



## 7.2 THE CONSTITUTION OF 1787

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| <b>CONSTITUTIONAL CONVENTION</b>        | Two <b>GROUND RULES</b> would govern the Constitutional Convention. First, all <b>DELIBERATIONS WERE TO BE KEPT SECRET</b> . (Detailed remarks about the debates were not made until after the publication of James Madison’s notes in 1840.) Second, <b>NO ISSUE WAS TO BE REGARDED AS CLOSED</b> and could be revisited for debate at any time.   |
| <b>Delegates to the Convention</b>      | <p>The Convention convened on May 25, 1787, at the State House (now Independence Hall) in Philadelphia. (It opened several days later than planned because it took so long for delegates to arrive.) All of the states were represented except for Rhode Island, which declined to attend. <b>GEORGE WASHINGTON</b>, noted for his patience and fairness, was selected as the <b>PRESIDING OFFICER</b>. In all, 55 delegates attended during the course of the meetings. They were <b>MEN OF PROPERTY</b> – mostly <b>LAWYERS, MERCHANTS</b> and <b>PLANTERS</b> – who represented personal and regional interests. Many were <b>EXPERIENCED IN COLONIAL AND STATE GOVERNMENT</b> and others had records of <b>SERVICE IN THE ARMY AND IN THE COURTS</b>. Eight had signed the Declaration of Independence and 17 were slave owners. For biographies of the delegates, see: <a href="http://www.archives.gov/exhibit_hall/charters_of_freedom/constitution/founding_fathers.html">http://www.archives.gov/exhibit_hall/charters_of_freedom/constitution/founding_fathers.html</a>.</p> <p>A number of prominent figures of the day did not attend, including Richard Henry Lee, Patrick Henry, Thomas Jefferson, John Adams, Samuel Adams and, John Hancock.</p> <p>The stated goal of the Convention – the revision of the Articles of Confederation – was quickly discarded. Discussion turned instead to two competing concepts of how a new government should be formed, the <b>VIRGINIA PLAN</b> and the <b>NEW JERSEY PLAN</b>.</p> |
| <b>VIRGINIA PLAN (Large State Plan)</b> | <p>Edmund Randolph expressed the interests of the larger states when he presented to the Convention a series of proposals (written by James Madison) which came to be known as the <b>VIRGINIA PLAN</b>. The plan advocated that the proposed new government should have:</p> <ul style="list-style-type: none"> <li>■ A <b>BICAMERAL</b> (two house) legislature</li> <li>■ <b>PROPORTIONAL</b> representation (based upon population)</li> <li>■ A chief executive chosen by the legislature</li> <li>■ A judiciary chosen by the legislature</li> </ul>  |
| <b>NJ PLAN (Small State Plan)</b>       | <p>After two weeks of debating the Virginia Plan, a counterproposal was put forth by William Patterson, which has become known as the <b>NEW JERSEY PLAN</b>. Patterson's ideas consisted of a <b>SIMPLE RESHAPING</b> of the Articles of Confederation. The plan once again offered the idea of a <b>UNICAMERAL</b> (one house) legislature in which all states would have an equal number of votes. Patterson did suggest the <b>SUPREMACY OF FEDERAL LAW</b>. Those state laws which ran counter to federal statutes were to be voided:</p>  |
| <b>Supremacy of Federal Law</b>         | <p><i>"All acts of the United States in Congress made in pursuance of the powers hereby and by the articles of confederation vested in them, and all Treaties made and ratified under the authority of the United States shall be the supreme law of the respective States . . . and the Judiciary of the several States shall be bound thereby in their decisions, anything in the respective laws of the individual States to the contrary notwithstanding."</i></p>  |

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| <p><b>CONTROVERSIAL ISSUES</b></p> <p><b>Representation</b></p> <p><b>Slavery</b></p> <p><b>Benjamin Franklin’s Appeal for Harmony and Conciliation</b></p> | <p>Although the New Jersey Plan was quickly voted down, the debate raged through the spring and into the summer of 1787. Two issues appeared to be the getting in the way of consensus:</p> <ul style="list-style-type: none"> <li>■ REPRESENTATION: Should the number of legislators be equal for all states or should the larger states have more representatives?</li> <li>■ SLAVERY: Should the number of slaves in a state be used to compute its representation?</li> </ul> <p>The most controversial issue, state representation, could have nullified the entire process. Tempers flared and interests clashed as the delegates sought their respective goals. It was within this atmosphere of divisiveness, on June 28, 1787, that the elder statesman Benjamin Franklin, now 81 years old, offered his famous APPEAL FOR HARMONY AND CONCILIATION – an appeal for God’s intervention:</p> <p style="text-align: center;"><i>In the beginning of the contest with Britain, when we were sensible of danger, we had daily prayer in this room for divine Protection. Our prayers, sir, were heard and they were graciously answered.... And have we now forgotten that powerful friend? Or, do we imagine we no longer need his assistance? I have lived, sir, a long time, and the longer I live, the more convincing proofs I see of this truth – that God governs in the affairs of men. And if a sparrow cannot fall to the ground without his notice, is it probable that an empire can rise without his aid? We have been assured, sir, in the sacred writings, that "except the lord build the house, they labor in vain that build it." I firmly believe this; and I also believe that without his concurring aid we shall succeed in this political building no better than the builders of Babel....</i></p> <p style="text-align: center;"><i>I therefore beg leave to move that, henceforth, prayers imploring the assistance of heaven, and its blessings on our deliberations, be held in this assembly every morning before we proceed to business, and that one or more of the clergy of this city be requested to officiate in that service.</i></p> <p>For additional details, see:<br/> <a href="http://www.homeofheroes.com/hallofheroes/3rd_floor/god/2_convention.html">http://www.homeofheroes.com/hallofheroes/3rd_floor/god/2_convention.html</a><br/> <a href="http://chansen.tzo.com/Subjects/LegalGovRef/History/FranklinPrayer.htm">http://chansen.tzo.com/Subjects/LegalGovRef/History/FranklinPrayer.htm</a></p> |
| <p><b>COMPROMISE</b></p> <p><b>Great Compromise</b></p> <p><b>Three-Fifths Compromise</b></p> <p><b>Two-Thirds Compromise</b></p>                           | <p>Roger Sherman addressed the difficult issues of representation and slavery by suggesting:</p> <ul style="list-style-type: none"> <li>■ The UPPER HOUSE (Senate) would have EQUAL REPRESENTATION and be elected by the lower house</li> <li>■ The LOWER HOUSE (House of Representatives) would be subject to PROPORTIONAL REPRESENTATION</li> <li>■ The THREE-FIFTHS COMPROMISE: For purposes of determining the number of REPRESENTATIVES in the House, every five slaves would be counted as three. This did not confer the vote on slaves; it was simply a formula for determining representation in the House of Representatives. Final wording in the Constitution referred to “all other persons” and the words <i>slave</i> and <i>slavery</i> do not appear. This language reflected the discomfort of the constitution’s framers in mentioning slavery in a republican document. The same population computation would also be used for determining TAXATION.</li> <li>■ All proposed legislation having to do with raising money would originate in the House of Representatives.</li> </ul> <p>Another proposal made it easier to amend the Constitution by requiring only two-thirds of both Houses or two-thirds of the states to propose amendments.</p>   |

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| <p><b>THE NEW CONSITITION</b></p>         | <p>The new Constitution contained a PREAMBLE that stated the purposes of the Constitution and made it clear that the federal government was linked to the consent of the people:</p> <p style="text-align: center;"><i>We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.</i></p> <p>The federal government received these POWERS:</p> <ul style="list-style-type: none"> <li>■ To levy taxes</li> <li>■ To borrow money</li> <li>■ To establish uniform duties and excise taxes</li> <li>■ To coin money, fix weights and measures</li> <li>■ To grant patents and copyrights</li> <li>■ To set up post offices and build post roads</li> <li>■ To raise and maintain an army and navy</li> <li>■ To regulate interstate commerce</li> <li>■ To manage Indian affairs, foreign policy, and war</li> <li>■ To pass laws for naturalizing foreigners and controlling public lands</li> <li>■ To admit new states on a basis of absolute equality with the old</li> </ul> <p>The power to pass all NECESSARY AND PROPER laws for executing these clearly defined powers rendered the federal government able to meet the needs of later generations and of a greatly expanded constituency.</p> <p>You may view the Constitution at:<br/> <a href="http://www.archives.gov/exhibit_hall/charters_of_freedom/constitution/constitution.html">http://www.archives.gov/exhibit_hall/charters_of_freedom/constitution/constitution.html</a></p> <p>At the end of three and one-half months, 38 of the 55 delegates signed the document and adjourned to the City Tavern for refreshments and a final dinner. The Constitution was conveyed to the Congress, which in turn decided to pass the matter along to the states for ratification.</p> |
| <p><b>DEMOCRACY VS. REPUBLICANISM</b></p> | <p>Although the Philadelphia delegates still professed FAITH IN REPUBLICANISM, the new government reflected their concern that pure democracy was a dangerous thing. Only in the House of Representatives was a popular will to be seen. And that body could be checked by the Senate. The delegates had devised a government of CHECKS AND BALANCE” among all the branches to prevent tyranny by any one sector.</p> <p>Before leaving Philadelphia, the delegates specified that the approval of only nine of thirteen states would be required to ratify the Constitution. They also agreed that the Constitution would be submitted to special state ratifying conventions rather than to existing state legislatures, many of which would be sure to reject it.</p>  |
| <p><b>DISCUSSION QUESTIONS</b></p>        | <p><b>Why were the meetings of the Philadelphia Convention kept secret from the American people? Do you agree with this decision?</b></p> <p><b>What kinds of people were represented at the Philadelphia Convention? What people were not represented?</b></p> <p><b>What conflict occurred at the Philadelphia Convention between the large and small states over representation in Congress? What was the solution to that conflict? Do you think this solution is still a good idea today? Explain.</b></p> <p><b>Does Benjamin Franklin’s “Appeal for Harmony and Conciliation” at the</b></p>   |

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|  | <p><b>Philadelphia Convention throw light on the current controversy over prayer in the public schools?</b></p> <p><b>How did the framers use separation of powers and checks and balances to limit the powers of government? Give examples of how checks and balances work today. Do you think any one branch of our government has too much power today? Explain.</b></p> <p><b>What are the basic purposes of government according the Preamble to the Constitution? Do you think our government today serves these purposes? What else might the government do?</b></p> <p><b>Why do you think so many people in the United States do not vote? Young people, from 18 to 25 years of age, vote less often than any other age group. Why do you think this happens? Do you think people should be required to vote? Why or why not?</b></p> |
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