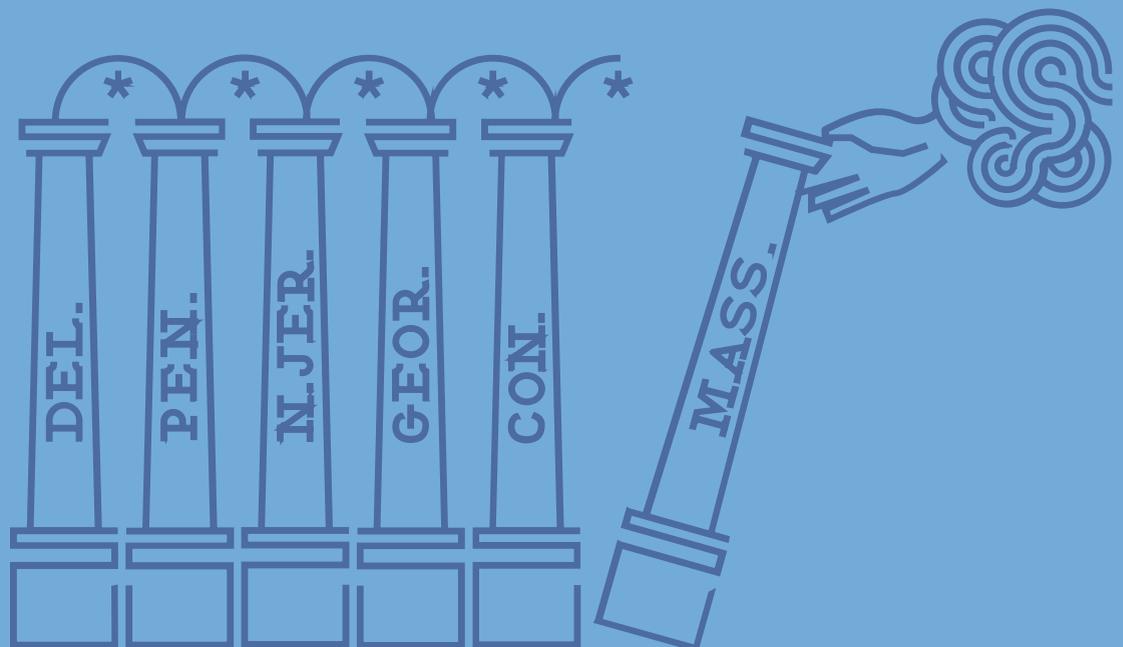


CONSTITUTION

MODULE 4

CONSTITUTIONAL CONVENTION AND RATIFICATION



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CONSTITUTIONAL CONVENTION AND RATIFICATION

In the summer of 1787, delegates gathered for a convention in Philadelphia, with the goal of revising the Articles of Confederation—the nation’s existing governing document. However, rather than simply revising the Articles of Confederation, they wrote an entirely new framework of government: the U.S. Constitution. This new government was more powerful than the national government established by the Articles of Confederation, but the Constitution also limited the powers of this new government. In this module, you will explore the debates and compromises that occurred at the Constitutional Convention and explore the key arguments during the battle over ratification.

Learning Objectives

At the conclusion of this module, you should be able to:

1. Meet the framers of the Constitution and their influence on the new constitution.
2. Describe the main debates and compromises reached by the delegates at the Constitutional Convention.
3. Explore the key arguments advanced by the Federalists and the Anti-Federalists during the battle over ratification.

4.1 Activity: Constitutional Convention: Did They Know the Assignment?

Purpose

By early May 1787, delegates from the states began to gather in Philadelphia to discuss the current framework of government—the Articles of Confederation. In this activity, you will begin to meet the framers of the Constitution and explore the task before them. The purpose of the activity is to discover who these delegates were and why they came to Philadelphia. You will also learn more about the delegates themselves.

Process

Read the following statement from the Confederation Congress calling for a convention. Then, summarize, in your own words, the purpose of the Constitutional Convention. Be prepared to share your summary with the class.

“That it be recommended to the States composing the Union that a convention of representatives from the said States respectively be held at ----- on ----- for the purpose of revising the Articles of Confederation and perpetual Union between the United States of

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America and reporting to the United States in Congress assembled and to the States respectively such alterations and amendments of the said Articles of Confederation as the representatives met in such convention shall judge proper and necessary to render them adequate to the preservation and support of the Union.”

Next, look closely at the iconic [image](#) below that depicts the Constitutional Convention and discuss the following questions with a partner:

- Where do you think this room is located?
- Do you know what happened in this room?
- Who do you recognize in the picture?
- Who did you expect to be there, but is not?
- How would you describe the backgrounds of the people present?



[Oil painting of the scene at the signing of the Constitution by Howard Chandler Christy, 1940](#)

Then, review the information about the delegates in attendance on the [Meet the Framers of the Constitution webpage](#) for more information on who was in attendance during the Constitutional Convention.

Finally, complete the [Activity Guide: Convention Facts](#) worksheet.

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Activity 4.1 Notes & Teachers Comments

Launch Information

Give students time to read the quote, review the image, and consider the questions.

Ask students to share their summaries and prior knowledge about the Constitutional Convention.

Activity Synthesis

Ask the students to predict how the background and experiences of the delegates might affect the government they form at the Constitutional Convention.

Activity Extension (Optional)

For more information, invite students to read [The Constitutional Convention of 1787: A Revolution in Government essay](#) on the National Constitution Center website.

4.2 Activity: Constitutional Convention: Meet the Framers

Purpose

In this activity, you will continue to explore the delegates who attended the Constitutional Convention. The purpose of this assignment is for you to get to know one influential delegate well and then determine his influence in comparison to other key delegates at the Convention.

Process

Now that you have a general idea of the delegates to the Constitutional Convention, let's get personal. Review the [Info Brief: List of Delegates](#) document to learn more. You will be assigned a delegate to research. Use the [Activity Guide: Constitutional Convention - Meet the Framers](#) activity guide to summarize significant information about that person.

You can find additional information in the [The Constitutional Convention of 1787: A Revolution in Government essay](#) by Richard R. Beeman.

After you complete the worksheet, you will present your assigned delegate to the class and advocate for them to be a top influencer at the Convention. Only five will make it to the top influencers list, so do your best to make the case of why your delegate should be among them.

Activity 4.2 Notes & Teachers Comments

Launch Information

This assignment is to help the students learn more about who was in the room when the Constitution was written.

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Here are some resources that may be useful to supplement research:

- [Meet the Framers of the Constitution](#) page on the National Archives website

Activity Synthesis

As students present their delegate, you may have them complete a rubric, or some kind of score card, and then have students vote, or use a “March Madness” bracket game, to select the top winners for the class.

Activity Extension (Optional)

Now that students have a better understanding of the delegates to the Constitutional Convention, invite students to investigate one of the delegates they heard about during the presentations and are interested in but did not research. Focus on their life before and after the Constitutional Convention.

4.3 Interactive Video: Constitutional Convention

Purpose

In this activity, you will explore the compromises of the Constitutional Convention. You will also learn more about the people who wrote the Constitution.

Process

Watch [the video](#) about the Constitutional Convention.

Then, complete the [Video Reflection: Constitutional Convention](#) worksheet.

Identify any areas that are unclear to you or where you would like further explanation. Be prepared to discuss your answers in a group and to ask your teacher any remaining questions.

Activity 4.3 Notes & Teachers Comments

Launch

Give students time to watch the video and complete the worksheet.

Activity Synthesis

Have students review their worksheet responses and discuss as necessary.

Activity Extension (Optional)

Now that students have a better understanding of the Constitutional Convention, ask the following questions:

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- Do you think the compromises that were made at the Constitutional Convention were fair? Why or why not?

4.4 Activity: Compromise Workshop

Purpose

There were many disputes between the states during the convention. Disputes between small states and large states spurred intense debates over how the states were to be represented in the new government. In this activity, you will explore the key compromises that were made at the Constitutional Convention.

Process

Review the [Info Brief: Compromises of the Convention](#) document to learn more about the many compromises made during the Convention.

In your small groups, complete the [Activity Guide: Compromise Workshop](#) worksheet to identify elements that make each compromise strong and weak.

Be prepared to discuss your analysis with the rest of the class.

Activity 4.4 Notes & Teachers Comments

Launch

Introduce the significant issues that delegates deliberated about at the Constitutional Convention leading to compromise.

Help students pull in content from the Meet the Framers activity to add to their understanding of the compromises and the key authors and opponents. The activity will allow students to explore the debates between the delegates and why the compromise was important.

Activity Synthesis

Have students review their analyses and discuss as necessary.

Activity Extension (Optional)

Now that students have a better understanding of compromises at the Constitutional Convention, ask students to select which compromise listed they believe was most significant to the forming of the United States and explain why.

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4.5 Primary Source Reading: Ratifying the Constitution

Purpose

Now that the delegates have drafted the Constitution, what happens next?

“A republic, if you can keep it.” —Benjamin Franklin

First, the American people had to ratify the new constitution. In this activity, you will examine the process it took to ratify the Constitution and the key arguments for and against the ratification. This will support understanding and build perspective on who was for and against the Constitution, their arguments, and what became the key compromise to win ratification.

Process

In your groups, review the [Info Brief: Ratification Timeline](#) document.

You will be assigned to one of the two sides:

- Federalists (Jay/Hamilton/Madison)
- Anti-Federalists (Mercy Otis Warren/George Mason/Brutus)

Review the [Primary Source: Who Were the Federalists and the Anti-Federalists?](#) readings from key authors from the *Founders' Library* and begin to build a case for why the Constitution should be ratified or rejected.

Determine a pro/con list for ratification and whether you wish to argue for or against ratifying the Constitution (saying yes or no to adoption). Identify quotes to support your side's argument.

After group research is complete, you will engage in a classroom debate about ratification.

Groups need to prepare information for each of the three debate rounds:

- Opening statements
- Main arguments
- Closing statements

Each group will be given three minutes to present their case. Then, they will have a one-minute rebuttal to address points made by the other side.

After the debate is finished, identify compromises that could be reached to achieve agreement between the two sides and lead to ratification.

Activity 4.5 Notes & Teachers Comments

Launch

Review with the class the [Info Brief: Ratification Timeline](#) and then supply students with group copies of the timeline for ratification.

During the debate, only arguments that have rebuttals and key questions will drive arguments.

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Activity Synthesis

Have students identify compromises that could be reached to achieve agreement between the two sides and lead to ratification. Consensus among the students does not need to be unanimous. Emphasize the Massachusetts Compromise as part of the ratification debates and how it eventually led to the Bill of Rights.

Activity Extension (Optional)

Now that students have a better understanding of the debates over the ratification of the Constitution, ask the following questions:

- Which compromises were the easiest to debate?
- Which were the most challenging? Why?

Additional reading could include the essay: [Perspectives on the Constitution: A Republic, if you can keep it.](#)

4.6 Activity: Necessity of Compromise

Purpose

In this activity, you will discuss when compromise is necessary to move forward with an idea, and when it is not. When have you made compromises to move things forward? When is compromise not an option?

Process

In your group, read Benjamin Franklin's speech.

"I confess that I do not entirely approve of this Constitution at present, but Sir, I am not sure I shall never approve it: For having lived long, I have experienced many Instances of being oblig'd, by better Information or fuller Consideration, to change Opinions even on important Subjects, which I once thought right, but found to be otherwise. It is therefore that the older I grow the more apt I am to doubt my own Judgment and to pay more Respect to the Judgment of others."

And

"On the whole, Sir, I cannot help expressing a Wish, that every Member of the Convention, who may still have Objections to it, would with me on this Occasion doubt a little of his own Infallibility, and to make manifest our Unanimity, put his Name to this Instrument."

In your group, discuss Benjamin Franklin's speech.

- What are some of his key arguments? Would you have signed the Constitution at the end of the Convention?

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- Discuss as small groups a time in your life when you have compromised. Was it successful?
- What did you gain? What did you let go of?

After your discussion, individually write a short reflection on the purpose and need for compromise.

Activity 4.6 Notes & Teachers Comments

The Constitutional Convention ended on September 17, 1787. As the Convention was reaching its close, Benjamin Franklin rose with a speech in his hand. Franklin was the oldest Convention delegate and one of America’s most beloved leaders. Franklin handed his speech to his friend and fellow Pennsylvania delegate, James Wilson, who read it aloud to the Convention. Franklin himself admitted that the new Constitution was not perfect, but he asked his colleagues to approach the document with humility. Franklin praised the work of his fellow delegates and urged them to sign the new Constitution—asking anyone “who may still have Objections” to “on this Occasion doubt a little of his own Infallibility.” Later that day, 39 delegates signed the new Constitution. But even following Franklin’s powerful speech, George Mason, Elbridge Gerry, and Edmund Randolph refused. Together, these three dissenters were concerned that their fellow delegates had refused to write a Bill of Rights into the new Constitution and had crafted a powerful national government that was destined to seize political power, swallow up the states, and abuse the rights of the American people. The Convention’s closing days were a sneak peek of the looming battle over the ratification of the Constitution.

Launch

Give students time to read the speech and have a discussion in small groups. Prompt them to describe a time when they have questioned compromise.

Activity Synthesis

Discuss other areas of life when compromise is necessary. Have students brainstorm ideas of when they might have to compromise in the future.

Activity Extension (Optional)

Now that students have a better understanding of the compromises at the Convention, ask the following question:

- Would you have joined or dissented and why?

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4.7 Test Your Knowledge

Purpose

Congratulations for completing the activities in this module! Now it's time to apply what you have learned about the basic ideas and concepts covered.

Process

Complete the questions in the following quiz to test your knowledge.

- [Test Your Knowledge: Constitutional Convention and Ratification](#)



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Module 4: The Constitutional Convention

4.1 Activity Guide

FAST FACTS ABOUT THE CONSTITUTIONAL CONVENTION

In this activity, you will learn more about the events of the constitutional convention.

Review the facts below and then answer the questions to check your understanding of the constitutional conventions.

- The original purpose of the Convention—as per the Confederation Congress—was to revise the Articles of Confederation.
- The Convention took place in the old Pennsylvania State House (now known as [Independence Hall](#)) in [Philadelphia](#), Pennsylvania.
- The Convention met from May 25 to September 17, 1787.
- The Constitution was drafted in secret.
- All of the original 13 states except for Rhode Island sent delegates.
- Fifty-five delegates attended the Convention. Some came and left. Thirty-nine signed the final document.
- All were men.
- Almost all participated in the Revolutionary War.
- Almost all served in state government.
- More than half were lawyers. Most were wealthy landowners.
- Twenty-five delegates held enslaved people.
- Benjamin Franklin was the oldest delegate, 81. Jonathan Dayton was the youngest delegate, 26. The average age was 42.
- Thomas Jefferson was serving as minister to France.
- John Adams was serving as minister to Britain.
- Patrick Henry refused to participate.

FILL IN THE BLANK QUESTIONS

1. The original purpose of the Convention—as per the Confederation Congress—was to revise the _____.
2. The Convention took place in the old Pennsylvania State House, now known as _____, in Philadelphia, Pennsylvania.
3. The Convention met from _____ to _____, 1787.
4. All of the original 13 states except for _____ sent delegates.
5. Fifty-five delegates attended the Convention. Some came and left. _____ signed the final document.

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Module 4: The Constitutional Convention

4.1 Activity Guide

TRUE OR FALSE QUESTIONS

6. Both men and women participated as delegates. _____
7. Many delegates fought in the Revolutionary War. _____
8. No delegates served in the state government. _____
9. More than half of the delegates were lawyers. _____
10. Most of the delegates were wealthy landowners. _____
11. Twenty-five delegates held enslaved people. _____
12. The average age of the delegates was 29. _____

MATCHING QUESTIONS

Benjamin Franklin

Patrick Henry

Jonathan Dayton

John Adams

Thomas Jefferson

13. The oldest delegate at 81 _____
14. The youngest delegate, 26 _____
15. Did not attend, as was serving as minister to France _____
16. Did not attend, as he was serving as minister to Britain _____
17. Refused to participate _____

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LIST OF DELEGATES

- John Dickinson
- Benjamin Franklin
- Elbridge Gerry
- Alexander Hamilton
- James Madison
- Luther Martin
- George Mason
- Gouverneur Morris
- William Paterson
- Charles Pinckney
- Edmund Randolph
- John Rutledge
- Roger Sherman
- George Washington
- James Wilson
- Robert Yates

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John Dickinson (1732–1808)

Delaware

Dickinson was born in Maryland, the son of a prosperous farmer who moved his family to Delaware while Dickinson was still a boy. He was educated by private tutors and then studied law in Philadelphia and London. Brilliant and talented, he moved quickly into politics, serving in both the Delaware and the Pennsylvania colonial assemblies during the 1760s. A conservative, he was often pitted against Benjamin Franklin in political battles between Pennsylvania proprietor interests and the popular faction. When tensions began to develop between England and the colonies, Dickinson defended colonial interests in the pamphlet wars of the 1760s and 1770s. His *Letters from a Farmer in Pennsylvania*, critical of British policy but urging a peaceful resolution to the conflict, earned him the nickname “Penman of the Revolution.” His support for the colonial cause was undercut by his resentment of the radicalism of New England’s political leadership, and he continued to work for a peaceful solution to the political problems despite

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4.2 Info Brief

increasing support among others for independence. In the Continental Congress, Dickinson voted against the Declaration of Independence, but as soon as it passed, he enlisted in the military. He refused to serve in Congress as a representative of Delaware and resigned his seat in the Pennsylvania assembly, retiring from politics for several years. In 1779 he returned to the Continental Congress, where he signed the much-revised version of the Articles of Confederation he had drafted in 1776. He continued to move back and forth between the political worlds of Delaware and Pennsylvania, serving as president of Delaware's Supreme Executive Council in 1781 and president of Pennsylvania the following year. A nationalist, he chaired the Annapolis convention. Throughout the Constitutional Convention, Dickinson was plagued by illness; at fifty-four, he looked far older, an emaciated figure, usually dressed in black. Despite his failing health, Dickinson took an active and influential role in the Philadelphia convention, helping to put the Great Compromise in place. He was forced to leave the convention before its work was ended and was not present to sign the Constitution, which he had played a vital role in creating. After the convention Dickinson devoted his energies to writing about politics rather than participating in them.

Benjamin Franklin (1706–1790)

Pennsylvania

The tenth son of a soap and candlemaker, Franklin, like Alexander Hamilton, stands as an example of the rags-to-riches story. Apprenticed first to his father and later to his half-brother, the printer James Franklin, he demonstrated his literary talents early by publishing anonymous essays in James's newspaper while he was still a teenaged boy. In 1723 Franklin moved to Philadelphia, where, after a two-year hiatus in London, he began a successful career as a printer. His *Poor Richard's Almanac* gained him fame at home and abroad. A man of Renaissance interests, Franklin was an educational reformer, a philanthropist, and a scientist. His political career was long and distinguished, beginning in the 1750s when he served as a member of the colonial legislature and deputy postmaster of the colonies. He lived in England for much of the period from 1757 to the outbreak of the Revolutionary War, acting as the colonial agent of his own Pennsylvania and several other colonies. He became well-known during the decade of increasing tensions leading to the Revolution, defending the American position on taxation before the House of Commons. Franklin served in the Continental Congress and was one of the members of the committee that drafted the Declaration of Independence. He was chosen to preside over the Pennsylvania constitutional convention as well. During the war Franklin's diplomatic career in France and at the Paris peace treaty negotiations made him the toast of Paris. Dr. Franklin, as he was known, returned to Pennsylvania in 1785 to serve as president of the Supreme Executive Council of his state. By the time of the Philadelphia convention, Franklin was plagued by ill health, but he attended faithfully, expressed his views on a number of key issues, provided expert advice to the nationalist leadership, and was a firm defender of the proposed Constitution. Despite his age and failing health, in 1787 Franklin

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accepted the position as first president of the Pennsylvania Society for Promoting the Abolition of Slavery. He died three years later, still active in civic affairs.

Elbridge Gerry (1744–1814)

Massachusetts

Small, thin, with a hawklike nose and a squint in his eye, this Marblehead native was the third of twelve children of a wealthy merchant-shipper. When Gerry graduated from Harvard College, he joined his father and his brothers in the family export business. Despite a slight stutter, Gerry entered politics in 1772 and, as a protégé of Samuel Adams, became an outspoken advocate of independence. In 1776 Gerry became a member of the Continental Congress, where he focused his attention on military and financial matters. His steady call for better pay and equipment for the Continental troops earned him the name “Soldiers’ Friend.” Although he sat in the Confederation Congress from 1783 to 1785, Gerry found himself less suited to governing than to agitating for revolution. Dour, suspicious, and aggressive, Gerry made many enemies during his political career, but even his foes conceded that he was politically shrewd and clever. At the convention Gerry managed to antagonize almost everyone with his unpredictable stances on key issues. Although he began the convention as an advocate of a strong central government, he ultimately refused to sign the Constitution that it produced and worked against ratification in his home state. In 1789, however, he declared himself a supporter of the new government and was elected to the first Congress. Here he became a strong advocate of Federalist policies. By 1789 Gerry had shifted political loyalties once again. After several failures to win the governorship of his home state, Gerry at last took that office in 1810. When the Democratic-Republicans attempted to hold on to political power in Massachusetts by redistricting measures, Gerry’s Federalist opponents coined the phrase “gerrymandering” to describe this political ploy. Nearly seventy years old, Gerry nevertheless agreed to serve as James Madison’s vice president in 1813, the last political office of his long and stormy career.

Alexander Hamilton (1755–1804)

New York

A genuine American rags-to-riches story, Hamilton’s life began on the tiny island of Nevis, where he was born the illegitimate son of a Scottish merchant and an English-French Huguenot mother, and it ended with the largest funeral honoring a distinguished New Yorker ever held in that state. Brilliant, ambitious, and fortunate in his ability to find powerful mentors, Hamilton came to America just as the Revolutionary crisis was beginning. He quickly emerged as a leader of the independence movement in New York, and when war broke out, his skill as an artillery captain caught the attention of General George Washington, who invited the young officer to join his “family” as an aide-de-camp. Marriage to the daughter of one of New York’s leading landholders, combined with the devotion of Washington, secured Hamilton a place in the top

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echelons of society. But it was his genius and his legal talents as much as his charm and connections that made him welcome. A dedicated nationalist from the start, it was Hamilton who orchestrated the groundswell for a Constitutional Convention. Hampered by his state's antinationalist delegation, he took a backseat to Madison and Morris at the convention but was critical in securing New York's ratification afterward. He was an author, with James Madison and John Jay, of the influential *Federalist Papers* and was chosen to serve as the nation's first secretary of the treasury. It was his plans for fiscal responsibility—including funding the debt and the creation of the Bank of the United States—that set the country on the path of remarkable economic growth. Hamilton's support for a commercial and industrial economy clashed with Jefferson and Madison's vision of a primarily agrarian society, and as the Jeffersonian party gained power, Hamilton confined his influence to New York. In 1804, at the age of forty-nine, Hamilton was killed in a duel with longtime political enemy, Aaron Burr. At his funeral New York City's financial, political, and educational leaders as well as former Continental army officers joined scores of other mourners honoring a man they considered the driving force behind a strong new nation.

James Madison (1751–1836)

Virginia

The oldest of ten children born to a distinguished planter family, Madison received a good education from tutors and the College of New Jersey. Despite a long and relatively healthy life, Madison was something of a hypochondriac, perhaps due to a sickly and frail childhood. Even before he chose a profession, Madison decided on a life in politics; he threw himself enthusiastically into the independence movement, serving on the local Committee of Safety and in the Virginia convention, where he demonstrated his abilities for constitution writing by framing his state constitution. During the war he served in the assembly and in the Council of State, kept from military service by poor health. In 1780 Madison became the youngest delegate to the Continental Congress. An early advocate of a strong central government, Madison attended both the Mount Vernon conference and the Annapolis convention before earning the title “Architect of the Constitution” for his work at the Philadelphia convention. He campaigned tirelessly for ratification in Virginia and reached out to influence New York as well by his contributions to the essays known as *The Federalist Papers*. Madison won a seat in the first House of Representatives, where he served until 1797. By this time he was a committed leader of the Democratic-Republicans, and he became secretary of state in 1801 when his friend and cofounder of that party, Thomas Jefferson, became president. Madison succeeded Jefferson in 1809, and it was during his administration that the long-standing tensions between Britain and the United States finally erupted into war. After his second term as president, Madison retired to his plantation, Montpelier, where he edited the journal he kept during the Constitutional Convention. He wrote newspaper articles supporting fellow Democratic-Republican and Virginian President James Monroe and acted as Monroe's informal adviser on foreign policy. In

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his last years, Madison became actively involved in the American Colonization Society, an organization that encouraged the emancipation of slaves and their resettlement in Africa.

Luther Martin (1748–1826)

Maryland

One of the most controversial figures at the Philadelphia convention, Martin was a complex and tragic figure. He graduated with honors from the College of New Jersey, taught school in Maryland for a few years, and then studied law in Virginia before making his home in Maryland. He was an early advocate of independence and served on several patriotic committees before the war began. He was highly successful as a lawyer and was named attorney general of Maryland before he was thirty. He was known for his generosity to poorer clients, but also for his rudeness toward men of his own social class. He became increasingly eccentric, however, sometimes appearing disheveled and often appearing drunk in public. At the Philadelphia convention, Martin was an immediate and consistent opponent of the Constitution, voting against the Virginia Plan and questioning the decision that the convention's meetings be held in secret. When he took the floor to speak, he often engaged in loud and long harangues, delivering a three-hour speech at a crucial moment in the debates over representation. He eventually walked out of the convention before it adjourned, joined by fellow delegate John Francis Mercer. During the ratification struggle, Martin campaigned vigorously against the adoption of the Constitution, opposing the increased power of the central government over the states, proportional representation in the House, the inclusion of slaves in determining state populations, and the absence of a jury in Supreme Court deliberations. His criticisms reflected the fundamental Anti-Federalist position. Yet by 1791 Martin had joined the Federalist camp, driven there by his hatred of Thomas Jefferson. Throughout the rest of his career, Martin did not flinch from taking on controversial legal cases. He successfully defended his friend Supreme Court Justice Samuel Chase when Chase was impeached, and he served as a defense lawyer for Aaron Burr when Burr was on trial for treason in 1807. A brilliant lawyer, Martin argued Maryland's position in the landmark Supreme Court case *McCulloch v. Maryland*. In his last years, however, heavy drinking and illness diminished Martin's fortune and his reputation. He suffered a paralysis in 1819 that forced him to retire as Maryland's attorney general, and he died a poor man in 1826.

George Mason (1725–1792)

Virginia

Perhaps the most effective opponent of Madison and the Federalists, Mason was raised by his uncle, John Mercer, following his father's death when Mason was a young boy. Mercer boasted one of the largest private libraries in the colonies, and Mason read widely in these fifteen hundred volumes. As the owner of Gunston Hall, one of Virginia's largest plantations, Mason

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was a wealthy and socially influential man. He became involved in western land speculation, buying an interest in the Ohio Company, and wrote a stinging defense of colonial entitlement to the Ohio Valley region when the Crown revoked the company's rights. Mason served as a justice of the peace before taking a seat in 1759 in the House of Burgesses. He took up his pen once again to defend the colonial position on the Stamp Act, and by 1774 he had emerged as a leader of the patriot movement in Virginia. Mason drafted the Virginia Declaration of Rights in 1776. By the early 1780s, Mason had grown disillusioned with public life and retired to Gunston Hall. He agreed to attend the Mount Vernon conference in 1785 but did not go to Annapolis despite his appointment as a delegate to that convention. Mason played a leading role at the Philadelphia convention, speaking frequently and exerting considerable influence over the deliberations. He became increasingly critical of the direction the convention was moving, however, and in the end, Mason refused to sign the Constitution. Among his primary objections was the absence of a bill of rights. Mason actively campaigned against ratification in Virginia, causing a breach in his friendships with both Washington and Madison.

Gouverneur Morris (1752–1816)

Pennsylvania

Born to wealth and privilege on his family's impressive Morrisania estate in New York, Morris was educated first by private tutors and then by the faculty of King's College (later Columbia University). As a young man, Morris lost his leg in a freak carriage accident, but this did not appear to diminish his very active engagement with women. He trained as a lawyer but entered politics as the movement for independence gained ground. A social conservative, he nevertheless joined the patriots' camp and served in New York's Revolutionary provincial congress. Despite his wooden leg, Morris served in the militia as well. Acknowledged as a brilliant stylist, he was appointed to the committee that drafted New York's first constitution. In the late 1770s, Morris served in the Continental Congress, where he was one of the youngest and most intellectually impressive of the delegates. When Governor George Clinton's party defeated him in his bid for reelection to Congress, Morris moved to Philadelphia and opened a legal practice. By 1781 he was once again involved in public service, working as an assistant to the superintendent of finance for the United States during the Revolution. Gouverneur Morris was one of the leading figures at the Philadelphia convention, speaking more often than any other delegate, his analytical powers leavened by his keen satiric sense. His nationalism was strengthened by his experiences working with Robert Morris and his conviction that a strong central government and a sound fiscal policy were essential to the survival of the country. It was Morris who produced the final draft of the Constitution. After the convention he returned to private life, took possession of the family estate at Morrisania, and settled once again in New York. A man of broad-ranging intellectual and cultural interests, Morris spent many of the years after the Philadelphia convention abroad. He was in France as that nation's revolution began, and in 1792 President Washington asked him to take over the duties of minister to that nation

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from Thomas Jefferson. An ardent Federalist until his death, Morris once again retired from politics when the Jeffersonian party began to dominate the national political scene. In his last years, he became a vocal critic of the Democratic-Republicans and of the War of 1812.

William Paterson (1745–1806)

New Jersey

Paterson was born in Ireland, but his family immigrated to America when he was only two years old, settling first in Connecticut and later in Trenton, New Jersey. The family prospered and Paterson was able to attend the College of New Jersey. After receiving his master's degree, he took up the practice of law. During the war he served in the provincial congress, the state constitutional convention, and New Jersey's legislative council. From 1776 to 1783, he was the state attorney general. After the death of his wife in 1783, Paterson retired from politics and devoted his energies to his legal practice. His selection as a delegate to the Philadelphia convention revived his political career. The five feet two inch Paterson—fastidious in his dress, mild-mannered, and modest in his demeanor—played a central role in the Constitutional Convention as the author of the New Jersey Plan. Although he left the convention after the issue of representation in the Senate was resolved, he returned to sign the Constitution. Paterson was a member of the first U.S. Senate and later governor of his state. From 1793 to 1806, he served as an associate justice of the U.S. Supreme Court.

Charles Pinckney (1757–1824)

South Carolina

The cousin of fellow South Carolinian Charles Cotesworth Pinckney, Pinckney was the son of a wealthy lawyer and planter. Unlike many wealthy young men, Pinckney did not attend college but received all his education and his legal training in his home city of Charleston. Late in the war, Pinckney enlisted in the militia. He rose to the rank of lieutenant and served during the siege of Savannah. When Charleston fell, the young officer was captured and remained a British prisoner until the summer of 1781. Meanwhile, Pinckney had begun a political career, serving in the Continental Congress from 1777 to 1778 and later in the Confederation Congress. He also served several terms in his state legislature. A nationalist, he wanted the government to be strong enough to insure American rights to navigate the Mississippi. At the Philadelphia convention, Pinckney commanded notice. He was ambitious, bold, an excellent speaker, and a key member of the nationalist caucus, although his inflated claims that he had submitted a draft of a plan for the government that was the real basis for the Constitution are unfounded. After the convention he rose rapidly on the South Carolina political scene. He became governor in 1789, an office he held until 1792, and in 1790 he chaired the state constitutional convention. At first a Federalist, Pinckney slowly began to shift his allegiances. He opposed the Jay Treaty and began to align himself with the backcountry farmers who were the heart of the

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Democratic-Republican Party in his state. In 1796 Pinckney was again in the governor's seat, and in 1798 he went to the U.S. Senate with the backing of the Democratic-Republicans. In 1800 he served as Jefferson's campaign manager in South Carolina. As a reward, President Jefferson appointed Pinckney minister to Spain. When he returned from Europe, he took over the reins of the Democratic-Republican Party in his home state. He served a third term as governor from 1806 to 1808. In 1819 he reentered national politics as a member of Congress, but poor health forced him to retire from political life in 1821.

Edmund Randolph (1753–1813)

Virginia

Born into a prosperous planter family, Randolph received his education at the College of William and Mary and then went on to study law with his father. When the Revolution began, Randolph's father chose to remain loyal to the Crown; the younger Randolph supported independence. He served as one of General Washington's aides-de-camp during the war. At twenty-three, Randolph was the youngest member of the state convention that adopted Virginia's first constitution in 1776. Soon afterward he became mayor of Williamsburg and then the state's attorney general. He entered national politics with his election to the Continental Congress in 1779. In 1786 Randolph became governor of Virginia. It was Randolph who presented the Virginia Plan to the Philadelphia convention, but as the weeks went by, his support for a strong central government diminished. He reluctantly declared his unwillingness to sign the Constitution at the convention, but when the ratification battle began in Virginia, Randolph once again returned to the Federalist camp. He served as President Washington's first attorney general, and when Jefferson resigned from his cabinet post as secretary of state in 1794, Randolph stepped into that position. He attempted to remain neutral in the growing political division between Jefferson and Hamilton, and perhaps because of the strain this caused, he decided to retire from public life in 1795. He returned to the practice of law and devoted his free time to writing a history of Virginia.

John Rutledge (1739–1800)

South Carolina

Born into a large family of Irish immigrants, Rutledge received his early education from his physician father. He was sent to London's prestigious Middle Temple for his legal training and was admitted to English practice in 1760. He returned soon afterward to his native Charleston, married, and began a successful legal career. He made his fortune, however, from his plantations and slaves. By 1761 Rutledge had won a seat in the provincial assembly and remained in this legislative body until independence was declared. There he earned a reputation as one of the greatest orators of his day. As tensions increased between the colonies and Great Britain, Rutledge defended American rights but worked for a peaceful resolution of differences.

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In 1774 he was a delegate to the Continental Congress, and there, too, he pursued a moderate course. Once independence was declared, however, he played an active role in helping to reorganize his state government and in writing South Carolina's state constitution. Although a patriot, Rutledge was a political conservative, resigning his position in the state legislature when democratic revisions of the state constitution were passed. His views did not prevent his election to the governorship in 1779. When Charleston was taken by the British in 1780, Rutledge suffered severe financial losses. His extensive property holdings were confiscated, and Rutledge was forced to flee to North Carolina. He never recovered his fortune. Rutledge served in the Continental Congress from 1782 to 1783 and then returned to state offices. At the Philadelphia convention, he was a moderate nationalist, speaking frequently on issues and serving on several important committees. His deepest concern at the convention was the protection of southern interests. President Washington appointed Rutledge as an associate justice of the U.S. Supreme Court, but he left that bench in 1791 to become chief justice of the South Carolina Supreme Court. Washington again called upon him to serve on the U.S. Court in 1795, this time to replace John Jay as chief justice. His appointment was not confirmed by the Federalist-dominated Senate, however, due in part to his vocal opposition to the Jay Treaty of 1794 and in part to signs of mental illness brought on by the death of his wife. The rejection led Rutledge to retire from public life.

Roger Sherman (1721–1793) **Connecticut**

Tall and awkward, Sherman provided a striking contrast to the suave Dr. Johnson at the Connecticut delegates' table. The ungainly Sherman was an autodidact who devoured books in what spare time he could eke out while doing farm chores and learning the cobbler's trade from his father. Although he was born in Massachusetts, he moved to Connecticut as a young man following his father's death. There he purchased a store, learned surveying, and won appointment to a number of local offices. With no formal education, Sherman managed nevertheless to pass the bar in 1754 and establish a reputation as a distinguished jurist and political leader. His skills in political debate and his shrewdness in political negotiations were well-known by the time he came to the Philadelphia convention. Despite his constant political duties before the Revolution, Sherman was able to publish an essay on monetary theory and a series of almanacs containing his own astronomical observations and his own poetry. In 1761 Sherman gave up his legal practice and returned to shopkeeping. He did not give up politics, however. He served in the Continental Congress and was on the committees that drafted both the Declaration of Independence and the Articles of Confederation. Although his finances were failing, Sherman agreed to take time away from his business interests to serve at the Philadelphia convention. He was one of the prime spokesmen for the interests of the smaller states and played a critical role in creating the Connecticut Compromise. A solid supporter of

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the Constitution, Roger Sherman served in the first House of Representatives and later in the Senate. He remained a Federalist throughout his life.

George Washington (1732–1799)

Virginia

Washington was born into the Virginia gentry, the oldest of six children from his father's second marriage. His father's estates included a plantation that would later be known as Mount Vernon. Washington had a limited education, probably from tutors, but he did train as a surveyor. For several years he conducted surveys in Virginia and in what later became West Virginia. In 1753 the royal governor of Virginia appointed him a major in the militia, and by 1754 he had risen to the rank of colonel. When he was demoted because of the expected arrival of British regulars, Washington resigned his commission and leased Mount Vernon from his brother. By 1755, however, he was back in the military as an aide to General Edward Braddock. In 1759 he returned to civilian life, married, and focused much of his energy on farming. He found time, however, for political activity. Between 1759 and 1774, he sat in the House of Burgesses, where he was a strong supporter of colonial resistance to the new British policies. Washington served in the First and Second Continental Congresses, and in 1775 he accepted command of the Continental army. His military experience intensified his conviction that the nation needed a strong central government, and Washington was active in helping to orchestrate the call for the Philadelphia convention. He served as host to one of its predecessors, the Mount Vernon conference. After some hesitation, he agreed to join the Virginia delegation to the Philadelphia convention, where he was immediately elected presiding officer. In 1789 Washington became the first president of the United States by unanimous election. During two administrations Washington supported programs and policies consistent with his Federalist views, more often accepting Hamilton's position than Jefferson's on both foreign and domestic matters. Although many encouraged him to serve a third term as president, Washington declined. Rheumatism and other ailments prompted him to retire to his beloved Mount Vernon, where he died at the age of sixty-seven. Although he had not made the abolition of slavery one of his central causes, he did emancipate all his slaves when he died.

James Wilson (1742–1798)

Pennsylvania

Scottish by birth, Wilson received an excellent education at the universities of St. Andrews, Glasgow, and Edinburgh. He immigrated to America just as the Stamp Act protests were beginning in 1765. His first position was as a Latin tutor at the College of Philadelphia, but he soon gave up teaching for a career in law. He earned a reputation as one of the ablest lawyers in the country and became a leading advocate of American independence. He was a man who elicited respect rather than affection, appearing stern and forbidding to most who met him.

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Having set up a law practice in western Pennsylvania, Wilson became a political leader in his county. He served in the first provincial assembly, distinguishing himself by writing a tract on the issue of parliamentary authority in the colonies. By 1774 he was in the Continental Congress, and he signed the Declaration of Independence. In most regards, Wilson was a conservative and he opposed the liberal constitution first adopted by Pennsylvania. Popular opposition to his views only hardened them, and his ties with the state's leading aristocratic and conservative political figures increased. With Robert Morris, Wilson served as one of the directors of the Bank of North America. Wilson was an indisputable leader of the nationalist forces at the Philadelphia convention, second only to Madison in his role in crafting the new government. He led the battle for ratification in Pennsylvania and was the architect of the new, more conservative constitution drafted for Pennsylvania in 1789–90. He was disappointed when President Washington did not appoint him chief justice of the Supreme Court but accepted a position on that bench as an associate justice. A student of the law as well as a practitioner, Wilson welcomed an appointment in 1789 as the first law professor at the College of Philadelphia, and he soon began to compile an official digest of the laws of Pennsylvania. Despite his recognized brilliance and his erudition, Wilson did not distinguish himself on the Supreme Court, perhaps because he mixed business interests with his duties. He barely escaped impeachment when he tried to influence legislation in his home state that would favor land speculators like himself. Wilson suffered from the same compulsive speculative behavior as his friend Bob Morris, and, like Morris, he wound up fleeing creditors. Fearing imprisonment, he moved to New Jersey. Suffering from extreme anxiety over his circumstances, Wilson collapsed at the home of a friend in North Carolina and died there in 1798.

Robert Yates (1738–1801)

New York

A native of Schenectady, New York, Yates was a well-educated lawyer considered by many to be a vain and pompous man. After admission to the bar, Yates moved to Albany, where he became immediately involved in local politics. A strong supporter of independence, he served on the Albany Committee of Safety and in the provincial congress. He played a key role in drafting the first constitution for New York State. By 1777 Yates was a member of the New York Supreme Court and presided over the court as chief justice throughout the 1790s. A determined opponent of the Constitution, Yates left the Philadelphia convention in protest. With his fellow delegate John Lansing Jr. he wrote a joint letter to Governor Clinton that detailed the dangers of a centralized government and the illegitimacy of the Constitutional Convention. He worked vigorously against ratification when the state convention met, writing a series of letters, signed “Brutus” and “Sydney,” that criticized the Constitution. Like Madison and Hamilton, Yates took personal notes at the convention, and in 1821 these were published as the *Secret Proceedings and Debates of the Convention Assembled...for the Purpose of Forming the Constitution of the United States*.

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4.2 Activity Guide

CONSTITUTIONAL CONVENTION: MEET THE FRAMERS

In this activity, you will continue to explore the delegates who attended the Constitutional Convention. The purpose of this assignment is for you to get to know one influential delegate well and then determine his influence in comparison to other key delegates at the Convention.

Now that you have a general idea of the delegates to the Constitutional Convention, let's get personal. You will be assigned a delegate to research and you will make a profile sheet to summarize significant information about that person.

After you complete the worksheet, you will present your assigned delegate to the class and advocate for them to be a top influencer at the Convention. Only five will make it to the top influencers list, so do your best to make the case of why your delegate should be among them.

Delegate's name	
Where was he from?	
What is some of his background from before the Convention?	
What did he do for a living?	
What was his main contribution to the creation of the Constitution?	
What did he do after the Convention?	
What are some other highlights of his life that you think help make him the top influencer of the Convention?	

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4.3 Video Reflection

CONSTITUTIONAL CONVENTION

In this activity, you will explore the compromises of the Constitutional Convention. You will also learn more about the people who wrote the Constitution.

Watch the [video](#) and then answer the question below.

Virginia Plan	
What did it do?	Who supported it?
New Jersey Plan	
What did it do?	Who supported it?
Connecticut Compromise	
What did it do?	Who supported it?

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4.3 Video Reflection

Debates around the Presidency	
Hamilton's Idea:	
Sherman's idea:	
Ways to Elect the President	
Congress:	
Popular Vote:	
Electoral College:	

Issue of Slavery	
What did the Three-Fifths Clause do?	
International Slave Trade Clause	

COMPROMISES OF THE CONVENTION

CONNECTICUT (OR GREAT) COMPROMISE

Disputes between small states and large states spurred intense debates over how the states were to be represented in the new government.

Two key delegates—James Madison and James Wilson—were central to these debates, although they lost on many key issues. Even so, they were among the intellectual heavyweights at the Convention and helped drive the debate—even when they were outvoted.

Madison had experience in *both* the Virginia state government *and* the national government under the Articles of Confederation. His experience in Virginia convinced him that the 1776 Virginia state constitution had given too much power to the lower house of the state legislature—the elected body closest to the people. Madison remained committed to popular self-government, but came to believe that a constitution must set up ways of slowing politics down, allowing time for debate, and refining public opinion. For Madison, this deliberative process would lead to better policies—policies that promoted the public good, *not* factional interests.

At the same time, Madison’s experience in the national government as a member of Congress convinced him that America needed a stronger national government, one with the power to regulate commerce, raise funds, and protect the interests of political minorities.

Turning to the debates over Congress at the Convention, Madison and Wilson supported a national legislature based on proportional representation. In other words, states with more people would receive more seats in the national legislature than those with fewer people. This differed from the Articles of Confederation, which was organized under the principle of state equality. Each state—regardless of its population—received one vote.

These ideas culminated in the “Virginia Plan”—which framed the Convention’s debates over Congress. The Virginia Plan was presented by Edmund Randolph in the early days of the Convention, but it was the brainchild of Madison.

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VIRGINIA PLAN

- A legislative branch consisting of two chambers. (This differed from the Confederation Congress, which included only one House.)
- Each of the states would be represented in proportion to their size. (So, in both houses of the national legislature, populous states, like Virginia—the most populous state at the time—would have more representatives than smaller states.)
- The national legislature would have the power to address issues that were beyond the ability of any single state government to handle.
- And the legislature could also have the power to veto state laws that it found to be against the national interest.

William Paterson and his allies countered with the New Jersey Plan, which grew out of small-state fears that the Virginia Plan would lead to domination by the large states.

New Jersey Plan:

- A one-house legislature with each state—regardless of its population—receiving one vote. (So, just like the Articles of Confederation.)
- At the same time, the New Jersey Plan *would* expand the powers of the national government to address the needs of a growing nation in certain ways.

The delegates spent a great deal of time in the early part of the Convention debating how to structure Congress. These competing proposals led to intense debates—pitting small states against large ones and raising questions about how much power the national government should hold.

Eventually, Roger Sherman and Oliver Ellsworth—both from Connecticut—proposed the Connecticut (or Great) Compromise.

CONNECTICUT PLAN:

- Congress would consist of *two* houses—a House of Representatives and a Senate.
- The House would be elected on the basis of proportional representation—giving more populous states more seats than smaller states.
- At the same time, the Senate would be elected on the basis of equal representation, with each state—regardless of its population—receiving two senators.

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The Great Compromise eventually passed by a single vote. In the end, Madison and Wilson won the fight over representation in the House, but they suffered a major defeat over representation in the Senate. They were devastated.

But they would, of course, live to fight another day, and Madison himself would even defend the Senate—equal state representation and all—in the *Federalist Papers*, written during the battle over the ratification of the Constitution.

THE ELECTORAL COLLEGE

Let's turn from Congress to the presidency—focusing on the compromises that led to our method for selecting a president, the Electoral College. So, what's the Electoral College?

Today, many democratic nations elect their executives by direct popular vote. We don't. Instead, we use a system known as the "Electoral College." How does it work?

Today, the Electoral College is made up of 538 electors drawn from the states and the District of Columbia.

Under Article II of the Constitution, the states are given a number of electors equal to their congressional delegation, and the 23rd Amendment granted Washington, D.C., three electoral votes.

Today, the American people vote for president and vice president on Election Day. But these votes don't directly determine the outcome of the election. Technically, these popular votes determine which electors will be appointed to the Electoral College from each state. The electors eventually meet in December to cast their votes for president and vice president. If a candidate receives a majority of these votes in the Electoral College, she wins—even if she lost the popular vote.

So, how did we end up with this system? It's a very interesting story. To understand the debate over the Electoral College, it's important first to understand a bit about the framers' debates over the presidency itself.

It's fair to say that the framers struggled with how to structure the presidency. This was driven, in part, by the lack of historical examples to follow.

- When the framers looked to Europe, they saw powerful kings.
- When they looked to their own state constitutions, they saw executives too weak to govern effectively.

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- When they looked to their own Congress under the existing Article of Confederation, they saw a body inadequate to the executive tasks necessary to shepherd a young (but growing) nation down its path toward greatness.

At the same time, the framers feared executive power. They remembered the abuses of King George III and his officials in colonial America—abuses that helped lead to the American Revolution.

Turning to the Convention itself, the framers as a whole had a range of opinions when it came to the new executive.

- On one end of the spectrum, Alexander Hamilton and John Dickinson voiced admiration for the limited monarchy of Great Britain—and a single, strong national executive.
- On the other end of the spectrum, Roger Sherman viewed the executive as “nothing more than an institution for carrying the will of the Legislature into effect.”

In the end, the debate over the Electoral College was closely connected to these broader debates over the presidency itself. (And James Wilson played a key role throughout these debates.) Over time, the delegates wrestled with four big issues:

- How to elect the president
- How long the president’s term should be
- Whether the president should be allowed to run for reelection
- And the question of impeachment and removal

And the framers repeatedly learned that a decision taken on one of these issues would affect what they thought about all of the others.

So, how *did* we get the Electoral College?

The Electoral College was a compromise—between those like James Wilson who wanted the direct popular election of the president and those who supported other presidential selection systems.

Over time, the framers debated a range of ways to select the president, including direct election by popular vote (Wilson’s preference), by members of Congress (the preference of many framers), by electors selected by lottery (Wilson’s radical suggestion), by state governors (Elbridge Gerry’s idea), or by an electoral college (a compromise).

For much of the Convention, the election of the president seemed like an unsolvable problem. Each idea had its own problems.

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- Election by Congress had the advantage of placing the decision in the hands of some of the nation’s most knowledgeable leaders. However, the concern was, as Gouverneur Morris warned, that the result would eventually be the “work of intrigue, of cabal, and of faction,” producing a president who would become a mere tool of his supporters in Congress.
- Election by popular vote—proposed by Wilson—had the advantage of rooting the presidency in popular sovereignty.
 - Some framers opposed this idea based on sheer elitism.
 - However, others (like George Mason) didn’t so much fear that the American people would be easily duped by demagogues, but instead were concerned that the size of the country would make it difficult to carry out a national election—and for the average voter to know anything about an out-of-state candidate’s record. In other words, everyone would know (and love) Washington. But in the future, there probably wouldn’t be many—or any—other Washingtons. For delegates like Mason, it wasn’t a question of competence, but one of information. (The United States was a larger republic than any ever built. Many citizens were on the frontier, spread out in the country. Information at the time spread slowly and usually to cities first. Many rural areas didn’t have newspapers. Therefore, the concern would be that these voters would rely on bad information, and this might lead them susceptible to manipulation—especially by demagogues.)
- The third—and final—key idea was the Electoral College.
 - The key advantage of this proposal was that it would keep the president independent of the legislature.
 - He would have his own independent base of support that would dissolve after the election.
 - Key disadvantages were the logistics of how to get the electors to meet and the related expenses.
 - Some framers also feared whether they’d be able to attract electors “of the 1st or even the 2nd grade in the States.”
 - The framers settled on the Electoral College in the closing weeks of the Convention, and they supported it for a range of reasons.
- For James Wilson—who supported the popular election of the president—the Electoral College was a second (or third) best option.
- For those who shared some of Wilson’s support for popular democracy, but also shared some of the concerns of the other framers about its dangers (and limits), the Electoral College offered a balance between popular input, congressional (and elite) input, and federalism.

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- For those who supported congressional election, the Electoral College would still have the U.S. House—voting by state, not by individual members—decide the president among the top vote-getters if no candidate received a majority in the Electoral College. And many framers assumed that—after Washington—many elections would go to the House. (In other words, that no candidate would have a big enough national reputation to secure a majority of the electoral vote.) As Mason put it, the electors would fail to generate a winner “nineteen times in twenty.”
- For some slaveholding delegates, the Electoral College represented a way of boosting their power over presidential selection—with the Constitution counting enslaved persons as three-fifths of a person for purposes of congressional representation and, in turn, for determining the voting power in the Electoral College.
- And, finally, for some founders like Alexander Hamilton, the Electoral College represented a way of guarding against dangerous demagogues and leaving the presidential election, ultimately, to the votes of national elites serving in the Electoral College.
 - This theory had its roots, in part, in experiences like Shay’s Rebellion.
 - Hamilton in *The Federalist Papers*, No. 68 (1788): “Men chosen by the people for the special purpose” of selecting the president “will be most likely to possess the information and discernment requisite to such complicated investigations.”

THE DEBATES OVER SLAVERY

Let’s end with one of the most controversial (and troubling) aspects of the Convention—the delegates’ compromises over slavery.

Slavery is obviously older than the U.S. Constitution. Slavery itself was written into colonial law as early as the 1660s in places like Virginia and the Carolinas. The British Empire secured a monopoly over the slave trade in 1713, and in the 1700s, American slavery expanded.

To give just the example of Virginia—enslaved people grew from just 7% of the population in 1680 to 28% in 1700 and, finally, to a whopping 46% (nearly half of the Virginia population) in 1750. So, well before the Constitutional Convention, slavery became a massive part of the Southern population—and white Southern wealth.

Let’s fast forward to 1787 and return to the Constitutional Convention in Philadelphia. What role did slavery play there?

All told, 25 of the Convention delegates held enslaved people, and slavery was critical to many of these delegates’ wealth—and to the economies of their home states.

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At the Constitutional Convention, the framers refused to recognize the right to property in men. However, they *did* compromise over the issue of slavery, enshrining protections for slaveholders in the Constitution.

Three-Fifths Clause

Text of the Constitution:

[The “Three-fifths Clause,” Article I, Sect. II, Cl. 3](#)

“Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.”

As discussed earlier, the U.S. House of Representatives draws up districts based on a state’s population—the larger the state, the greater the number of districts it gets. And the greater the number of districts for each state—and for each region of the country (North versus South)—the greater the political power.

The key question in the debate over the Three-Fifths Clause was how to count enslaved people as part of this process.

The delegates borrowed language from a proposed 1784 amendment to the Articles of Confederation. It counted enslaved people as three-fifths of a person. But this clause was debated multiple times during the Convention—as the delegates struggled over how best to structure Congress.

At the Convention, pro-slavery Southerners argued that enslaved people should count as a full person—five-fifths, but anti-slavery Northerners shouted hypocrisy. How could the Southern delegates treat enslaved people as full persons for purposes of representation in the national government but at the same time deny their humanity by treating them as property?

New York delegate Gouverneur Morris called slavery a “nefarious institution— . . . the curse of heaven on the states where it prevailed.” Morris then attacked the Three-Fifths Clause for giving “the inhabitant of Georgia and South Carolina who goes to the Coast of Africa, and in defiance of the most sacred laws of humanity tears away his fellow creatures from their dearest connections and damns them to the most cruel bondages, . . . more votes in a government instituted for the protection of the rights of mankind, than the citizen of Pennsylvania or New Jersey who views with a laudable horror so nefarious a practice.”

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The Convention rejected Southern attempts to count enslaved people as a full person, and Northern attempts to exclude them from the count altogether.

Ultimately, Roger Sherman of Connecticut secured support for the Three-Fifth Clause. (The Southern delegates were unhappy that Northern reps would have a 36–29 advantage in the House, but they accepted the compromise as a key protection against future Northern attempts to limit slavery.)

Of course, the framers avoided using the word “slave” in the clause.

This clause had a huge impact over time.

The Three-Fifths Clause increased pro-slavery strength in Congress (by counting enslaved people as three-fifths of a person), in the presidency (through the Electoral College), and at the Supreme Court (through electing pro-slavery presidents, who appoint those justices).

Slave Trade Clause

Text of the Constitution:

[Slave Trade Clause: Article 1, Section 9, Clause 1:](#)

“The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.”

By the founding, even many slaveholders opposed the inhumane Atlantic slave trade. Only delegates from South Carolina and Georgia were determined to continue this brutal practice.

George Mason, John Dickinson, and Rufus King proposed an outright ban on the Atlantic slave trade, but the delegates rejected it. Instead, the Convention reached a compromise over the slave trade. Congress could ban the international slave trade, but only 20 years after the ratification of the Constitution—January 1, 1808.

In other words, this clause protected the brutal slave trade until 1808.

And between 1788 and 1808, the number of enslaved people imported into the United States exceeded 200,000—only roughly 50,000 fewer than the total number of enslaved people imported into America in the previous 170 years. In 1808, Congress had the power to abolish it, and so it did.

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In the end, the anti-slavery Northern delegates wanted to block the expansion of slavery and did not want to write explicit protection for slavery—recognition of the right to property in man—into the Constitution.

Many framers hoped that enough states in the North would move toward emancipation that slavery might die out in a generation or two.

Connecticut's Oliver Ellsworth said, "Slavery, in time, will not be a speck in our country."

However, the delegates were also open to protecting the existing property rights of the slaveholders and were willing to compromise with Southern slaveholders in order to form a new Union, ratify the Constitution, and create a new national government stronger than the government under the Articles of Confederation.

At the same time, Southern slaveholders fought to build in protections against future anti-slavery Northerners' attempts to restrict (and even abolish) slavery.

In the end, the legality of slavery—whether to permit it or to abolish it—was left to the states, where it stayed until the ratification of the 13th Amendment after the Civil War.

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4.4 Activity Guide

COMPROMISE WORKSHOP

In this activity, you will explore the key compromises reached at the Constitutional Convention.

In your small groups, identify the strengths and weaknesses of each compromise, as well as any opportunities and threats each would cause—this is known as a SWOT analysis. Be prepared to discuss your analyses with the rest of the class.

The Connecticut (Great) Compromise	
Strengths The compromise meant that both big states and small states would get something that they wanted.	Weaknesses No side got everything that it wanted.
Opportunities Making the U.S. House and Senate work together would slow down the legislative process and allow time for reasoned deliberation and compromise.	Threats With the Senate based on equal representation, there is the risk of people from smaller states having disproportionate power.

The Electoral College	
Strengths	Weaknesses
Opportunities	Threats

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The Three-Fifths Compromise	
Strengths	Weaknesses
Opportunities	Threats

The International Slave Trade Clause	
Strengths	Weaknesses
Opportunities	Threats

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RATIFICATION TIMELINE

When the Constitution was signed by the framers at the Constitutional Convention on September 17, 1787, it was a mere proposal. The delegates sent our nation’s charter back to the American people for ratification. So, even though the framers spent months hammering out a new framework of government, they left the final decision to the American people—acting state-by-state through specially elected state ratifying conventions. The American people were free to say “yes” or “no.”

In the framers’ view, only the American people themselves had the authority to tear up the Articles of Confederation and establish a new government. James Madison explained this well—describing the Constitution (in *Federalist* No. 40) as “of no more consequence than the paper on which it was written” unless ratified by the American people. In other words, it didn’t matter that the new Constitution was signed by America’s two most beloved figures—George Washington and Benjamin Franklin—and written by some of the nation’s best constitutional (and political) thinkers. It wasn’t up to them. It was up to the American people.

That’s a great example of one of the Constitution’s core principles: popular sovereignty—rule by “We the People”—government rooted in the consent of the governed. The ratification process was the framers’ attempt to make popular sovereignty a reality—a living, breathing thing in the world. For them, the foundation of all political power—the very legitimacy of our Constitution and the national government itself—rested with us: the American people.

How was the ratification process supposed to work? In other words, what *were* the specific rules of the game? Under Article VII of the new Constitution, the new government would go into effect if *nine* states ratified—in other words, if nine states said “yes.” Each state would elect delegates to its own state ratifying convention. From there, each ratifying convention would then debate the Constitution and decide whether to support it (or not).

Of course, we know how this story ended. The supporters of the new Constitution—the Federalists—won the battle over ratification. And the American people voted to adopt the new Constitution. To us today, this whole story may lack drama. It may seem inevitable. Far from it! The American people almost said “no!”

The battle over ratification—pitting the Federalists (supporters of the Constitution) against the Anti-Federalists (opposing the Constitution)—was *very* close. Just a few shifted votes in a few important states like Massachusetts, Virginia, or New York may have changed the entire outcome. The new Constitution may have failed. The Anti-Federalists may have won.

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But of course, the Federalists *did* win. And because of the brilliance of the Federalists' new Constitution, the force of their political (and constitutional) arguments, their willingness to compromise, and a little bit of luck, the American people said “yes”—they *ratified*—the U.S. Constitution.

Ratification Timeline:

The first state to ratify the Constitution was Delaware (unanimous)—on December 7, 1787.

Delaware was quickly joined by four other states:

- Pennsylvania (46–23, on December 12, 1787)—which was a bitter fight
- New Jersey (unanimous, on December 18, 1787)
- Georgia (unanimous, on January 2, 1788)
- Connecticut (128–40, on January 9, 1788)

However, the Constitution—and its supporters—then ran into serious, organized opposition in the important state of Massachusetts. The Massachusetts Convention was closely divided between Federalists and Anti-Federalists. And two of the state's leading voices—Samuel Adams and John Hancock—emerged as critics of the Constitution. As part of the debates in the Massachusetts Convention, many Anti-Federalists called for amendments to the new Constitution.

To get to “yes,” the Federalists brokered a compromise with Adams and Hancock. Under this “Massachusetts Compromise,” a majority of delegates agreed to ratify the new Constitution, but only if the Convention agreed to recommend a set of amendments to the new Congress following ratification.

- The Massachusetts Convention finally voted in favor of ratification on February 6, 1788.

This Massachusetts Compromise paved the way for the Constitution's ratification—with later states following Massachusetts's example and brokering similar compromises to secure the support of many critics of the Constitution. Every remaining state convention—except for Maryland's—recommended amendments as part of their decision to ratify.

Here's the ratification timeline for the next wave of states.

- Maryland, April 28, 1788 (63–11)
- South Carolina, May 23, 1788 (149–73)
- New Hampshire, June 21, 1788 (57–47)

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- Virginia, June 25, 1788 (89–79)—in a close fight
- New York—in another bitterly close fight—on July 26, 1788 (30–27)

So, by the end of July 1788, 11 states had ratified the new Constitution, including critical states like Pennsylvania, Massachusetts, Virginia, and New York.

Interestingly, the final two states—North Carolina and Rhode Island—wouldn't ratify the Constitution until after the new government was already established.

WHO WERE THE FEDERALISTS AND THE ANTI-FEDERALISTS?

Let's begin with the Federalists. Federalists supported the U.S. Constitution. Famous Federalists included two of America's most beloved figures—George Washington and Benjamin Franklin—and some of the nation's most gifted political leaders (and thinkers), including James Madison, Alexander Hamilton, John Jay, John Dickinson, James Wilson, and Gouverneur Morris. So, the Federalist leaders included some (very) popular leaders, brilliant thinkers, and political heavyweights!

What about the rank-and-file Federalists? Overall, they tended to be better educated than the Anti-Federalists. And they were more likely to be wealthy and to live in cities.

Why did the Federalists support a new constitution? What did they say?

Broadly speaking, the Federalists argued that in order to grow into a great nation, the United States needed a stronger national government. The Federalist drive for a new constitution was driven, in part, by the events of the previous decade: the failures of Congress during the American Revolution, the weaknesses of the Articles of Confederation, and the flaws of the new state governments put in place between the Declaration of Independence and the new Constitution.

Drawing on these experiences, the Federalists concluded that America needed a national government with enough power to address genuinely national issues. In other words, in the Federalists' view, America's national government must have the sorts of powers that national governments—for instance, those in Europe—usually had: the power to raise an army, the power to tax, the power to regulate commerce and trade with other nations and between the American states, the power to shape the nation's foreign policy, and the power to declare war.

What about the Anti-Federalists? Who were they?

The Anti-Federalists opposed the new Constitution. The Anti-Federalist camp included its own list of Founding-era heavyweights—including Virginia's George Mason, Patrick Henry, and Richard Henry Lee; Massachusetts's Samuel Adams, Elbridge Gerry, and Mercy Otis Warren; and New York's powerful Governor George Clinton.

What about the rank-and-file Anti-Federalists? Generally speaking, Anti-Federalists were more likely to be small farmers than lawyers or merchants. In addition, Anti-Federalist support was

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stronger: out West rather than in the East, in rural areas rather than in the cities, and in large states rather than in small states.

While many Americans know about the *Federalist Papers*, the Anti-Federalists included their own set of powerful authors—every bit as politically potent and theoretically sophisticated as their Federalist opponents. For instance, there’s “Brutus”—usually thought to be leading New York Anti-Federalists (and one-time Constitutional Convention delegate) Robert Yates. Massachusetts poet, historian, and patriot—Mercy Otis Warren—penned her own influential *Observations on the New Constitution*, using the pen name: “A Columbian Patriot.” And other key Anti-Federalist writers included “Federal Farmer” (likely New York’s Melancton Smith or Virginia’s Richard Henry Lee) and “Centinel” (Pennsylvania’s Samuel Bryan).

What were some of the Anti-Federalists’ main reasons for opposing the new Constitution?

In many ways, the ratification battle was a debate over political power—and where to place it. In other words, it was a battle over federalism—the question of how much power to give to the national government and how much power to keep with the states. While the Federalists argued for a stronger national government, the Anti-Federalists defended a vision of America rooted in powerful states.

The Anti-Federalists feared that the Constitution gave the new national government too much power and that this new government—led by a new group of distant, out-of-touch political elites—would seize all political power; swallow up the states—the governments that were closest to the people themselves; and abuse the rights of the American people. For the Anti-Federalists, this was the road to tyranny!

Remember, Americans at the founding rarely traveled outside of their own towns. For them, the nation’s capital—though located in New York, Philadelphia, and (eventually) Washington, D.C.—might as well have been in London. So, the Anti-Federalists weren’t interested in replacing a powerful, out-of-touch, distant government in Great Britain with a new one—whether in New York City, Philadelphia, or (eventually) Washington, D.C. Better to keep most political power at the state and local level, where it had always been in America—the governments closest to the American people—and limit the powers of the national government.

In the end, the Anti-Federalists faced an uphill fight during the battle over ratification. Americans had largely concluded that the Articles of Confederation had serious problems. Even many key Anti-Federalists agreed with that! Furthermore, to win political battles, it often takes a plan to beat a plan. The Federalists had a plan—the Constitution. The Anti-Federalists didn’t. As a result, it was easy for the Federalists to frame the ratification fight as a battle between a new constitution and the deeply flawed Articles of Confederation.

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Anti-Federalists:

- George Mason, “Objections to the Constitution of Government formed by the Convention” (1787)
- *Brutus* No. 1 (1787)
- Mercy Otis Warren, *Observations on the New Constitution* (1788)

Federalists:

- *Federalist* No. 1
- *Federalist* No. 10
- *Federalist* No. 51
- *Federalist* No. 70
- *Federalist* No. 78

Anti-Federalists

George Mason, “Objections to the Constitution of Government formed by the Convention” (1787)

View the document on the National Constitution Center’s website [here](#).

George Mason, member of a prominent Virginia family who had authored Virginia’s Declaration of Rights in 1776, was one of three delegates in Philadelphia (along with fellow Virginian, Edmund Randolph, and Elbridge Gerry) who refused to sign the finished Constitution. Shortly after the Convention adjourned, Mason wrote this memorandum outlining his objections. It soon circulated widely and became the basic template for Anti-Federalist opposition to the Constitution, concisely articulating many of the complaints that would reverberate throughout the ratification struggle: The House of Representatives was too small to represent such a large nation; the president was insufficiently checked; the construction of the judiciary and the sweeping power vested in Congress would spell the end of the state governments; and, perhaps most striking, the Constitution lacked a bill of rights.

Excerpt:

“There is no Declaration of Rights; and the Laws of the general Government being paramount to the Laws & Constitutions of the several States, the Declarations of Rights in the separate States are no Security.

...

In the House of Representatives there is not the Substance, but the Shadow only of Representation; which can never produce proper Information in the Legislature, or inspire

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Confidence in the People: the Laws will therefore be generally made by Men little concern'd in, and unacquainted with their Effects &Consequences.—

...

The Judiciary of the United States is so constructed & extended, as to absorb & destroy the Judiciarys of the several States; thereby rendering Law as tedious intricate & expensive, and Justice as unattainable, by a great Part of the Community, as in England, and enabling the Rich to oppress & ruin the Poor.—

...

The President of the United States has no constitutional Council (a thing unknown in any safe & regular Government) he will therefore be unsupported by proper Information & Advice; and will generally be directed by Minions & Favourites—or He will become a Tool to the Senate—or a Council of State will grow out of the principal Officers of the great Departments; the worst & most dangerous of all Ingredients for such a Council, in a free Country;

...

Under their own Construction of the general Clause at the End of the enumerated Powers, the Congress may grant Monopolies in Trade & Commerce, constitute new Crimes, inflict unusual & severe Punishments, and extend their Power as far as they shall think proper; so that the State Legislatures have no Security for the Powers now presumed to remain to them; or the People for their Rights.—

...

This Government will commence in a moderate Aristocracy; it is at present impossible to foresee whether it will, in it's [*sic*] Operation, produce a Monarchy, or a corrupt oppressive Aristocracy; it will most probably vibrate some years between the two, and then terminate in the one or the other.—”

Brutus No. 1 (1787)

View the document on the National Constitution Center's website [here](#).

“Brutus” was the pseudonym for one of the most forceful Anti-Federalist voices during the ratification debates over the U.S. Constitution. While scholars still debate the author of the Brutus essays, most believe that they were written by New York Anti-Federalist Robert Yates. Yates was a New York state judge. He was a close ally of powerful New York Governor George Clinton. He represented New York at the Constitutional Convention, but he left early because he opposed the new Constitution emerging in secret in Philadelphia. Later, he served as a leading

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Anti-Federalist delegate in the New York state ratifying convention. Brutus published his essays during the debates over ratification of the Constitution—expressing a range of doubts. For Brutus, the ratification debates turned on one key question: Do the American people want a system driven by the states or one organized around a powerful national government? Echoing influential political theorists like Montesquieu, Brutus feared that a republican form of government could not succeed in a large nation like America. As a result, he favored placing most key powers in the governments closest to the American people: their state and local governments. Brutus's essays were so incisive that they helped spur Alexander Hamilton to organize (and co-author) *The Federalist Papers* in response.

Excerpt:

Let us now proceed to enquire, as I at first proposed, whether it be best the thirteen United States should be reduced to one great republic, or not? It is here taken for granted, that all agree in this, that whatever government we adopt, it ought to be a free one; that it should be so framed as to secure the liberty of the citizens of America, and such a one as to admit of a full, fair, and equal representation of the people. The question then will be, whether a government thus constituted, and founded on such principles, is practicable, and can be exercised over the whole United States, reduced into one state?

If respect is to be paid to the opinion of the greatest and wisest men who have ever thought or wrote on the science of government, we shall be constrained to conclude, that a free republic cannot succeed over a country of such immense extent, containing such a number of inhabitants, and these increasing in such rapid progression as that of the whole United States. Among the many illustrious authorities which might be produced to this point, I shall content myself with quoting only two. The one is the baron de Montesquieu "It is natural to a republic to have only a small territory, otherwise it cannot long subsist. In a large republic there are men of large fortunes, and consequently of less moderation; there are trusts too great to be placed in any single subject; he has interest of his own; he soon begins to think that he may be happy, great and glorious, by oppressing his fellow citizens; and that he may raise himself to grandeur on the ruins of his country. In a large republic, the public good is sacrificed to a thousand views; it is subordinate to exceptions, and depends on accidents. In a small one, the interest of the public is easier perceived, better understood, and more within the reach of every citizen; abuses are of less extent, and of course are less protected." Of the same opinion is the marquis Beccarari. . . .

In a free republic, although all laws are derived from the consent of the people, yet the people do not declare their consent by themselves in person, but by representatives, chosen by them, who are supposed to know the minds of their constituents, and to be possessed of integrity to declare this mind.

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In every free government, the people must give their assent to the laws by which they are governed. This is the true criterion between a free government and an arbitrary one. The former are ruled by the will of the whole, expressed in any manner they may agree upon; the latter by the will of one, or a few. If the people are to give their assent to the laws, by persons chosen and appointed by them, the manner of the choice and the number chosen, must be such, as to possess, be disposed, and consequently qualified to declare the sentiments of the people; for if they do not know, or are not disposed to speak the sentiments of the people, the people do not govern, but the sovereignty is in a few. Now, in a large extended country, it is impossible to have a representation, possessing the sentiments, and of integrity, to declare the minds of the people, without having it so numerous and unwieldy, as to be subject in great measure to the inconveniency of a democratic government.

The territory of the United States is of vast extent; it now contains near three millions of souls, and is capable of containing much more than ten times that number. Is it practicable for a country, so large and so numerous as they will soon become, to elect a representation, that will speak their sentiments, without their becoming so numerous as to be incapable of transacting public business? It certainly is not.

In a republic, the manners, sentiments, and interests of the people should be similar. If this be not the case, there will be a constant clashing of opinions; and the representatives of one part will be continually striving, against those of the other. This will retard the operations of government, and prevent such conclusions as will promote the public good. If we apply this remark to the condition of the United States, we shall be convinced that it forbids that we should be one government. . . .

In despotic governments, as well as in all the monarchies of Europe, standing armies are kept up to execute the commands of the prince or the magistrate, and are employed for this purpose when occasion requires: But they have always proved the destruction of liberty, and [are] abhorrent to the spirit of a free republic. In England, where they depend upon the parliament for their annual support, they have always been complained of as oppressive and unconstitutional, and are seldom employed in executing of the laws; never except on extraordinary occasions, and then under the direction of a civil magistrate. . . .

The confidence which the people have in their rulers, in a free republic, arises from their knowing them, from their being responsible to them for their conduct, and from the power they have of displacing them when they misbehave: but in a republic of the extent of this continent, the people in general would be acquainted with very few of their rulers; the people at large would know little of their proceedings, and it would be extremely difficult to change them. . . . In a republic of such vast extent as the United-States, the legislature cannot attend to the various concerns and wants of its different parts. It cannot be sufficiently numerous to be acquainted with the local condition and wants of the different districts, and if it could, it is impossible it

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should have sufficient time to attend to and provide for all the variety of cases of this nature, that would be continually arising.

In so extensive a republic, the great officers of government would soon become above the control of the people, and abuse their power to the purpose of aggrandizing themselves, and oppressing them. The trust committed to the executive offices, in a country of the extent of the United-States, must be various and of magnitude. The command of all the troops and navy of the republic, the appointment of officers, the power of pardoning offences, the collecting of all the public revenues, and the power of expending them, with a number of other powers, must be lodged and exercised in every state, in the hands of a few. When these are attended with great honor and emolument, as they always will be in large states, so as greatly to interest men to pursue them, and to be proper objects for ambitious and designing men, such men will be ever restless in their pursuit after them. They will use the power, when they have acquired it, to the purposes of gratifying their own interest and ambition, and it is scarcely possible, in a very large republic, to call them to account for their misconduct, or to prevent their abuse of power.

These are some of the reasons by which it appears that a free republic cannot long subsist over a country of the great extent of these states. If then this new constitution is calculated to consolidate the thirteen states into one, as it evidently is, it ought not to be adopted.

Mercy Otis Warren, Observations on the New Constitution (1788)

View the document on the National Constitution Center's website [here](#).

Mercy Otis Warren was deeply connected in the world of Massachusetts Revolutionary politics. The sibling of James Otis, she became friends and regular correspondents with many of the state's leaders, including John, Abigail, and Samuel Adams. A poet and pamphleteer in her own right, throughout the imperial crisis she had urged her fellow colonists to resist British tyranny. This experience conditioned her zealous opposition to the federal Constitution over a decade later, captured so powerfully in her pamphlet, *Observations on the New Constitution* published in early 1788 under the pseudonym, "A Columbia Patriot." (Only much later would it be attributed to her.) Warren viewed the Constitution from the perspective of the "Spirit of '76"—the original animating principles of the Revolution—and explained in vivid, poetic prose why the proposed system of government posed much the same threat to American liberty as the British government once had. There was a tragic irony here, as Warren saw it: the same population that had risked their lives to escape distant, centralized tyranny now appeared willing, a mere decade later, to settle for much the same at home. In hopes of awakening Americans from their slumber, Warren reminded readers of the republican tenets to which they had once clung as well as the imperial governance under which they had once suffered.

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Excerpt:

“Mankind may amuse themselves with theoretick systems of liberty, and trace its social and moral effects on sciences, virtue, industry and every improvement of which the human mind is capable; but we can only discern its true value by the practical and wretched effects of slavery; and thus dreadfully will they be realized, when the inhabitants of the Eastern States are dragging out a miserable existence, only on the gleanings of their fields; and the Southern, blessed with a softer and more fertile climate, are languishing in hopeless poverty; and when asked, what is become of the flower of their crop, and the rich produce of their farms—they may answer in the hapless stile of the *Man of La Mancha*,—” The steward of my Lord has seized and sent it to *Madrid*.” Or, in the more literal language of truth, The *exigencies* of government require that the collectors of the revenue should transmit it to the *Federal City*.

Animated with the firmest zeal for the interest of this country, the peace and union of the American States, and the freedom and happiness of a people who have made the most costly sacrifices in the cause of liberty,—who have braved the power of Britain, weathered the convulsions of war, and waded thro’ the blood of friends and foes to establish their independence and to support the freedom of the human mind; I cannot silently witness this degradation without calling on them, before they are compelled to blush at their own servitude, and to turn back their languid eyes on their lost liberties — to consider, that the character of nations generally changes at the moment of revolution.

...

But the revolutions in principle which time produces among mankind, frequently exhibits the most mortifying instances of human weakness; and this alone can account for the extraordinary appearance of a few names, once distinguished in the honourable walks of patriotism, but now found in the list of the Massachusetts assent to the ratification of a Constitution, which, by the undefined meaning of some parts, and the ambiguities of expression in others, is dangerously adapted to the purposes of an immediate aristocratic tyranny; that from the difficulty, if not impracticability of its operation, must soon terminate in the most uncontroled despotism.

...

Though it has been said by Mr. *Wilson* and many others, that a Standing-Army is necessary for the dignity and safety of America, yet freedom revolts at the idea, when the Divan, or the Despot, may draw out his dragoons to suppress the murmurs of a few, who may yet cherish those sublime principles which call forth the exertions, and lead to the best improvements of the human mind. It is hoped this country may yet be governed by milder methods than are usually displayed beneath the bannerets of military law.—Standing armies have been the nursery of vice and the bane of liberty from the Roman legions to the establishment of the artful Ximenes, and from the ruin of the Cortes of Spain, to the planting of the British cohorts in the capitals of

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America : — By the edicts of an authority vested in the sovereign power by the proposed constitution, the militia of the country, the bulwark of defence, and the security of national liberty if no longer under the controul of civil authority; but at the rescript of the Monarch, or the aristocracy, they may either be employed to extort the enormous sums that will be necessary to support the civil list — to maintain the regalia of power — and the splendour of the most useless part of the community, or they may be sent into foreign countries for the fulfilment of treaties, stipulated by the President and two-thirds of the Senate.

...

This people have not forgotten the artful insinuations of a former Governor, when pleading the unlimited authority of parliament before the legislature of the Massachusetts; nor that his arguments were very similar to some lately urged by gentlemen who boast of opposing his measures, "*with halters about their necks.*"

We were then told by him, in all the soft language of insinuation, that no form of government, of human construction can be perfect — that we had nothing to fear — that we had no reason to complain — that we had only to acquiesce in their illegal claims, and to submit to the requisition of parliament, and doubtless the lenient hand of government would redress all grievances, and remove the oppressions of the people: — Yet we soon saw armies of mercenaries encamped on our plains— our commerce ruined — our harbours blockaded — and our cities burnt....The banners of freedom were erected in the wilds of America by our ancestors, while the wolf prowled for his prey on the one hand, and more savage man on the other; they have been since rescued from the invading hand of foreign power, by the valor and blood of their posterity; and there was reason to hope they would continue for ages to illumine a quarter of the globe, by nature kindly separated from the proud monarchies of Europe, and the infernal darkness of Asiatic slavery.

...

Since their dismemberment from the British empire, America has, in many instances, resembled the conduct of a restless, vigorous, luxurious youth, prematurely emancipated from the authority of a parent, but without the experience necessary to direct him to act with dignity or discretion. Thus we have seen her break the shackles of foreign dominion, and all the blessings of peace restored on the more honourable terms: She acquired the liberty of framing her own laws, choosing her own magistrates, and adopting manners and modes of government the most favourable to the freedom and happiness of society. But how little have we availed ourselves of these superior advantages: The glorious fabric of liberty successfully reared with so much labor an assiduity totters to the foundation, and may be blown away as the bubble of fancy by the rude breath of military combinations, and politicians of yesterday."

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Federalists:

Alexander Hamilton, *Federalist No. 1* (1787)

View the document on the National Constitution Center's website [here](#).

On October 27, 1787, Alexander Hamilton published the opening essay of The Federalist Papers—Federalist No. 1. The Federalist Papers were a series of 85 essays printed in newspapers to persuade the American people (and especially Hamilton's fellow New Yorkers) to support ratification of the new Constitution. These essays were written by Alexander Hamilton, James Madison, and John Jay—with all three authors writing under the pen name “Publius.” On September 17, 1787, the delegates to the Constitutional Convention had signed the new U.S. Constitution. This new Constitution was the framers’ proposal for a new national government. But it was only that—a proposal. The framers left the question of ratification—whether to say “yes” or “no” to the new Constitution—to the American people. In the framers’ view, only the American people themselves had the authority to tear up the previous framework of government—the Articles of Confederation—and establish a new one. The ratification process itself embodied one of the Constitution’s core principles: popular sovereignty, or the idea that all political power is derived from the consent of “We the People.” In *Federalist No. 1*, Hamilton captured this vision well, framing the stakes of the battle over ratification. In this opening essay, Hamilton called on the American people to “deliberate on a new Constitution” and prove to the world that they were capable of choosing a government based on “reflection and choice,” not “accident and force.”

Excerpt:

AFTER an unequivocal experience of the inefficiency of the subsisting federal government, you are called upon to deliberate on a new Constitution for the United States of America. The subject speaks its own importance; comprehending in its consequences nothing less than the existence of the UNION, the safety and welfare of the parts of which it is composed, the fate of an empire in many respects the most interesting in the world. It has been frequently remarked that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force. If there be any truth in the remark, the crisis at which we are arrived may with propriety be regarded as the era in which that decision is to be made; and a wrong election of the part we shall act may, in this view, deserve to be considered as the general misfortune of mankind. This idea will add the inducements of philanthropy to those of patriotism, to heighten the solicitude which all considerate and good men must feel for the event. Happy will it be if our choice should be directed by a judicious estimate of our true interests, unperplexed and unbiased by considerations not connected with the public good. But this is a thing more ardently to be wished than seriously to be expected. The plan offered to our deliberations affects too many

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particular interests, innovates upon too many local institutions, not to involve in its discussion a variety of objects foreign to its merits, and of views, passions and prejudices little favorable to the discovery of truth.

Among the most formidable of the obstacles which the new Constitution will have to encounter may readily be distinguished the obvious interest of a certain class of men in every State to resist all changes which may hazard a diminution of the power, emolument, and consequence of the offices they hold under the State establishments; and the perverted ambition of another class of men, who will either hope to aggrandize themselves by the confusions of their country, or will flatter themselves with fairer prospects of elevation from the subdivision of the empire into several partial confederacies than from its union under one government.

It is not, however, my design to dwell upon observations of this nature. I am well aware that it would be disingenuous to resolve indiscriminately the opposition of any set of men (merely because their situations might subject them to suspicion) into interested or ambitious views. Candor will oblige us to admit that even such men may be actuated by upright intentions; and it cannot be doubted that much of the opposition which has made its appearance, or may hereafter make its appearance, will spring from sources, blameless at least, if not respectable—the honest errors of minds led astray by preconceived jealousies and fears. So numerous indeed and so powerful are the causes which serve to give a false bias to the judgment, that we, upon many occasions, see wise and good men on the wrong as well as on the right side of questions of the first magnitude to society. This circumstance, if duly attended to, would furnish a lesson of moderation to those who are ever so much persuaded of their being in the right in any controversy. And a further reason for caution, in this respect, might be drawn from the reflection that we are not always sure that those who advocate the truth are influenced by purer principles than their antagonists. Ambition, avarice, personal animosity, party opposition, and many other motives not more laudable than these, are apt to operate as well upon those who support as those who oppose the right side of a question. Were there not even these inducements to moderation, nothing could be more ill-judged than that intolerant spirit which has, at all times, characterized political parties. For in politics, as in religion, it is equally absurd to aim at making proselytes by fire and sword. Heresies in either can rarely be cured by persecution.

And yet, however just these sentiments will be allowed to be, we have already sufficient indications that it will happen in this as in all former cases of great national discussion. A torrent of angry and malignant passions will be let loose. To judge from the conduct of the opposite parties, we shall be led to conclude that they will mutually hope to evince the justness of their opinions, and to increase the number of their converts by the loudness of their declamations and the bitterness of their invectives. An enlightened zeal for the energy and efficiency of government will be stigmatized as the offspring of a temper fond of despotic power and hostile to the principles of liberty. An over-scrupulous jealousy of danger to the rights of the people, which is more commonly the fault of the head than of the heart, will be represented as mere

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pretense and artifice, the stale bait for popularity at the expense of the public good. It will be forgotten, on the one hand, that jealousy is the usual concomitant of love, and that the noble enthusiasm of liberty is apt to be infected with a spirit of narrow and illiberal distrust. On the other hand, it will be equally forgotten that the vigor of government is essential to the security of liberty; that, in the contemplation of a sound and well-informed judgment, their interest can never be separated; and that a dangerous ambition more often lurks behind the specious mask of zeal for the rights of the people than under the forbidden appearance of zeal for the firmness and efficiency of government. History will teach us that the former has been found a much more certain road to the introduction of despotism than the latter, and that of those men who have overturned the liberties of republics, the greatest number have begun their career by paying an obsequious court to the people; commencing demagogues, and ending tyrants. . . .

It may perhaps be thought superfluous to offer arguments to prove the utility of the UNION, a point, no doubt, deeply engraved on the hearts of the great body of the people in every State, and one, which it may be imagined, has no adversaries. But the fact is, that we already hear it whispered in the private circles of those who oppose the new Constitution, that the thirteen States are of too great extent for any general system, and that we must of necessity resort to separate confederacies of distinct portions of the whole. This doctrine will, in all probability, be gradually propagated, till it has votaries enough to countenance an open avowal of it. For nothing can be more evident, to those who are able to take an enlarged view of the subject, than the alternative of an adoption of the new Constitution or a dismemberment of the Union. It will therefore be of use to begin by examining the advantages of that Union, the certain evils, and the probable dangers, to which every State will be exposed from its dissolution. This shall accordingly constitute the subject of my next address.

James Madison, *Federalist No. 10* (1788)

View the document on the National Constitution Center's website [here](#).

In *Federalist No. 10*, Madison fulfills the promise made in *Federalist No. 9* to demonstrate the utility of the proposed union in overcoming the problem of faction. Madison's argument is the most systematic argument presented in the *Federalist Papers*, with syllogistically developed reasoning sustained virtually throughout.

Excerpt:

“Among the numerous advantages promised by a well-constructed Union, none deserves to be more accurately developed than its tendency to break and control the violence of faction. The friend of popular governments never finds himself so much alarmed for their character and fate, as when he contemplates their propensity to this dangerous vice.

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The valuable improvements made by the American constitutions on the popular models, both ancient and modern, cannot certainly be too much admired; but it would be an unwarranted partiality, to contend that they have as effectually obviated the danger on this side, as was wished and expected. Complaints are everywhere heard from our most considerate and virtuous citizens, equally the friends of public and private faith, and of public and personal liberty, that our governments are too unstable; that the public good is disregarded in the conflicts of rival parties; and that measures are too often decided, not according to the rules of justice, and the rights of the minor party, but by the superior force of an interested and overbearing majority. These must be chiefly, if not wholly, effects of the unsteadiness and injustice, with which a factious spirit has tainted our public administrations.

By a faction, I understand a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.

There are two methods of curing the mischiefs of faction. The one, by removing its causes; the other, by controlling its effects. There are again two methods of removing the causes of faction. The one, by destroying the liberty which is essential to its existence; the other, by giving to every citizen the same opinions, the same passions, and the same interests.

It could never be more truly said, than of the first remedy, that it is worse than the disease. Liberty is to faction what air is to fire, an aliment without which it instantly expires. But it would not be a less folly to abolish liberty, which is essential to political life because it nourishes faction, than it would be to wish the annihilation of air, which is essential to animal life, because it imparts to fire its destructive agency.

The second expedient is as impracticable, as the first would be unwise. As long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed. As long as the connection subsists between his reason and his selflove, his opinions and his passions will have a reciprocal influence on each other; and the former will be objects to which the latter will attach themselves. The diversity in the faculties of men, from which the rights of property originate, is not less an insuperable obstacle to an uniformity of interests. The protection of those faculties is the first object of government. From the protection of different and unequal faculties of acquiring property, the possession of different degrees and kinds of property immediately results; and from the influence of these on the sentiments and views of the respective proprietors, ensues a division of the society into different interests and parties.

The latent causes of faction are thus sown in the nature of man; ... and rendered them much more disposed to vex and oppress each other, than to co-operate for their common good. So strong is this propensity of mankind, to fall into mutual animosities, that where no substantial occasion presents itself, the most frivolous and fanciful distinctions have been sufficient to kindle

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their unfriendly passions and excite their most violent conflicts. But the most common and durable source of factions has been the various and unequal distribution of property. Those, who hold, and those who are without property, have ever formed distinct interests in society. Those who are creditors, and those who are debtors, fall into a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a moneyed interest, with many lesser interests, grow up of necessity in civilized nations, and divide them into different classes, actuated by different sentiments and views. The regulation of these various and interfering interests forms the principal task of modern legislation and involves the spirit of the party and faction in the necessary and ordinary operations of government.

...

It is vain to say, that enlightened statesmen will be able to adjust these clashing interests and render them all subservient to the public good. Enlightened statesmen will not always be at the helm.

...

The inference to which we are brought is, that the causes of faction cannot be removed; and that relief is only to be sought in the means of controlling its effects.

If a faction consists of less than a majority, relief is supplied by the republican principle, which enables the majority to defeat its sinister views, by regular vote. It may clog the administration; it may convulse the society; but it will be unable to execute and mask its violence under the forms of the constitution. When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its ruling passion or interest, both the public good and the rights of other citizens. To secure the public good, and private rights, against the danger of such a faction, and at the same time to preserve the spirit and the form of popular government, is the greatest object to which our inquiries are directed. ...

By what means is the object attainable? Evidently by one of two only. Either the existence of the same passion or interest in a majority, at the same time must be prevented; or the majority, having such coexistent passion or interest, must be rendered, by their number and local situation, unable to concert and carry into effect schemes of oppression.

...

From this view of the subject, it may be concluded, that a pure democracy, by which I mean a society consisting of a small number of citizens, who assemble and administer the government in person, can admit of no cure from the mischiefs of faction.

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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. The two great points of difference, between a democracy and a republic, are, first, the delegation of the government, in the latter, to a small number of citizens elected by the rest; secondly, the greater number of citizens, and the greater sphere of country, over which the latter may be extended.

The effect of the first difference is, on the one hand, to refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice, will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation, it may well happen, that the public voice, pronounced by the representatives of the people, will be more consonant to the public good, than if pronounced by the people themselves, convened for the purpose.... The question resulting is, whether small or extensive republics are most favorable to the election of proper guardians of the public weal; and it is clearly decided in favor of the latter by two obvious considerations.

In the first place, it is to be remarked, that however small the republic may be, the representatives must be raised to a certain number, in order to guard against the cabals of a few; and that however large it may be, they must be limited to a certain number, in order to guard against the confusion of a multitude. Hence, the number of representatives in the two cases not being in proportion to that of the constituents, and being proportionately greatest in the small republic, it follows that if the proportion of fit characters be not less in the large than in the small republic, the former will present a greater probability of a fit choice.

In the next place, as each representative will be chosen by a greater number of citizens in the large than in the small republic, it will be more difficult for unworthy candidates to practice with success the vicious arts, by which elections are too often carried; and the suffrages of the people being more free, will be more likely to center in men who possess the most attractive merit, and the most diffusive and established characters.

...

The other point of difference is, the greater number of citizens, and extent of territory, which may be brought within the compass of republican, than of democratic government; and it is this circumstance principally which renders factious combinations less to be dreaded in the former, than in the latter. .. Extend the sphere, and you will take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such common motive exists, it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other.

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...

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 a small republic - enjoyed by the union over the states composing it.

...

In the extent and proper structure of the union, therefore, we behold a republican remedy for the diseases most incident to republican government.”

James Madison, *Federalist No. 51* (1788)

View the document on the National Constitution Center’s website [here](#).

On February 8, 1788, James Madison published *Federalist No. 51*—titled “The Structure of the Government Must Furnish the Proper Checks and Balances Between the Different Departments.” In this famous *Federalist Paper* essay, Madison explained how the Constitution’s structure checked the powers of the elected branches and protected against possible abuses by the national government. With the separation of powers, the framers divided the powers of the national government into three separate branches: a legislative branch (called Congress), an executive branch (led by a single president), and a judicial branch (headed by a Supreme Court). By dividing political power between the branches, the framers sought to prevent any single branch of government from becoming too powerful. At the same time, each branch of government was also given the power to check the other two branches. This is the principle of checks and balances. Madison and his fellow framers assumed that human nature was imperfect and that all political elites would seek to secure greater political power. As a result, the framers concluded that the best way to control the national government was to harness the political ambitions of each branch and use them to check the ambitions of the other branches.

Excerpt:

In order to lay a due foundation for that separate and distinct exercise of the different powers of government, which to a certain extent is admitted on all hands to be essential to the preservation of liberty, it is evident that each department should have a will of its own; and consequently should be so constituted that the members of each should have as little agency as possible in the appointment of the members of the others. . . .

It is equally evident, that the members of each department should be as little dependent as possible on those of the others, for the emoluments annexed to their offices. Were the executive magistrate, or the judges, not independent of the legislature in this particular, their independence in every other would be merely nominal. But the great security against a gradual concentration of the several powers in the same department, consists in giving to those who

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administer each department the necessary constitutional means and personal motives to resist encroachments of the others. The provision for defense must in this, as in all other cases, be made commensurate to the danger of attack. Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place. It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.

A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions. This policy of supplying, by opposite and rival interests, the defect of better motives, might be traced through the whole system of human affairs, private as well as public. We see it particularly displayed in all the subordinate distributions of power, where the constant aim is to divide and arrange the several offices in such a manner as that each may be a check on the other that the private interest of every individual may be a sentinel over the public rights. These inventions of prudence cannot be less requisite in the distribution of the supreme powers of the State. But it is not possible to give to each department an equal power of self-defense. In republican government, the legislative authority necessarily predominates. The remedy for this inconveniency is to divide the legislature into different branches; and to render them, by different modes of election and different principles of action, as little connected with each other as the nature of their common functions and their common dependence on the society will admit. It may even be necessary to guard against dangerous encroachments by still further precautions. As the weight of the legislative authority requires that it should be thus divided, the weakness of the executive may require, on the other hand, that it should be fortified. . . .

In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself. . . . It is of great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part. Different interests necessarily exist in different classes of citizens. If a majority be united by a common interest, the rights of the minority will be insecure.

There are but two methods of providing against this evil: the one by creating a will in the community independent of the majority that is, of the society itself; the other, by comprehending in the society so many separate descriptions of citizens as will render an unjust combination of a majority of the whole very improbable, if not impracticable. The first method prevails in all governments possessing an hereditary or self-appointed authority. This, at best, is but a

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precarious security; because a power independent of the society may as well espouse the unjust views of the major, as the rightful interests of the minor party, and may possibly be turned against both parties. The second method will be exemplified in the federal republic of the United States. Whilst all authority in it will be derived from and dependent on the society, the society itself will be broken into so many parts, interests, and classes of citizens, that the rights of individuals, or of the minority, will be in little danger from interested combinations of the majority.

...

Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained, or until liberty be lost in the pursuit. In a society under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may as truly be said to reign as in a state of nature, where the weaker individual is not secured against the violence of the stronger; and as, in the latter state, even the stronger individuals are prompted, by the uncertainty of their condition, to submit to a government which may protect the weak as well as themselves; so, in the former state, will the more powerful factions or parties be gradually induced, by a like motive, to wish for a government which will protect all parties, the weaker as well as the more powerful.

Alexander Hamilton, *Federalist No. 70* (1788)

View the document on the National Constitution Center's website [here](#).

After the Constitutional Convention adjourned in September 1787, Alexander Hamilton spearheaded an initiative to lead the public discussion of the draft instrument through the *Federalist Papers*. In a single week in March 1788, there appeared the three essays from which these extracts are excerpted, discussing the nature of the executive authority under the Constitution. In these essays, we find two strands of thought. First, the executive is identified as the unique vehicle of necessary “secrecy,” “energy,” and “dispatch” in administering the affairs of government. Secondly, Hamilton identifies the executive as part of that popular basis of the government that is designed to assure that government operates on the basis of the “deliberate sense of the community.”

Excerpt:

“THERE is an idea, which is not without its advocates, that a vigorous Executive is inconsistent with the genius of republican government. The enlightened well-wishers to this species of government must at least hope that the supposition is destitute of foundation; since they can never admit its truth, without at the same time admitting the condemnation of their own principles. Energy in the Executive is a leading character in the definition of good government. It is essential to the protection of the community against foreign attacks; it is not less essential to the steady administration of the laws; to the protection of property against those irregular and high-handed combinations which sometimes interrupt the ordinary course of justice; to the security of liberty against the enterprises and assaults of ambition, of faction, and of anarchy...

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There can be no need, however, to multiply arguments or examples on this head. A feeble Executive implies a feeble execution of the government. A feeble execution is but another phrase for a bad execution; and a government ill executed, whatever it may be in theory, must be, in practice, a bad government.

Taking it for granted, therefore, that all men of sense will agree in the necessity of an energetic Executive, it will only remain to inquire, what are the ingredients which constitute this energy? How far can they be combined with those other ingredients which constitute safety in the republican sense? And how far does this combination characterize the plan which has been reported by the convention?

The ingredients which constitute energy in the Executive are, first, unity; secondly, duration; thirdly, an adequate provision for its support; fourthly, competent powers.

The ingredients which constitute safety in the republican sense are, first, a due dependence on the people, secondly, a due responsibility.

Those politicians and statesmen who have been the most celebrated for the soundness of their principles and for the justice of their views, have declared in favor of a single Executive and a numerous legislature. They have with great propriety, considered energy as the most necessary qualification of the former, and have regarded this as most applicable to power in a single hand, while they have, with equal propriety, considered the latter as best adapted to deliberation and wisdom, and best calculated to conciliate the confidence of the people and to secure their privileges and interests.

That unity is conducive to energy will not be disputed. Decision, activity, secrecy, and despatch will generally characterize the proceedings of one man in a much more eminent degree than the proceedings of any greater number; and in proportion as the number is increased, these qualities will be diminished.

This unity may be destroyed in two ways: either by vesting the power in two or more magistrates of equal dignity and authority; or by vesting it ostensibly in one man, subject, in whole or in part, to the control and co-operation of others, in the capacity of counsellors to him.... They are both liable, if not equal, to similar objections, and may in most lights be examined in conjunction.

...

Wherever two or more persons are engaged in any common enterprise or pursuit, there is always danger of difference of opinion. If it be a public trust or office, in which they are clothed with equal dignity and authority, there is peculiar danger of personal emulation and even animosity. From either, and especially from all these causes, the most bitter dissensions are apt to spring. Whenever these happen, they lessen the respectability, weaken the authority, and

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distract the plans and operation of those whom they divide.... And what is still worse, they might split the community into the most violent and irreconcilable factions, adhering differently to the different individuals who composed the magistracy.

...

Upon the principles of a free government, inconveniences from the source just mentioned must necessarily be submitted to in the formation of the legislature; but it is unnecessary, and therefore unwise, to introduce them into the constitution of the Executive. It is here too that they may be most pernicious. In the legislature, promptitude of decision is oftener an evil than a benefit. The differences of opinion, and the jarrings of parties in that department of the government, though they may sometimes obstruct salutary plans, yet often promote deliberation and circumspection, and serve to check excesses in the majority. When a resolution too is once taken, the opposition must be at an end. That resolution is a law, and resistance to it punishable. But no favorable circumstances palliate or atone for the disadvantages of dissension in the executive department...

...

But one of the weightiest objections to a plurality in the Executive, and which lies as much against the last as the first plan, is, that it tends to conceal faults and destroy responsibility. Responsibility is of two kinds to censure and to punishment. The first is the more important of the two, especially in an elective office. Man, in public trust, will much oftener act in such a manner as to render him unworthy of being any longer trusted, than in such a manner as to make him obnoxious to legal punishment. But the multiplication of the Executive adds to the difficulty of detection in either case. It often becomes impossible, amidst mutual accusations, to determine on whom the blame or the punishment of a pernicious measure, or series of pernicious measures, ought really to fall.

...

It is evident from these considerations, that the plurality of the Executive tends to deprive the people of the two greatest securities they can have for the faithful exercise of any delegated power, first, the restraints of public opinion, which lose their efficacy, as well on account of the division of the censure attendant on bad measures among a number, as on account of the uncertainty on whom it ought to fall; and, secondly, the opportunity of discovering with facility and clearness the misconduct of the persons they trust, in order either to their removal from office or to their actual punishment in cases which admit of it.

...

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[I]n a republic, where every magistrate ought to be personally responsible for his behavior in office the reason which in the British Constitution dictates the propriety of a council, not only ceases to apply, but turns against the institution. In the monarchy of Great Britain, it furnishes a substitute for the prohibited responsibility of the chief magistrate, which serves in some degree as a hostage to the national justice for his good behavior. In the American republic, it would serve to destroy, or would greatly diminish, the intended and necessary responsibility of the Chief Magistrate himself.

Alexander Hamilton, *Federalist No. 78* (1788)

View the document on the National Constitution Center's website [here](#).

On May 28, 1788, Alexander Hamilton published *Federalist No. 78*—titled “The Judicial Department.” In this famous Federalist Paper essay, Hamilton offered, perhaps, the most powerful defense of judicial review in the American constitutional canon. On the one hand, Hamilton defined the judicial branch as the “weakest” and “least dangerous” branch of the new national government. On the other hand, he also emphasized the importance of an independent judiciary and the power of judicial review. With judicial independence, the Constitution put barriers in place—like life tenure and salary protections—to ensure that the federal courts were independent from the control of the elected branches. And with judicial review, federal judges had the power to review the constitutionality of the laws and actions of the government—ensuring that they met the requirements of the new Constitution. Other than *Marbury v. Madison* (1803), Hamilton’s essay remains the most famous defense of judicial review in American history, and it even served as the basis for many of Chief Justice John Marshall’s arguments in *Marbury* itself.

Excerpt:

According to the plan of the convention, all judges who may be appointed by the United States are to hold their offices DURING GOOD BEHAVIOR; which is conformable to the most approved of the State constitutions and among the rest, to that of this State. . . . The standard of good behavior for the continuance in office of the judicial magistracy, is certainly one of the most valuable of the modern improvements in the practice of government. In a monarchy it is an excellent barrier to the despotism of the prince; in a republic it is a no less excellent barrier to the encroachments and oppressions of the representative body. And it is the best expedient which can be devised in any government, to secure a steady, upright, and impartial administration of the laws.

Whoever attentively considers the different departments of power must perceive, that, in a government in which they are separated from each other, the judiciary, from the nature of its functions, will always be the least dangerous to the political rights of the Constitution; because it will be least in a capacity to annoy or injure them. The Executive not only dispenses the honors, but holds the sword of the community. The legislature not only commands the purse, but

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prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary, on the contrary, has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society; and can take no active resolution whatever. It may truly be said to have neither FORCE nor WILL, but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments. . . .

There is no position which depends on clearer principles, than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this, would be to affirm, that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers, may do not only what their powers do not authorize, but what they forbid.

If it be said that the legislative body are themselves the constitutional judges of their own powers, and that the construction they put upon them is conclusive upon the other departments, it may be answered, that this cannot be the natural presumption, where it is not to be collected from any particular provisions in the Constitution. It is not otherwise to be supposed, that the Constitution could intend to enable the representatives of the people to substitute their WILL to that of their constituents. It is far more rational to suppose, that the courts were designed to be an intermediate body between the people and the legislature, in order, among other things, to keep the latter within the limits assigned to their authority. The interpretation of the laws is the proper and peculiar province of the courts. A constitution is, in fact, and must be regarded by the judges, as a fundamental law. It therefore belongs to them to ascertain its meaning, as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be an irreconcilable variance between the two, that which has the superior obligation and validity ought, of course, to be preferred; or, in other words, the Constitution ought to be preferred to the statute, the intention of the people to the intention of their agents.

Nor does this conclusion by any means suppose a superiority of the judicial to the legislative power. It only supposes that the power of the people is superior to both; and that where the will of the legislature, declared in its statutes, stands in opposition to that of the people, declared in the Constitution, the judges ought to be governed by the latter rather than the former. They ought to regulate their decisions by the fundamental laws, rather than by those which are not fundamental. . . .

If, then, the courts of justice are to be considered as the bulwarks of a limited Constitution against legislative encroachments, this consideration will afford a strong argument for the permanent tenure of judicial offices, since nothing will contribute so much as this to that independent spirit in the judges which must be essential to the faithful performance of so arduous a duty.

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This independence of the judges is equally requisite to guard the Constitution and the rights of individuals from the effects of those ill humors, which the arts of designing men, or the influence of particular conjunctures, sometimes disseminate among the people themselves, and which, though they speedily give place to better information, and more deliberate reflection, have a tendency, in the meantime, to occasion dangerous innovations in the government, and serious oppressions of the minor party in the community. . . . Until the people have, by some solemn and authoritative act, annulled or changed the established form [of government], it is binding upon themselves collectively, as well as individually; and no presumption, or even knowledge, of their sentiments, can warrant their representatives in a departure from it, prior to such an act. But it is easy to see, that it would require an uncommon portion of fortitude in the judges to do their duty as faithful guardians of the Constitution, where legislative invasions of it had been instigated by the major voice of the community.

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4.7 Test Your Knowledge

CONSTITUTIONAL CONVENTION AND RATIFICATION

Complete the questions in the following quiz to test your knowledge of basic ideas and concepts covered in this module.

1. Where did the Constitutional Convention take place, and where was the Constitution signed?
 - a. The Capitol building, Washington D.C.
 - b. Federal Hall, New York City
 - c. Independence Hall, Philadelphia
 - d. Faneuil Hall, Boston

2. The Constitution of the United States begins with which famous words?
 - a. When in the course of human events
 - b. Four score and seven years ago
 - c. We the People of the United States
 - d. I have a Dream

3. Which of these was not one of the crucial compromises reached during the Constitutional Convention?
 - a. The balance between large and small states
 - b. Whether to declare independence from England
 - c. How to elect the president
 - d. The future of slavery

4. Which state declined to send representatives to the Convention?
 - a. Massachusetts
 - b. Rhode Island
 - c. Delaware
 - d. Georgia

5. What was true about the backgrounds of the delegates who attended the Constitutional Convention?
 - a. Most had participated in the Revolutionary War
 - b. About half of the them were slaveholders
 - c. More than half of them were lawyers
 - d. All of the above

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4.7 Test Your Knowledge

6. In the debates over representation in Congress, the large states favored the proportional representation of the _____ while the smaller states favored equal representation proposed by the _____.
 - a. Virginia Plan, New Jersey Plan
 - b. New Jersey Plan, Virginia Plan
 - c. British government, French government
 - d. Articles of Confederation, Declaration of Independence

7. Under the terms of the Connecticut Compromise, _____.
 - a. Both the House of Representatives and the Senate would be based on equal state representation
 - b. Every state would receive the same number of members in the House of Representatives
 - c. The House of Representatives would be based on proportional representation while the Senate would have equal state representation
 - d. Connecticut would have the most representatives

8. After much debate about how to elect the president of the United States, what system did the delegates agree on?
 - a. Direct popular vote
 - b. The president would be chosen by members of Congress
 - c. People could only vote for a candidate from their state
 - d. The Electoral College

9. During the debates about the presidency, some delegates, like Alexander Hamilton, wanted a _____ while others, like Roger Sherman, wanted a _____.
 - a. weak executive, strong executive
 - b. weak executive, king
 - c. strong executive, king
 - d. strong executive, weak executive

10. When it came to drawing up congressional districts based on each state's population, it was decided that enslaved persons _____.
 - a. would be counted as whole persons
 - b. would be counted as three-fifths of a person
 - c. would only be counted in the northern states
 - d. would not be counted at all

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4.7 Test Your Knowledge

11. What did the Slave Trade Clause in the Constitution do?
 - a. Mentioned slavery by name
 - b. Banned the slave trade immediately but allowed for the continuation of slavery
 - c. Banned Congress from interfering with the slave trade until 1808
 - d. Abolished slavery in the northern states

12. As the Convention drew to a close, Benjamin Franklin remarked that, although there were several parts of the Constitution that he did not approve of, _____.
 - a. He encouraged his fellow delegates to sign the Constitution anyway
 - b. He would refuse to sign until those parts were removed
 - c. He wasn't sure that he would never approve of them
 - d. Both A and C

13. What was needed for the Constitution to become the law of the land?
 - a. The people of at least nine states had to ratify it.
 - b. All of the delegates had to sign it on September 17, 1787.
 - c. The president had to agree to serve only two terms.
 - d. Countries in Europe, especially Britain and France, had to recognize it.

14. Which of these famous founders refused to sign the Constitution?
 - a. George Mason
 - b. Alexander Hamilton
 - c. James Madison
 - d. George Washington

15. Why did three of the delegates refuse to sign the Constitution on September 17, 1787?
 - a. They had already left Philadelphia for their home states.
 - b. They thought it was too long.
 - c. It didn't include a Bill of Rights.
 - d. They had wanted an American king.

16. What was true about the Constitutional Convention?
 - a. It was a very open forum where everyone could listen.
 - b. Newspapers filed weekly reports that kept people aware of the debates.
 - c. The delegates would discuss each day's proceedings with citizens at dinner.
 - d. The deliberations were kept secret from the public.

17. What was Franklin's reply when asked what type of government the delegates had created?
 - a. A monarchy
 - b. A democracy
 - c. A republic, if you can keep it
 - d. This will never work

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Module 4: The Constitutional Convention

4.7 Test Your Knowledge

18. Those who were opposed to the ratification of the Constitution were known as _____.
- Loyalists
 - Federalists
 - Anti-Federalists
 - Whigs
19. Which of these famous founders was not present at the Constitutional Convention?
- George Washington
 - John Adams
 - Thomas Jefferson
 - Both B and C
20. The first state to ratify the Constitution—by unanimous vote—on December 7, 1787, was _____.
- Pennsylvania
 - Delaware
 - Virginia
 - North Carolina

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4.7 Test Your Knowledge

Answer Key

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