts of other "delegates."

Assign each student a convention delegate to research. Depending on the size of the class and information available on delegates, you may elect to have each student select an individual delegate or have students team up to research a single delegate. Allow students sufficient time to research their respective delegates, using the "Delegate Information Chart" to collect information.

Direct the students as to what information they will collect and include in the blog. Your preference may vary, but you might start with the following:

- Picture(s) of the delegate
- A biographical statement about the delegate
- Quotes from the delegate's speeches or writings, if available
- Any other information that seems appropriate in dealing with the Philadelphia Convention or the delegate researched
- Blog posts from other students who either support or disagree with the delegate's views

Once information has been collected, each student (or student group) should create a blog using their delegate's name as the "owner." For example, a student creating a blog featuring the views and philosophy of James Madison might call the blog "Mr. Madison's Blog."

Popular blog sites include Blogger (<http://www.blogger.com>) and Edublogs (<http://edublogs.org/>). In addition, your school e-mail server may also include blogging software for students to use, so you may wish to contact the school's information technology department before beginning the lesson.

Note: Some school "filtering" systems may block blogging sites since blogs are frequently used for recreational or personal activities. You may wish to check prior to beginning the project whether a desired blogging site is available to students; if it isn't, contact the school's information technology department to unblock the site prior to beginning the project. In addition, your school and district may have specific policies dealing with the use of blogs by students and through student accounts. Review these also prior to starting the lesson.

Most freeware blogging sites will create a URL (Uniform Resource Locator, or Web address) for individual or group blogs. Be sure to have students include their URL on the “Delegate Information Sheet” in order to monitor student content and contributions to the blog.

Suggested Web Resources:

Note: Many resources are available online regarding the Philadelphia Convention and its delegates. You should encourage students to conduct independent online research in addition to the resources included here, as well as using traditional sources, such as primary source documents and textbooks.

Teaching American History: “Individual Biographies of the Delegates to the Constitutional Convention”

(<http://www.teachingamericanhistory.org/convention/delegates/>)

Teaching American History: “The Constitutional Convention”

(<http://www.teachingamericanhistory.org/convention/>)

“The Founding Fathers: Delegates to the Constitutional Convention”

(<http://www.law.umkc.edu/faculty/projects/ftrials/conlaw/marryff.html>)

U.S. Constitution Online: “The Constitutional Convention”

(http://www.usconstitution.net/consttop_ccon.html)

U.S. Department of State: “The Constitutional Convention”

(<http://usinfo.state.gov/products/pubs/constitution/convention.htm>)

National Archives: “The Founding Fathers: Delegates to the Constitutional Convention”

(http://www.archives.gov/exhibits/charters/constitution_founding_fathers.html)

“James Madison and the Great Events of His Era”

(<http://www.jmu.edu/madison/gpos225-madison2/index.htm>)

Evaluation:

After providing sufficient time for students to make blog posts and to reply to the posts of others, evaluate student work using a suitable rubric. One is included with this lesson; you may also elect to use a school- or district-approved rubric, or to develop one of your own.

Delegate Information Chart

Name of delegate:

State represented at the convention:

Blog URL:

Political philosophy:	Contribution to the convention:	Other government service (for example, state or federal offices):	Other information about the delegate that may be useful:

Convention Delegate Blog Rubric

Category:	Excellent (15–10):	Good (9–5):	Fair (4–2):	Poor (1–0):	Student score:
Research	Information chart completely filled out; student shows mastery of material	Most of chart completed; student shows reasonable mastery of material	Approximately half of chart completed; student shows some mastery of material	Less than half of chart completed; student shows little or no mastery of material	
Clear expression of ideas	Clearly and effectively communicates main idea, theme, and point of view	Clearly communicates main idea, theme, and point of view	Communicates important information, but not a clear theme or overall structure	Communicates information as random, isolated pieces	
Effective use of grammar and spelling	Uses proper grammar in all blog posts; no spelling errors	Frequently uses proper grammar frequently; no spelling errors	Generally uses proper grammar; some spelling errors	Many grammatical mistakes; frequent spelling errors	
Use of technology	Student demonstrates mastery in developing and posting to blog	Student demonstrates above-average competency in developing and posting to blog	Student adequately develops and posts to blog	Student unable to develop and effectively post to blog	
Additional criteria as set by the teacher					
Final student score					

Project #2: *The Federalist* Revisited

Overview:

In this lesson, students investigate various contemporary opinions on the new Constitution and write “letters to the editor” to modern-day newspapers critically analyzing the impact of the Constitution in U.S. history.

Objectives:

As a result of completing the lesson, students will:

- Recognize opposing viewpoints regarding the new Constitution and how different groups saw the new government
- Synthesize those viewpoints into coherent written statements
- Develop persuasive arguments in favor of or in opposition to the Constitution

Time Required:

Two to three class periods

Materials:

Computer(s) with Internet connection to access various Web resources; printer (if desired); word processing software (if desired)

Methodology:

It is suggested that prior to beginning the lesson, you have covered basic facts and issues regarding the writing of the Constitution and the ratification of the document. You may consider reviewing the following slides in the *Writing the Constitution* presentation: slide 56 on “Ratification Procedure,” slide 58 on “Anti-Federalists,” slide 57 on “Federalists,” slides 60–63 on *The Federalist*, and slides 64–66 on “Opposition Writings.”

Once students have a basic background on differing opinions regarding the ratification debate, explain to the class that controversy over what the Framers meant in regards to their product abounded throughout the 19th and 20th centuries. Examples of this debate include various sectional disputes during the antebellum period, as well as the concept of “states’ rights” as held by many Southern states during the civil rights movement. You may also point to various Supreme Court decisions that confirmed federal authority, such as *McCulloch v. Maryland*, *Gibbons v. Ogden*, or *Brown v. Board of Education of Topeka, Kansas*.

Introduce the lesson to the students. Explain to the class that their local newspaper is asking readers to write letters to the editor either praising the historical legacy of the Constitution, or criticizing the effectiveness of the document. Mention that in order to write an effective letter either in favor of or against the historical legacy of the Constitution, students will need to research pro and con viewpoints, and then organize their information into a coherent and persuasive letter.

You may elect to allow students to select whether they will be writing pro letters or con, or assign differing views to students. Once students have been assigned a viewpoint or selected one, have them begin researching information to support their view, using the “Constitution Opinion Chart” and related Web resources. Allow students sufficient time to research their point of view as well as write their letters, using the “Constitution Opinion Chart,” as a framework for their views.

Suggested Web Resources:

Students should also be encouraged to do independent research on critical interpretations of the U.S. Constitution either via the Web or traditional sources of information.

U.S. House of Representatives: “Educational Resources” page
(<http://www.house.gov/house/Educate.shtml>)

The Avalon Project: U.S. Constitution pages
(http://avalon.law.yale.edu/18th_century/usconst.asp)

Constitution Society (<http://www.constitution.org/>)

National Constitution Center (<http://constitutioncenter.org/>)

Library of Congress: “Creating the Constitution”
(<http://www.myloc.gov/Exhibitions/creatingtheus/interactives/constitution/index.html>)

Evaluation:

After students have completed the writing assignment, evaluate their work using a suitable rubric. You may elect to use a rubric created by the school or district, use the one included with this lesson, or create one of your own.

Constitution Opinion Chart

Source:	What I read:	Does this support my view?	Why or why not?	How would I include this point in my letter?

Constitution Letter Rubric

<p>Structure—introduction: Letter states introduction and introduces main points</p>	<p><u>Level 1 (0–5):</u> Simple opening statement; limited identification of main points</p> <p><u>Level 2 (6–10):</u> Thesis stated but unclear; main points unclear</p> <p><u>Level 3 (11–15):</u> Thesis stated but somewhat unclear; main points introduced with moderate clarity</p> <p><u>Level 4 (16–20):</u> Thesis precisely stated; main points clearly introduced</p>	<p>Score:</p>
<p>Structure—conclusion: Summarizes thesis/main idea; summarizes main points</p>	<p><u>Level 1 (0–5):</u> Abrupt ending; limited identification of main points</p> <p><u>Level 2 (6–10):</u> Thesis stated but unclear; main points unclear</p> <p><u>Level 3 (11–15):</u> Thesis stated but somewhat unclear; main points summarized but unclear</p> <p><u>Level 4 (16–20):</u> Thesis clearly summarized; main points clearly summarized</p>	<p>Score:</p>

Supporting reasons or arguments: Arguments are logically related to main idea	<u>Level 1 (0–5):</u> Arguments are unrelated <u>Level 2 (6–10):</u> Arguments unclear and not logically related to main idea <u>Level 3 (11–15):</u> Arguments usually clear and logically related to main idea <u>Level 4 (16–20):</u> Arguments very clear and logically related to main idea	Score:
Teacher-developed criteria:		Score:

Project 3: The Most Important Civil Liberty

Overview:

In this lesson, student groups will research the ten amendments that make up the Bill of Rights, and then develop a persuasive multimedia presentation in which the group attempts to show that their amendment deserves the NARA designation of the “Most Important Civil Liberty.”

Objectives:

As a result of completing this lesson, students will:

- Gain a historical appreciation for the development of the Bill of Rights
- Develop a persuasive argument about the historical significance of one of the amendments in the Bill of Rights
- Develop an understanding about the significance of the Bill of Rights in American law

Time Required:

Approximately five to seven class periods

Materials:

Computer(s) with Internet access, computer printer, multimedia software to develop presentations (such as Microsoft PowerPoint), storage-media solutions for larger projects (such as a CD burner, flash drive, or portable hard drive), if desired.

Methodology:

Prior to beginning the lesson, the class should have a basic understanding of the Bill of Rights, why they were added to the Constitution, and the significance of the ten amendments to American society. You may wish to review for the class slides 58–70 in the *Writing the Constitution* presentation.

Introduce the project to the class, perhaps by either making copies of the following statement, showing it on the overhead or LCD projector, or writing it on the chalkboard:

Congratulations!

The National Archives has selected your class to assist in an important national project.

In this project, you will be making a persuasive case for why one of the ten amendments in the Bill of Rights should be officially declared the “Most Important Civil Liberty.”

How you’ll do this:

1. Form groups of three or four
2. Each group will select one of the amendments in the Bill of Rights to research
3. Using online as well as text-based resources, your group will develop a PowerPoint presentation lasting at least three minutes. Your presentation should include the following:
 - a. A title slide with the name of the amendment and the full names of each group member, class period number, and class
 - b. A slide showing the full text of the selected amendment
 - c. Slides on the historical background of the selected amendment. Please remember that the many persons who helped draft and ratify the Bill of Rights were at one point British subjects, so their frame of reference (as well as yours) should be world history as well as U.S. history.
 - d. A description of **at least** one Supreme Court case that deals with your group’s amendment. Ideally, your group should choose a court case that demonstrates a strengthening of citizens’ protection by the amendment, as well as another court case that might show a limiting of the amendment’s protection. Be sure to include in this part of the presentation the facts of the case, the arguments by both sides, how the court decided, and why it decided that way.
 - e. A persuasive statement from the group explaining why your selected amendment deserves the title, “Most Important Civil Liberty.” This statement should make its case based on information the group researched, the court cases, and information from your textbook and/or class notes.
 - f. At the end of the presentation, a bibliography of specific research you used for the presentation.

Allow time for questions once students have had an opportunity to read the statement. Depending on the size of the class, you may wish to form student groups that are larger (or smaller) than those indicated in the statement. In addition, you may wish to divide tasks among individual students in each group. For example, one student might concentrate on finding related Supreme Court cases, while another can research the historical background of the amendment, and so forth.

You may also wish to determine prior to starting the project what requirements students should fulfill regarding the length of the presentation, pictures, and multimedia files to be included, and other relevant requirements. While you'll want to consider the grade level and ability of your individual class, the assignment should be challenging and engaging for the students. An adaptable, sample criteria sheet can be found at <http://www.vcsc.k12.in.us/staff/mhutchison/rights/project.htm>.

Note: You may wish to assign one of the amendments to each group, or to allow students to select one of the amendments to promote as the “Most Important Civil Liberty.” Since the Third Amendment, which prohibits quartering of soldiers in private homes in peacetime, is relatively archaic by today’s standards, you might exclude that amendment from the project. Also, since some of the amendments, such as the First and Fifth Amendments, include several significant provisions, you may elect to divide them up and have different student groups investigate parts of those amendments.

Once students have been introduced to the project, allow them time to determine which amendment their group wants to research, and then allot sufficient time for the group to conduct their research. Information can easily be collected by use of a graphic organizer, such as the “Four-Column Chart” provided below.

Allow sufficient time for students to research various materials and develop their presentations. Remind students that the presentation’s focus is to persuade the viewer of the presentation to their group’s point of view.

Suggested Web Resources:

While students should be able to find a significant amount of information from the Web sites listed below, you should also encourage student groups to conduct their research using online resources as well as traditional sources such as textbooks and encyclopedias.

American Civil Liberties Union (<http://www.aclu.org>)

Bill of Rights Institute (<http://www.billofrightsinstitute.org/>)

Bill of Rights Institute: “Landmark Supreme Court Cases”
(<http://www.billofrightsinstitute.org/teach/freeResources/LandmarkSupremeCourtCases/>)

C-SPAN Classroom (<http://www.c-spanclassroom.org/>)

FindLaw: “U.S. Constitution” (<http://www.findlaw.com/casecode/constitution/>)

The James Madison Center: “James Madison Proposes Bill of Rights”
(http://www.jmu.edu/madison/center/main_pages/madison_archives/constit_confed/rights/jmproposal/jmproposal.htm)

Letter from James Madison to Thomas Jefferson: “The Question of a Bill of Rights”
(http://www.constitution.org/jm/17881017_bor.htm)

The National Archives: “Charters of Freedom”
(<http://www.archives.gov/exhibits/charters/charters.html>)

“PowerPoint in the Classroom” (<http://www.actden.com/pp/>)

“PowerPoint Links” (<http://www.geocities.com/~webwinds/classes/powerpt.htm>)

U.S. Constitution Online: “Constitutional Topic: The Bill of Rights”
(http://www.usconstitution.net/consttop_bor.html)

Evaluation:

At the conclusion of the project, evaluate student work using a suitable rubric based on the requirements set for the project. You may elect to use a school- or district-approved rubric, one of your own, or use or adapt the rubric included with this lesson.

Bill of Rights Information Chart

Names of students in group: _____

Amendment the group researched: _____

Information:	Source of the information (if a Web site, include the URL):	Did we include it in our presentation?:	How this information supports our claim regarding the “Most Important Civil Liberty”:

“Most Important Civil Liberty” Project Rubric

Criteria:	Level 1 (0–10 points):	Level 2 (11–20 points):	Level 3 (21–30 points):	Level 4 (31–40 points):	Group Score:
Clear expression of ideas	Communicates information as isolated pieces in random fashion	Communicates important information but not a clear theme or overall structure	Clearly communicates main idea, theme, and point of view	Clearly and effectively communicates main idea, theme, or point of view	
Presentation of a point of view	Limited evidence of a point of view	Point of view apparent, but unclear at times	Demonstrates a clear point of view	Provides a strong point of view using rich and persuasive details	
Evidence of research	Elements demonstrate little evidence of research; information chart incomplete or missing	Elements show some evidence of research; information chart partially completed	Elements show clear evidence of research; information chart completed	Elements show evidence of considerable research; information chart completed	
Effective use of colors and graphics	Colors and/or graphics unclear	Colors and/or graphics not clearly supportive of theme	Colors and/or graphics support theme	Colors and/or graphics make presentation’s purpose obvious to audience	
Effective use of text	Minimal text displayed; purpose unclear	Text clearly displayed, but does not support theme or message	Text supports theme or message	Text delivers message or theme with impact	
Overall impact and creativity	Limited effort shown; visuals and text do not match in quality; limited innovation and appeal	Clear text and visuals, though their connection may not be obvious; design may show a hint of the unusual or innovative	Effort and thoughtful preparation clearly shown; elements of innovation in text or visual components	Combination of visuals and text make for an eye-catching design and powerful impact	

Teacher-created criteria					
Total group score					

Writing the Constitution:

Multiple-Choice Quiz

1. Elements from which of the following classical governments influenced the Framers in developing the Constitution?
 - a. Ancient Greece
 - b. Ancient Rome
 - c. Both A and B
 - d. Neither A nor B
2. Whose work *Leviathan* explored the idea of the people's social contract with government?
 - a. Locke
 - b. Hobbes
 - c. Franklin
 - d. Montesquieu
3. Which French philosopher most admired the British system of government, especially its inclusion of the separation of powers?
 - a. Locke
 - b. Hobbes
 - c. Franklin
 - d. Montesquieu
4. Which of the following is **not** a true statement about state constitutions created soon after the Revolution?
 - a. Governors had limited political power
 - b. Both men and women could vote
 - c. Several included a bill of rights
 - d. Some moved to end slavery
5. Which of the following would be considered an accomplishment of the central government under the Articles of Confederation?
 - a. The Declaration of Independence
 - b. The Judiciary Act of 1789
 - c. The Albany Plan of Union
 - d. The Northwest Ordinance of 1787

6. Which of the following was **not** a weakness of the government under the Articles of Confederation?
 - a. Congress could declare war
 - b. Each state had its own currency
 - c. The lack of a central executive
 - d. The lack of a national court system
7. Which event worried many that the central government under the Articles could not protect itself?
 - a. The Whiskey Rebellion
 - b. The Boston Tea Party
 - c. Shays's Rebellion
 - d. The Boston Massacre
8. Which of the following about the Annapolis Convention is true?
 - a. It set the stage for the Philadelphia Convention
 - b. It solved many of the commerce problems that plagued the Articles
 - c. It was led by George Washington
 - d. Representatives from every state met for the first time since signing the Declaration of Independence
9. Which of the following was an "area of agreement" at the Philadelphia Convention?
 - a. Revisions alone could not fix the Articles
 - b. The government should be a confederation
 - c. Government power should be unlimited
 - d. All debates should be held publicly so that the people knew what was happening
10. Which was a provision of the Virginia Plan?
 - a. Representation would be based on population
 - b. The lower house of the legislature would elect the upper house
 - c. There would be a two-house legislature
 - d. All of the above
11. Which was true about the New Jersey Plan?
 - a. James Madison proposed it
 - b. It provided for a unicameral legislature
 - c. It would base representation on population
 - d. It would have benefited the larger states

12. Which was true about the Great Compromise?
- a. The legislature included a lower house elected by the voters
 - b. It provided for a unicameral legislature
 - c. Members of the House of Representatives are elected to four-year terms
 - d. A and B
13. How did the Framers deal with the question of counting slaves for the new government?
- a. Slaves were counted for representation, but not taxation
 - b. Slaves were counted for taxation, but not representation
 - c. Three-fifths of the number of “other persons” were counted for both representation and population
 - d. The exact number of “other persons” was counted for both representation and population
14. Which of the following statements about the new executive branch was *false*?
- a. A three-person committee headed the executive branch
 - b. The executive served as commander-in-chief of the armed forces
 - c. The president had the power to appoint government officials
 - d. The executive could veto acts of Congress
15. Which of the following characterizes federalism?
- a. Separation of powers
 - b. Division of powers
 - c. Judicial review
 - d. Legislative oversight
16. The “necessary and proper” clause is connected most closely with which kind of constitutional powers?
- a. Delegated powers
 - b. Inherent powers
 - c. Concurrent powers
 - d. Implied powers
17. Which part of the Constitution states the aims and goals of the document?
- a. The Preamble
 - b. The Bill of Rights
 - c. The elastic clause
 - d. The supremacy clause

18. Which of the following did the Constitution do to fix problems of the Articles of Confederation?
- a. Create a powerful executive
 - b. Provide for a national judiciary
 - c. Have a different constituency select representatives, senators, and the president
 - d. All of the above
19. How many states were needed to legally ratify the Constitution?
- a. 7
 - b. 9
 - c. 11
 - d. 13
20. Which of the following was a prominent Anti-Federalist?
- a. Patrick Henry
 - b. Alexander Hamilton
 - c. Benjamin Franklin
 - d. James Madison
21. Which of the following best described Federalists?
- a. They were farmers and backwoodsmen
 - b. They lived mainly in the West and South
 - c. They tended to be wealthy and well-born
 - d. They opposed the Constitution
22. *The Federalist* was published in order to:
- a. Gain support for ratification of the Constitution
 - b. Oppose the ratification of the Constitution
 - c. Debate the Bill of Rights
 - d. None of the above
23. Which state was ninth to ratify the Constitution, making it the law of the land?
- a. Virginia
 - b. New York
 - c. New Hampshire
 - d. Georgia

24. Which Framers authored the Bill of Rights?

- a. James Madison
- b. Alexander Hamilton
- c. Benjamin Franklin
- d. George Washington

25. Which best explains why the Bill of Rights was added to the Constitution?

- a. The Framers meant to add it, but ran out of time
- b. Some states refused to ratify the Constitution without a bill of rights
- c. The Framers wanted the Constitution to override state constitutions
- d. President George Washington demanded it be added

Writing the Constitution: Multiple-Choice Quiz Answer Key

1. C
2. B
3. D
4. B
5. D
6. A
7. C
8. A
9. A
10. D
11. B
12. A
13. C
14. A
15. B
16. D
17. A
18. D
19. B
20. A
21. C
22. A
23. C
24. A
25. B