

A MORE PERFECT UNION

America Becomes A Nation

**THE PHILADELPHIA CONVENTION
AND THE CONSTITUTION OF
THE UNITED STATES OF AMERICA**

A TEACHER'S GUIDE

A BRIGHAM YOUNG UNIVERSITY PRODUCTION

A MORE PERFECT UNION

In 1990 Brigham Young University released its feature film dramatization of the events of the Constitutional Convention of 1787. A More Perfect Union was shown initially on PBS nationwide and was viewed by almost two-and-a-half million people. It has received several gold and silver awards in national and international film festivals, including a prestigious Emmy Award presented by the Rocky Mountain Region.

In cooperation with Modern Talking Picture Services, the motion picture has now been divided into video segments for supplementary classroom use. This teachers guide is also provided to assist with presentation of the important ideas derived from this critical period in American history.

In this package you will find:

- One DVD containing *A More Perfect Union* (motion picture) and six teaching segments (or lessons) for classroom use:

Lesson 1 is a summary of the motion picture and includes essential scenes from the film. Teachers and administrators may choose to use this lesson to recap parts of the production, or in lieu of a regular lesson in a time crunch. This lesson may be helpful to teachers and administrators in considering how to adapt this package to their class.

Lessons 2 – 6 divide the full production into independent parts for separate showing. Each lesson opens with a brief host narration regarding that segment. These segments vary from 18 to 28 minutes in length.

- This teacher's guide, which provides background information and perspectives designed to help teachers with classroom discussions and other learning activities related to the production. Five lessons provide support for each of the five segments on the DVD.
- A bibliography listing books for further reference. (see the last page of this study guide)
- A copy of the U.S. Constitution. (pocket Constitution)

Brigham Young University produced *A More Perfect Union* to celebrate two centuries of unprecedented human liberty under the Consti-

tution of the United States of America and to help people everywhere better understand and appreciate the origins and meaning of this historic achievement. While the motion picture has received extensive viewing through PBS showings, the present package is offered to make it available in an attractive and usable format for classroom use.

The American founding was a product of ideas and of human commitment to important values, including self-government. This package, including the teacher's guide, focuses on the concepts and principles that have proven important for the success of the American Constitution. The emphasis is on understanding the founders in the context of their own times. Teachers may choose to relate these concepts to contemporary experience as they think appropriate, but that is not the burden of this guide.

Every effort has been made to make this production as historically accurate as possible. While a motion picture by its very nature requires simplification of complex events, *A More Perfect Union* preserves the essential concepts, arguments and political motivations that scholars have recognized in the formation of the American republic. This guide was prepared by Professor Noel B. Reynolds with the assistance of his wife, Sydney S. Reynolds, and in conjunction with the James Madison Center for Constitutional Studies at Brigham Young University.

The American experiment in self-government has taken center stage once again at the close of the 20th century. It provides a model that is again attracting the admiration and close scrutiny of peoples around the world who are struggling to establish new forms of government that will provide peace and freedom in a wide variety of social and cultural contexts. It is an appropriate time for Americans as well to reconsider their political founding that they might better understand what they have to offer a world in turmoil.

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LESSON ONE

INTRODUCTION

By the summer of 1786, just ten years after the announcement of the Declaration of Independence and three years after the end of the victorious Revolution, the 13 American states found themselves in a critical situation. Each state retained the sovereign right to govern itself, except for a limited number of activities, such as defense, where the states coordinated their actions through a national congress. But Congress was weak. It could not pay off the war debts or regulate commerce between the states or with foreign nations.

James Madison was seeking to mobilize other concerned and far-sighted statesmen in support of a stronger national government. They agreed to meet in Philadelphia in 1787 to consider revisions of their six-year-old constitution, the Articles of Confederation. The participation of George Washington was essential if the best leaders from each state were to see this convention as worth their while.

THE CRISIS

The 13 former British colonies had been strongly united by their common desire for independence from Britain during the Revolutionary War. After the war, they soon found themselves competing for the same trade opportunities and for opportunities for their citizens to move farther west to settle. Because there was no strong central government to unite their interests, they were reduced to squabbling among themselves, particularly in the form of trade wars. It was simple for the British, still the world's strongest trading nation, to exploit these differences to their own advantage. The British even ignored some terms of the war settlement, including the requirement that they remove their troops from American territory.

The 13 states were also threatened individually by internal crises of their own. Several state legislatures were torn apart by the demands of rival factions. State governments tended to be dominated by their legislatures and thus provided little effective check on violent and dominant factions. The possibility of rebellion by oppressed and desperate citizens became a grave concern.

THE MODEL CONSTITUTION

Shortly before the colonies declared their independence from Britain, the Continental Congress issued instructions to the individual states to establish constitutions as a basis for their separate governments. Some undertook to write new constitutions; others made changes to their royal charters, substituting "the people" for the king," to minimize overall changes to existing law.

The most notable trend was to reduce the authority and power of the executive branch in favor of stronger legislatures. This was a natural reaction for a people whose liberty had suffered severely at the hands of a king and his royal governors but had been defended by elected legislatures. The disturbing lesson the Americans learned during the 1780s was that unchecked legislatures could be as tyrannical as unchecked executives. The constitutions themselves could be changed by these legislatures and thus provided no fundamental checks on legislative power.

As early as 1777, observers noticed the weaknesses of these state constitutions. Massachusetts led out in the process of constitutional reform and established the concept of a special constitutional convention and ratification process to make the constitution a fundamental law that could effectively limit the legislature and the executive. John Adams wrote a constitution for Massachusetts that featured balance between the executive, legislative and judicial branches and that divided the legislature into two separate houses, thus providing a further check on its power. This constitution soon earned wide admiration, was circulated by Congress to the other states for their consideration as a model, and ultimately provided a source for many of the constitutional ideas used by the writers of the federal constitution of 1787.

THE ROAD TO PHILADELPHIA

The Declaration of Independence was the end product of a long process that began with letter writing between patriots of the various colonies, developed into informal meetings of delegates from the various colonies, and culminated in a document written by a Continental Congress, with formal representation and authorization from each colony. The U.S. Constitution was produced through a similar process. Concerns were already being expressed in the correspondence of leading citizens as early as 1785. Virginia and New York called others to a convention at Annapolis in 1786, but only six states sent delegations. The Annapolis Convention met briefly, called upon all 13 states to send delegates to a convention the next year in Philadelphia, and adjourned. James Madison was the principal agitator during the next year, writing far and wide to persuade the states to send their strongest leaders to Philadelphia.

KEY PERSONALITIES

James Madison. Justly called the "Father of the Constitution," Madison was actually one of the youngest delegates. He was well educated, having studied at Princeton under the Scottish scholar John Witherspoon. Madison, Jefferson and Hamilton were all deeply influenced by the Scottish thinking that emphasized rule of law under sound constitutional government and also free markets. Madison lived on a large family farm in Virginia that provided a modest living. He was a scholar and prepared for the convention by reading everything he could find on the history of human governments, relying particularly on books provided by Thomas Jefferson.

George Washington. A private citizen of sizable estates in Virginia, Washington was the most popular and respected public figure in America. His conduct as military leader of the Revolution had elevated his reputation to near mythic proportions. By retiring again to private life he exemplified the American ideal of the republican man who serves his country well without pursuing private advantage in the process. However, he had several good reasons for not attending the convention. His health was dubious. He had served as much

as one person could be expected. And he had already written to his former army officers who were also convening that summer in Philadelphia, explaining it would be impossible for him to come. The real reason was that he wanted to discourage any continuing organization of the military. But to show up in Philadelphia after that would embarrass him with his former officers.

John Adams. Appointed ambassador to England in 1785, Adams had been writing a public defense of the constitutions of the American states. As principal author of the "model constitution," he was America's first mentor in constitutional thinking. Adam's temperament was not well disposed to compromise, and many have thought it providential that he was present for the writing of the Declaration of Independence but absent when extensive compromising was required in writing the Constitution.

Thomas Jefferson. Author of the Declaration of Independence, Jefferson was appointed ambassador to the French court in 1785. His tendency to favor radical solutions (he thought, for example, that a little revolution now and then would be a good thing) suggests it may also have been fortunate that he was out of the country during the Philadelphia Convention. He corresponded frequently with Madison, who effectively persuaded him of the virtues of a moderating constitution. Jefferson recognized Madison's great talents and kept the young scholar-statesman well supplied with appropriate books from European publishers.

DELEGATES

CONNECTICUT

- Ellsworth (Ellsworth), Oliver
- Johnson, William S.
- Sherman, Roger

DELAWARE

- Bassett (Basset), Richard
- Bedford, Gunning, Jr.
- Broom, Jacob
- Dickinson, John
- Read, George

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GEORGIA

- Baldwin, Abraham
- Few, William
- Houstoun, William
- Pierce, William L.

MARYLAND

- Carroll, Daniel
- Jenifer, Daniel of St. Thomas
- McHenry, James
- Martin, Luther
- Mercer, John F.

MASSACHUSETTS

- Gerry, Elbridge
- Gorham, Nathaniel
- King, Rufus
- Strong, Caleb

NEW HAMPSHIRE

- Gilman, Nicholas
- Langdon, John

NEW JERSEY

- Brearly (Brearley), David
- Dayton, Jonathan
- Houston, William C.
- Livingston, William
- Paterson (Patterson), William

NEW YORK

- Hamilton, Alexander
- Lansing, John, Jr.
- Yates, Robert

NORTH CAROLINA

- Blout, William
- Davie, William R.
- Martin, Alexander
- Spaight, Richard D., Sr.
- Williamson, Hugh

PENNSYLVANIA

- Clymer, George
- Fitzsimons (FitzSimons; Fitzsimons), Thomas
- Franklin, Benjamin
- Ingersoll, Jared

- Mifflin, Thomas
- Morris, Gouverneur
- Morris, Robert
- Wilson, James

SOUTH CAROLINA

- Butler, Pierce
- Pinckney, Charles
- Pinckney, Charles Cotesworth
- Rutledge, John

VIRGINIA

- Blair, John
- McClurg, James
- Madison, James
- Mason, George
- Randolph, Edmund J.
- Washington, George
- Wythe, George

ACTIVITIES

- Provide each student with a copy of the Constitution.
- Assign class members to prepare written reports on individual delegates to the Philadelphia Convention.
- Prepare or assign a special oral report on James Madison and/or George Washington and their contributions to the convention.
- Ask students to imagine themselves as John Adams in 1786. Assign them to write a letter home to a friend explaining why it is difficult to gain respect as the U.S. Ambassador to Britain.
- Using the attached chronology, discuss the 12-year train of events that led to the final adoption of the Constitution.
- Read and discuss together selected passages from the model constitution (Massachusetts, 1780; available in Kurland and Lerner, *The Founders' Constitution* I:11-23).
- Discuss with students the similar procedures by which the Americans produced their two founding documents, the Declaration of Independence and the Constitution. In what ways

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did these procedures ensure that the people were responsible for their government?

CHRONOLOGY

- 1774** First Continental Congress
- 1776** Virginia Declaration of Rights framed by George Mason
- Congress urged states to write constitutions
- Declaration of Independence written and adopted
- 1777** Articles of Confederation adopted by Congress and sent to states for ratification
- First state constitutions completed (New York and Georgia)
- 1780** Massachusetts convention completed "model constitution"
- 1781 Articles of Confederation ratified by state conventions
- British surrender
- 1783** Treaty of peace with Britain
- 1786** Annapolis Convention
- Shay's Rebellion and court houses burned
- 1787** Philadelphia Convention produced the U.S. Constitution
- Hamilton, Madison and Jay began writing *Federalist*
- 1788** States ratifying the Constitution reached 11
- Election and meeting of the first Congress
- Congress approved the Bill of Rights

1790 First meeting of the Supreme Court

1792 State legislatures ratified the Bill of Rights

LESSON TWO

INTRODUCTION

The American experiments in self-government were all based on widespread acceptance of the ideals of republicanism, the belief that a virtuous people could better protect its liberties and order its affairs without interfering unduly with private lives than could the government of hereditary kings or nobles. The Americans' confidence in republicanism stemmed largely from their shared commitment to Christianity.

Their ideas about republican institutions of government were undergoing rapid change based on their experiences with state governments and their confederation under the leadership of Congress. Their alarm at the turbulence and irresponsibility of state governments was matched by their disgust with the ineffectiveness of Congress. By 1787, Americans in general recognized that the national government should be strengthened.

ARTICLES OF CONFEDERATION

Under the Articles, the 13 states retained their sovereignty and right to govern themselves with little obligation to other states. While the United States did achieve some important objectives under the Confederation, several limitations of the Articles prevented any attempt to deal with some of the most critical issues. Congress had no power to make laws taxing citizens or otherwise directly affecting them. It could not regulate commerce or conduct foreign affairs. It had almost no power over the states. Consequently, it had insufficient credit to borrow money, and it could not create favorable trade conditions for Americans in the international market. Nor could Congress do anything to moderate the violent clashes between debtors and creditors within the states.

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VIRGINIA PLAN

Though only 36 years old, James Madison was respected as the greatest political thinker in America. He saw clearly that, rather than simply amending and patching up the Articles of Confederation, America needed a new constitution that would create a much stronger national government. To that end, he brought a plan to Philadelphia that became the basis for the deliberations of the convention. The plan called for three branches in a strong national government that could regulate the states and their laws. It would have power to tax, to regulate money, to conduct foreign affairs, and to regulate commerce. Though moderated in some of its more extreme features, the Constitution features the main outlines of Madison's "Virginia Plan."

OPENING SESSION

Deliberative bodies must have rules of procedure to enable a large group of people to move toward concrete decisions. The delegates to the Philadelphia Convention were all experienced in legislative processes and quickly adopted rules to govern their proceedings. They agreed on secrecy so that delegates could speak their true opinions without having to worry about how it would sound in the newspapers. They decided to develop an agreeable proposal in a "committee of the whole," an arrangement by which their initial deliberations would not be binding on the group, allowing for negotiation and changing of positions. Once an agreeable proposal was reached, the convention would receive this report from the "committee of the whole" and give it final consideration and form with binding votes. All these proceedings would move forward on the principle that each state would have one vote, no matter how many delegates were attending from that state.

Of great importance to later generations was Madison's decision to take detailed notes of the debates. His record of the federal convention provides us with detailed insights into the concerns and reasoning of the men who formed the Constitution.

CONSTITUTIONAL THEORY

Small vs. large republics. The conventional wisdom among 18th-century republicans was that self-governing republics should be small, thus enabling private citizens to have some real effect on their government. This reasoning lay behind much of the enthusiasm for small and independent states operating with little regulation from the central government. This article of republican faith lay squarely in the path of the movement for a stronger national government. Madison overcame this obstacle by convincing the delegates that, historically, small republics, including the American states, had not been notably successful in controlling the violence of their internal factions and that a larger republic would be less vulnerable to passionate local interests.

Factions. Republican governments are in constant danger from organized factions pursuing their own narrow self-interests. Debtors want legislatures to alleviate their contracts or to inflate the currency to make it easier to pay off their debts. Creditors want government to protect the value of money so that they can recoup what they have loaned with profitable interest. Similar differences of interest affect a host of public issues. The equal liberty of the people can only be maintained if such factions can be controlled and prevented from gaining the control of the powers of government to their own benefit and at the expense of all others.

Madison proposed to further moderate the dangers posed by these factions by structuring the decision-making process of government in so complicated and divided a way that no faction would be able to capture the whole process. The checks and balances of the Constitution give comparable control over legislation to two separate houses of Congress. The president in turn has authority to veto the legislature's acts. The Supreme Court also has the authority to rule on the constitutionality of those acts. Numerous provisions of the Constitution are designed to limit factions in other ways.

A new kind of republic. Through its deliberations, the convention created a form of republican government that no one had previously imagined. Most strikingly, it allowed multiple levels of elected government with both separate and overlapping responsibilities. States

continued as strong, separate units of government, but the national government was also strong and potentially very large. Though it was a novel idea, it quickly became popular and was ratified in the states and imitated throughout the following decades in numerous democratic revolutions around the world.

KEY PERSONALITIES

Alexander Hamilton. Although he was born to a poor West Indies family, Hamilton's exceptional intelligence and abilities were soon recognized, and friends sent him to study in New York. While still a teenager, he wrote pamphlets promoting the Revolutionary War, enlisted in the artillery, and eventually rose to high office on General Washington's personal staff. As a New York delegate to the Philadelphia Convention, he was an infrequent contributor to the debates. But his talents as a pamphleteer came into play during the ratification process as he recruited Madison and John Jay to write newspaper essays (*the Federalist Papers*) explaining and defending the new constitution, particularly with an eye to persuading the New York ratifying convention delegates.

James Wilson. Born and educated in Scotland, Wilson was an established attorney in Pennsylvania well before the Revolution. He also wrote an important revolutionary tract and became a major political figure and defender of the principles of republican government against the defective Pennsylvania constitution during the 1780s. He was a frequent speaker in the Convention as a dependable ally of Madison. He led the short, successful ratification campaign in Pennsylvania.

Edmund Randolph. When his father, a leading Virginia tory, fled Virginia with the royal governor, young Randolph joined the revolutionaries and eventually served as an aide to General Washington. Randolph spent his life in public service, both in state and national positions. As the young governor, he led the distinguished Virginia delegation to Philadelphia and introduced the Virginia Plan for discussion. While he turned against the Constitution and its single-person executive before the end of the Convention, he switched

once more during the Virginia ratifying convention and helped to secure Virginia's support.

George Mason. One of the wealthiest of Virginia's planters and a senior statesman in the 1780s, George Mason was best known for his 1776 authorship of the Virginia Declaration of Rights which became the model for similar bills of rights in other states and later for the United States. Mason was a strong ally to Madison in framing the Constitution but turned against it at the end for its lack of a bill of rights. He also worked against ratification but lived just long enough to see the new Bill of Rights appended to the Constitution.

Gouverneur Morris. Morris was another young man who joined the revolutionaries' cause in spite of close family ties to prominent Tories. Though only in his 20s, Morris gave important service to New York during the Revolution, including a major role in drafting the New York constitution. After moving to Philadelphia, he became a delegate to the Convention and participated actively, giving more speeches than any other delegate (173). He served on a number of key committees and drafted the actual document that was approved and signed by the delegates.

Roger Sherman. Another senior statesman, Roger Sherman, brought great legal and political experience to the Convention. As a Connecticut delegate to the Continental Congress, he helped draft the Declaration of Independence and the Articles of Confederation. He devised the compromise between the large and small states on the representation issue (known as the Connecticut or Great Compromise) that eventually made the Constitution possible. He was a leader in the ratification campaign and served the last few years of his life as a congressman and then a U.S. Senator.

John Dickinson. His writings and efforts to secure relief from Britain's oppressive tax policies made John Dickinson one of America's best known leaders before the Revolution. He had a long and distinguished career of public service in both Delaware and Pennsylvania. While he labored more than anyone for a peaceful resolution of the problems with Britain and even refused to sign the Declaration of Independence, he joined the army and headed the committee that drafted the Articles of Confederation. Dick-

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inson used his superb education and writing abilities to shape informed American opinion over a period of two decades. A strong defender of the small states, he gave strong support to the Constitution.

William Paterson. Born the son of an Irish merchant, William Paterson was educated at Princeton and spent his life in public service. He was active in the revolutionary cause and served in the New Jersey militia and the state constitutional convention. He cosponsored the New Jersey or Paterson Plan in the 1787 convention. Though absent for much of the convention, he returned to sign the plan and led the movement to its unanimous ratification in New Jersey.

ACTIVITIES

- Read and discuss together selected passages from the Articles of Confederation (available in Kurland and Lerner, *The Founders' Constitution* I:23-26).
- Read and discuss with students key paragraphs from Federalist #10 that deal with the problem of factions and the merits of a large republic (available in any edition of or selections from *The Federalist Papers* by Alexander Hamilton, James Madison and John Jay).
- Assign or prepare special reports on leading personalities of the convention such as Alexander Hamilton, James Wilson, Edmund Randolph, George Mason, etc.
- Review in detail the troubles that led up to Shays Rebellion in Massachusetts, and explain why this event so worried statesmen like Washington and Madison.
- Discuss contemporary situations in the world where specific countries are struggling to maintain a union between different regional or ethnic groups. In what ways are these reminiscent of the U.S. experience of the late 18th century? In what ways do they differ?

LESSON THREE

INTRODUCTION

The Federal Convention featured long debates on the most fundamental features of American democracy. The Constitution was considered a fundamental law, more basic than any legislative statute, and therefore possessing a special authority that limited the government itself. Republican theory emphasizes that the law is supreme and binding on both citizens and governments and that each citizen is equal before the law. But did this mean that the states or the people as individuals should be equally represented in the national legislature? Slavery was a hot topic of debate because it was an obvious contradiction to rule of law and human equality. But what about the property rights of those who had invested fortunes in purchasing and caring for slaves? The Convention considered alternative approaches to all these questions before decisions were made, and no one was able to get everything he wanted. The results were all products of extensive compromise, which emphasizes the necessity of the process of compromise in democratic government.

DEMOCRATIC REPUBLIC

James Madison, James Wilson and other strong nationalists assumed that, for the new American government to be truly republican in its equal treatment of every citizen, the electorate would have to be equally represented in both houses of the national legislature. The Virginia Plan proposed this and, further, gave this national legislature power to nullify acts of state legislatures. The effect would have been to reduce dramatically the significance of state governments. But the smaller states could see that their separate existence was threatened by a union based on strict republican equality and held out successfully for some recognition of state equality. In their view, the equality of citizens was fully recognized in proportional state legislatures, and the true republics were still the states.

CONNECTICUT COMPROMISE

Early in the deliberations, Roger Sherman of Connecticut recommended a compromise that eventually proved to be the only workable option. He proposed letting the upper house (Senate) represent the states equally, preserving the principle of the Articles of Confederation, and letting the lower house be proportionally representative of populations in the several states, introducing the republican principle into the national government. Though the delegates at first rejected Sherman's proposal, they eventually came back to a version of it.

SLAVERY

From the time republican thought first swept prerevolutionary America, slavery was seen as a contradiction to American principles. By the time of the convention, trade in slaves was largely eliminated in the northern states and the western territories. The first antislavery societies had been formed by Quakers in Pennsylvania. But the institution of slavery represented an enormous economic investment in the southern states, and political realities tend to follow economic ones. The southern states could not imagine a way to stop slavery without intolerable economic losses. Constitutional union between the 13 states only appeared possible if the southern states were allowed to continue their "peculiar institution," even though many Southerners acknowledged the moral dilemma it caused. Slavery eventually proved to be an insoluble political problem and was only settled through the most bloody war in which Americans have ever engaged.

NEW JERSEY PLAN

Introduced by William Paterson of New Jersey, this "purely federal" plan did not abolish the Articles of Confederation but only amended them. The idea of the plan was that Americans would continue to be citizens of their states and that the national government would continue as a confederation of sovereign states. The national government would be strengthened by the addition of an executive committee elected by Congress and a judiciary appointed by this executive. For those like Madison and

Wilson, who saw the need for a national republic to replace the states, Paterson's plan was totally inadequate. The convention soon agreed and returned to a discussion of Madison's plan. It should be noted, however, that a number of minor provisions in the Paterson plan were eventually included in the Constitution.

ORGANIC LAW

The Americans had been heavily involved in constitution writing since early in 1776. State constitutions were written and rewritten. The Articles of Confederation were written and debated at great length, both in the Continental Congress and in state ratifying conventions. John Adams noted that it was unique in human history that a people should have such an opportunity to choose their form of government and not have it imposed upon them.

The American experience in writing constitutions rested on the republican assumption that the government belonged to the people and that its authority was limited to what they gave it. This meant that a written constitution was understood as proceeding from the people as a body and not from a legislature or government. In this sense, constitutions were distinguished from statutes and were considered "organic law" or fundamental law governing the validity of all other forms of law.

There is always a problem in distinguishing constitutions from normal legislation. In the English tradition no strong distinction existed, and Parliament could amend any previous law or understanding. The American solution became clear in the process used in Massachusetts in 1779-80. Town meetings elected representatives to a state constitutional convention and in some cases sent proposals. The constitution adopted in Massachusetts was built upon the proposal that John Adams first presented at the Braintree town meeting.

Once the convention produced a document, it was ratified by the people directly. This procedure clearly distinguished the constitution from ordinary statutes and formalized the type of process by which a people could be understood to create a government and bestow authority upon it, giving its future acts legitimacy. This same process was used by Congress after it agreed on

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the Articles of Confederation in 1781 and sent it to the states for ratification by special conventions, a process that was not completed until 1783.

The authority of the American Constitution derives from this same set of procedures in that it was composed at a special convention of men sent from each state for that purpose and that it was ratified by special conventions in the states composed of delegates from the towns elected for that purpose only.

ACTIVITIES

- Conduct a voting exercise on how a small bag of candy (or an imagined million dollar windfall) is to be divided up among the class members. First, divide the class into several groups, some large and most quite small. Then let each group send one representative to a meeting (observed by the rest of the class) in which they decide how to divide up the candy. Once this group has reached a decision, see whether a majority of the class would agree with that decision, each student voting individually. Let class members reflect on their different feelings when the voting principle was changed. Apply the experience to the representation debate in the Federal Convention.

OR

- Conduct a discussion of ways the school's student council might change its principle of representation and what such possible changes might mean for the council.
- Assign or prepare a special report on Roger Sherman and his contributions to the American founding.
- Conduct a discussion on the persistence of slavery under the new constitution when few delegates were disposed to defend slavery on moral grounds. If time and student preparation allows, conduct a detailed discussion on the slavery compromise worked out in the Convention. Point out that this issue was consciously left unfinished in 1787 because the delegates could not find a way to settle it. Eight decades later, the post-Civil War amend-

ments finally abolished slavery through constitutional prohibitions.

- Discuss the importance of having a written constitution that has greater authority than statutes passed by legislatures. Be sure students understand how the Americans used a different process to establish their constitutions.

LESSON FOUR

INTRODUCTION

Many people have wondered how it was that the 18th-century Americans were able to overcome their differences and design a new form of government that could successfully provide centuries of democratic government admired by all the world. The Philadelphia Convention itself was full of conflict and crisis in decision making. Nevertheless, the underlying beliefs that led the Americans to believe in self-government enabled them to overcome their differences through compromises. Because of their shared religious commitments, they believed that most citizens would behave moderately and responsibly in upholding the institutions of democracy. They were also well educated by contemporary standards and believed that constitutional balancing of political institutions could provide effective protections against the more dangerous effects of human nature and self-interested politics.

CRISIS IN CONVENTION

The initial conflict between large and small states proved finally to be the most difficult faced by the delegates. Advocates of a strong national government assumed that such a government would replace much of what the states were doing and that the American people would become citizens of the United States, rather than of their several states. The small states feared to surrender state sovereignty, assuming that they would lose control over their localities in a merger with larger states into a single national government. Both sides of this argument were assuming the same thing, that a strong national government with proportional representation in both houses of Congress would render

state government much less significant. Madison and the advocates of national government did not see how they could compromise on a point that would leave the national government seriously weakened and would not establish strict republican representation of the people in Congress. The small states could not face the prospects of future oblivion and domination at the hands of the large states. Had neither side found a way to yield on this point, there could have been no federal constitution. By a five-to-five tie vote, the Convention was thrown into deadlock.

THE GRAND COMMITTEE

Before giving up on the prospects of meaningful union, which all states desperately hoped for as a solution to the emerging national crisis, the Convention voted to refer the issue to a committee. This "Grand Committee" met in private for several days and returned to the convention floor with a revised version of Roger Sherman's earlier proposal. Hardly anyone could disagree with the concept of strict proportional representation in the lower house, particularly with its anticipated responsibility for taxing and spending issues, and so this half of Sherman's plan remained the same. The Grand Committee's proposal then allowed each state two senators in the upper house and required the approval of both houses, thus assuring the small states equal representation at some meaningful point in the legislative process. But neither could the small states organize and dictate to the larger states, which would naturally control the lower house. The Grand Committee's proposal created a situation where large and small states would need to accommodate one another forever. Rather than giving either preeminence, this solution put each group in the situation of always needing to consider the wishes of the other.

SHARED VALUES-HIGHER CAUSE

Although Benjamin Franklin's proposal to hold daily prayer was never put into effect, it appealed to the shared values of the delegates, reminding them of the larger importance of their task as it applied to all Americans and even to God. The American founders clearly understood that their deliberations would af-

fect the course of liberty and self-government, both in the United States and in the world at large. They saw the possibilities of devising successful forms of republican government that would go far beyond anything attempted before in world history. They knew they were discussing the future of not only Delaware or Georgia but potentially all humankind. Their common commitment to the future of self-government brought them finally to compromise positions that none of them had previously considered or wanted, but which have come to define essential features of American constitutional government.

HUMAN NATURE, PUBLIC VIRTUE AND GOOD LEADERS

One of the main differences between the American founders and the leaders of the French Revolution of 1789 was the Americans' more realistic view of human nature. The French leaders put enormous weight on their confidence in their own moral superiority and commitment. The Americans believed all people could be tempted by wealth, power and fame and that the institutions of government should be designed for imperfect human beings, not allowing anyone enough power to take personal advantage of public position. However, the Americans did have great confidence in the general virtue of the people and believed they would generally obey the law and participate in the processes of public decision making sufficiently to keep republican government strong. Because the French leaders overestimated their own resistance to temptation, the most violent crimes came to be excused as necessary and good for the republic, and the republican experiment in France collapsed within two decades.

POLITICAL LITERACY AND SOPHISTICATION OF THE PEOPLE

It is surprising to many to discover that the American people in the 1770s and 1780s were, on the average, much better educated and more politically literate than was the general citizenry in any other country. The puritan background of most Americans emphasized the importance of literacy for salvation; it was necessary to read the Bible and interpret it for oneself. Americans generally had taken great interest in the war of ideas during the revolutionary period. A variety

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of sophisticated political pamphlets and books were published and sold in astonishingly high numbers. Because of the way American towns were settled and colonial and state governments were conducted, most Americans had personal experience in the process of local self-government. When their representatives met to consider a new form of government, they represented a general population that could understand and evaluate what they were doing and then choose in a well-informed way to support or reject it. This extraordinary characteristic of the American people may explain in large part why the republican experiment was so successful in the United States and so painful and fraught with difficulties in over two dozen other countries that tried to imitate it.

ACTIVITIES

- Discuss the process of compromise as required in democratic governments. Ask students to express how they felt about Madison and Wilson being forced to go along with a principle of representation that they thought unacceptable for republican government. Point out a current legislative issue interest to students that is forcing important compromises.
- Discuss the importance of literacy and education for people who want to govern themselves. Point out that the relatively high education of late 18th-century Americans may have contributed greatly to the success of their experiment in self-government, while the absence of such education could explain the 18th-century failures in other countries in Europe and Latin America.
- Assign all students to read the complete text of the Constitution or read it together in class. Have them bring to class a list of provisions that they couldn't understand as a basis for a class discussion or for further student research.
- Review the main outline of the Constitution with the students. Help them understand and memorize the main topic of each article.
- Assign a few students to prepare a simulated TV talk show, where each of them serves as an expert on some feature of the Constitution or

the political situation in which it was written. They could even be assigned identities as delegates to the Convention or opponents of ratification. Pretending they are on the air in late September 1787, have them discuss the Federal Convention and the document it produced. The host or the audience should be prepared to ask questions about the implications of various provisions of the Constitution. The participants may even want to appear in appropriate costumes.

LESSON FIVE

INTRODUCTION

Although the compromises included in the U.S. Constitution created a form of government different from what any of the delegates had imagined beforehand, all 11 of the states present voted for the new constitution as a replacement for the Articles of Confederation. Although the delegates at the Philadelphia Convention felt that a bill of rights was not necessary in addition to the protections already built into the document, the public soon made it clear that it would be necessary to promise a bill of rights in order to secure ratification. The small states proved their commitment to the Constitution by quickly ratifying it with unanimous votes or overwhelming majorities in their ratifying conventions. The creation and adoption of the Constitution through elected representatives in peacetime deliberations was recognized worldwide as an historic human achievement, hopefully heralding a future in which peoples of all nations might have similar opportunities to govern themselves.

FEDERALISM

The Great Compromise in the convention produced the only genuinely new principle in the Constitution. A nation composed of states with their own governments was a new idea. Though it was unlike traditional federations, in which independent states joined themselves together for mutual defense and other limited purposes, this American innovation has come to be known as the principle of federalism. To the present

day, the state governments have provided an important check on the powers of the national government. In addition, Americans accept without any sense of amazement that they must pay taxes to national, state and local governments and that they are obligated to obey statutes created by each of these as well.

Other nations have experimented with this principle since 1790. In the 1990s the Soviet Union found the relationship of the national government to the individual republics to be its thorniest governmental problem once the unifying power of the communist party went into decline.

UNANIMITY

The strongest source of obligation to obey the law comes from the agreement of citizens to the powers of the government that creates and administers the laws. Nowhere was the role of the people in creating and authorizing a government so clear cut as in the new United States of 1790. The Constitution was written by delegates of the people. And the final document was approved by special assemblies elected by the people in the several states for the specific purpose of deciding on ratification. Had the Convention produced a constitution with a bare majority of states supporting it, there is little likelihood it could have been ratified or could enjoy the strong sense of authority that it now has. The fact that the Convention ratified the Constitution unanimously was essential to its future success and emphasized the foundation of American law and government in the agreement of the people on their organic law. This agreement is effectively renewed in every election as losers accept their defeats and work peaceably with winners.

BILL OF RIGHTS

Although the idea of a bill of rights originated in England, it was the 18th-century Americans who developed it into an expected feature of free governments. Before the Revolution, George Mason led Virginia in writing and adopting a bill of rights that quickly became a model for all the states. By the 1780s most states had followed the Virginia example.

American bills of rights rarely announced the kinds of natural or human rights that have become familiar since the French Revolution and the United Nations declarations of rights. Rather, they tended to include guarantees of due process of law for persons accused by the government or by their fellow citizens, thus protecting the people in their liberties from unfair prosecutions. They also included limitations on legislatures in what could be done in statutes. The First Amendment forbids Congress from making laws that interfere with freedoms of speech, religion, the press, or assembly. But it does not guarantee absolute liberties in any of these areas. Massachusetts' "model constitution" contained a long preface of over 30 articles that emphasized constitutional principles of rule of law and separation of powers, in addition to other more usual items found in bills of rights.

The Bill of Rights can fairly be attributed to the American people as their distinctive contribution to the Constitution. The Philadelphia Convention delegates felt for the most part that adding a bill of rights to the Constitution would be superfluous. When George Mason decided near the end of the deliberations that he wanted a bill of rights included, the others pointed out to him that most of the protections included in bills of rights were included in provisions such as Article I, which prohibited legislatures from making ex post facto laws and from creating bills of attainder and which guaranteed the writs of habeas corpus. They also noted that because the Constitution only delegated limited powers to the government, there was no fear that it could act in areas that a bill of rights would protect. Finally, they noted that most states already had bills of rights. But it soon became evident that the people wanted a national bill of rights, and it seemed doubtful they would ratify the Constitution in Massachusetts, Virginia and other key states without one. These state conventions eventually ratified, but only with the attachment of resolutions calling on Congress to provide a bill of rights through amendments.

Most candidates for the first Congress promised their constituents they would work for a bill of rights. Though he had significant reservations, James Madison also told supporters that he would be willing to look into the matter. Ironically, once Congress convened, most congressmen forgot about the matter, and Madison had

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to work energetically against their general lack of interest to get a bill of rights written. He systematically collected all the provisions that had been suggested in the various states and reduced them to a list of those that made the most sense to him. Of these, 10 were finally approved. But without the insistence of the American people, it is doubtful that anything ever would have happened.

RATIFICATION

When Congress received the proposed new constitution from the Philadelphia Convention, it moved quickly (under the urging of James Madison and Alexander Hamilton) to send it on to the several states for their consideration and ratification in special conventions. The pro-constitution forces moved quickly in several states to gain early ratification before much organized opposition could develop. The most difficulty was encountered in the big states essential to a successful union, particularly Massachusetts, New York and Virginia.

Recognizing that these states would be difficult, Alexander Hamilton recruited James Madison and John Jay to join him in a campaign of essay writing designed to inform potential delegates to ratifying conventions of the contents and implications of the Constitution. These essays were published under the pseudonym of Publius, an ancient Roman republican, and republished widely in newspapers throughout the 13 states. They were later collected and published in book form as *The Federalist Papers*. Because these essays systematically treat every aspect of the Constitution, explaining and defending it to a critical public, they give us an extraordinary view of the reasoning of the key people involved in bringing the Constitution into being. They were also highly respected and likely contributed substantially to ratification, providing defenders of the Constitution with the arguments they needed.

Opponents of ratification soon were known as Antifederalists. In addition to concerns about a bill of rights, they emphasized fears of a greatly strengthened central government which might tyrannize the states. Although ratification seemed dubious at some point in each of the large states, the great need to improve

American government finally led every convention to give its approval, though the margin of victory was not large in some of these states.

HISTORICAL SIGNIFICANCE

The astounding levels of agreement reached in the Philadelphia Convention and even in the ratification process were widely regarded as evidence of a divine hand. Americans were as impressed as foreign observers with the unprecedented phenomenon of a free people sitting down in peacetime to deliberate and design their own government. The achievement seemed all the more incredible as years passed and numerous other countries failed in their initial attempts to imitate the American model. It was from this historical and political perspective that some commentators regarded the Constitution as the most important document ever written.

The Americans established a new nation through peaceful union. The form of government they produced provided an inspiration for peoples seeking freedom from monarchical and aristocratic rule around the world. By the end of the 19th century, much of Europe and South America had finally made significant headway in following the American model. But with the rise of Marxism, the communist idea of revolution captured the popular imagination among oppressed peoples through the first half of the 20th century. With the collapse of leading communist regimes in Eastern Europe in the 1990s, the American experiment in self-government has again come to center stage and is being carefully studied by the people who are trying to design replacements for communist forms of rule.

ACTIVITIES

- Discuss American federalism, emphasizing (1) how unique it is to have a strong national government that does not have authority over numerous significant local issues and (2) that no one thought of federalism as a governing principle before it was created by the Great Compromise and other constitutional provisions.
- Tell the story of the Bill of Rights and how the first 10 amendments came into existence. Read earlier versions of bills of rights, such as George Mason's Virginia Declaration of Rights.

America Becomes a Nation

- Tell the story of ratification, showing how each state was different. Emphasize the roles played by Madison and proportional representation Hamilton and their essays.
- Assign students individually or in small groups to write a newspaper article that could have been used in a Philadelphia or New York paper in September 1787 to announce the new constitution and explain its most significant features to the public.
- Ask students to imagine themselves as citizens of Virginia in early 1788, and assign them to write a letter to the editor of the *Virginia Gazette* arguing for or against ratification of the Constitution.
- Test student mastery of concepts in the five lessons using:
 - Chronology of important events attached to Lesson One
 - List of key terms and names that follows
 - Essay questions

KEY TERMS STUDENTS SHOULD MASTER

legislature

judiciary

executive

Senate

House of Representatives

Supreme Court

President of the United States

amendment process

state constitutions

model constitution

Federal Convention

ratification

federalism

confederation

bill of rights

compromise

proportional representation

republican government

faction

organic law

Annapolis Convention

Virginia Plan

New Jersey Plan

Great Compromise

Federalist Papers

KEY NAMES STUDENTS SHOULD IDENTIFY

George Washington

James Madison

John Adams

George Mason

Thomas Jefferson

Roger Sherman

William Patterson

Edmund Randolph

Benjamin Franklin

James Wilson

Alexander Hamilton

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