



# CONSOURCE

*The Constitutional Sources Project*

## CONSTITUTIONAL CONVENTION SIMULATION

### Composition of Congress

#### TIME AND GRADE LEVEL

Two 45 or 50 minute class periods in a **Grade 9-12** US history, civics, or government course.

#### PURPOSE AND CRITICAL ENGAGEMENT QUESTIONS

History is the chronicle of choices made by actors/agents/protagonists in specific contexts. This simulation places students at the Constitutional Convention and asks them to construct a legislative branch for a proposed new government. Should there be one branch or two? Should each state get an equal voice in the legislative branch? How should members be chosen, and how long should they serve? Should they be eligible for reelection? In discussing the varying options, students will see how practical choices reflect differing views of political representation: Should representatives be chosen to reflect the will of the people or the interests of a state? How responsive should representatives be to their constituencies?

Students will enter the historical moment and engage with these issues. By discussing and debating the various options, they will gain a deeper understanding of the choices the framers faced and why they opted for particular structures, ones we live with today. Further, while observing the framers discuss and debate these matters, and then debating them in their simulated Convention, students will experience firsthand how interest and principles intermingle in public deliberations and debates.

#### LESSON OBJECTIVES

\*Students will be able to present pro and con arguments for a unicameral legislature and a bicameral legislature.

\*Students will be able to elucidate the competing interests of small states and large states, and to outline the principles that each side brought forth to sustain its interest.

\*Students will be able to explain the reasoning, and the politics, that led to structural differences between the House of Representatives and the Senate,

\*When examining other political debates, students will be better able to identify and analyze the interplay between interests and principles that permeates political discourse.

\*By completing the first item in the summary homework, students will learn how to cite the United States Constitution by article, section, and clause.

## **OVERVIEW OF THE LESSON**

### **Prefatory Homework for Day One:**

Handout A: Unicameral or Bicameral Legislature

### **In Class, Day One:**

1. Homework review: 10 minutes
2. Presentation of Virginia Resolution #3, calling for two houses of Congress: 5 minutes
3. Discussion and debate on unicameral v. bicameral legislature: 15 minutes
4. Vote by state delegations: 5 minutes
5. Presentation and discussion of the historical decision: 10-15 minutes

### **Prefatory Homework for Day Two:**

Handout B: Proportional or Equal Representation of the States

Handout C: How Should Members of Congress be Selected?

### **In Class, Day Two:**

1. Homework review: 5-10 minutes
2. Review of Virginia Plan resolutions regarding proportional or equal representation of the states, selection of members, length of terms, eligibility for reelection: 10 minutes
3. Discussion and debate on proportional or equal representation of the states; selection of members, length of terms, eligibility for reelection: 15-20 minutes
4. Vote by state delegations: 5 minutes
5. Historical resolution on representation in Congress— “The Great Compromise”: 10 minutes

Summary homework / Extended activities

## MATERIALS

### *Background Handouts*

- A. Unicameral or Bicameral Legislature
- B. Proportional or Equal Representation of the States
- C. How Should Members of Congress Be Chosen?

### *Classroom Handouts*

- D. State Demographics
- E. Virginia Plan Resolutions
- F. Composition of Congress: Options
- G. Composition of Congress: Class Decisions
- H. Composition of Congress: Historical Outcomes
- I. Delegates' Ideas for the Senate
- J. The "Great Compromise"
- K. Vocabulary List

### *Teacher Resources*

- T-A. Homework answers for "Composition of Congress"
- T-B. Infrastructure for the Constitutional Convention Simulation
- T-C. Timeline for the Federal Convention of 1787

### *Links*

\*Madison's *Notes of Debates*

Dates: [May 29](#), [May 30](#), [June 2](#), [June 6](#), [June 7](#), [June 9](#), [June 11](#), [June 12](#), [June 13](#), [June 15](#), [June 16](#), [June 18](#), [June 19](#), [June 20](#), [June 21](#), [June 22](#), [June 25](#), [June 26](#), [June 27](#), [June 28](#), [June 29](#), [June 30](#), [July 2](#), [July 5](#), [July 6](#), [July 7](#), [July 9](#), [July 10](#), [July 11](#), [July 12](#), [July 13](#), [July 14](#), [July 16](#), [July 17](#), [July 18](#), [July 19](#), [July 23](#), [August 6](#), [August 7](#), [August 8](#), [August 9](#), [August 10](#), [August 13](#), [August 20](#), [August 27](#), [September 4](#), [September 6](#), [September 10](#).

## **PREFATORY HOMEWORK FOR DAY ONE**

Students read and answer questions on Handout A, "**Unicameral or Bicameral Legislature.**"

## **CLASS ACTIVITIES FOR DAY ONE: 45-50 MINUTES**

### **1. HOMEWORK REVIEW: 10 minutes**

Brief class review of the reading: unicameral v. bicameral legislature and the alternative methods for determining representation in the legislature. Discussion here should be brief, limited to items that need clarification. Tell students they will have ample time to discuss and debate these critical issues in their D & D groups.

## **2. PRESENTATION OF VIRGINIA PLAN RESOLUTION #3, CALLING FOR TWO HOUSES OF CONGRESS: 5 minutes.**

Distribute Handout E, “**Virginia Plan Resolutions.**” Explain: the student convention will vote on issues raised by the Virginia Plan. Our convention does not have to arrive at the same conclusions as the Federal Convention did. (NOTE: If the class has not yet encountered the Virginia Plan, explain briefly that these were ideas the Virginia delegation put forward at the opening of the convention. In the early weeks delegates used the Virginia Plan as a draft, debating each resolution and altering many of them.)

*Today we will be discussing the third resolution. Does this call for a unicameral or bicameral legislature?*

Response: Bicameral.

This is your chance to weigh in on that proposal. Remember: The Virginia Plan was not a done deal. It was just a starting point. Several items were drastically altered in the final Constitution. Should this be changed? Do you think Congress should have one branch or two?

## **3. DISCUSSION AND DEBATE ON UNICAMERAL V. BICAMERAL LEGISLATURE: 15 minutes**

Break into D & D groups to consider the issue.

## **4. VOTE BY STATE DELEGATIONS: 5 minutes**

Convene as a convention. Distribute Handout F, “**Composition of Congress: Options,**” and Handout G: “**Composition of Congress: Class Decisions.**”

Instruct: On the first sheet, titled “Options,” note your *personal* decision for the first item. Do you prefer a unicameral or bicameral legislature?

Instruct: Now meet with your state delegation and cast your personal vote there. The majority of your state delegation will determine its vote.

Reconvene the convention and have each state declare its vote.

Instruct: On your handout labeled “Class Decisions,” record that vote.

## **5. PRESENTATION AND DISCUSSION OF THE HISTORICAL DECISION: 10-15 minutes**

Distribute Handout I: “**Delegates’ Ideas for the Senate.**” Read and discuss this in class. Start with Madison’s desire “to divide the trust between different bodies of men, who might watch & check each other.” There would be greater opportunities for checks and balances under a bicameral system.

Then move on to the delegates' differentiation between the lower and upper houses. This will initiate a discussion that can be carried through during the second day of this lesson and the second question posed in Summary Homework/Extended Activities.

## **PREFATORY HOMEWORK FOR DAY TWO**

Students read and answer questions on Handout B, “**Proportional or Equal Representation of the States,**” and Handout C, “**How Should Members of Congress Be Chosen?**”

## **CLASS ACTIVITIES FOR DAY TWO: 45-50 MINUTES**

### **1. HOMEWORK REVIEW: 5-10 minutes**

Focus on the questions about equal or proportional representation of the states and the consequence of that decision: Under a one-state, one-vote system, each *state* would be equally represented; under a proportional system, each *citizen* would be equally represented. This raises the larger issue: are states or people the principle parties agreeing to this Constitution? There is no need to come to an agreement on this; in fact, the “Great Compromise” confirmed that both states and citizens were parties to the new government. Use this as an example of how the framers touched on the deepest principles of government as they argued for particular features that served their constituents' interests.

### **2. REVIEW OF VIRGINIA PLAN RESOLUTIONS REGARDING PROPORTIONAL OR EQUAL REPRESENTATION OF THE STATES, SELECTION OF MEMBERS OR CONGRESS, LENGTH OF TERMS, ELIGIBILITY FOR REELECTION: 10 minutes**

Distribute Handout D, “**State Demographics.**” Explain: You are to represent the interest of your constituents while simultaneously addressing the needs of the nation. In some cases, this will require you to suspend your own current views and “become” a delegate from your state. Delegates from states dependent on slave labor, for instance, will need to represent the interests of their constituents, however abhorrent they find the institution of slavery.

Instruct students to refer to Handout E, “**Virginia Plan Resolutions,**” Handout F, “**Composition of Congress: Options,**” and Handout G: “**Composition of Congress: Class Decisions,**” which were distributed on day one. Today we will be considering resolutions 2, 4, and 5. We will proceed on the basis of the historical convention's decision in favor of a bicameral legislature. Remember, the Virginia Plan was only the very first draft; we will be deciding whether we agree with these recommendations or not. We will also be filling in the blanks left in resolutions #4 and #5.

Go over the wording in each resolution.

**Resolution #2**, which weighs in on the issue of representation: “*that the rights of suffrage in the National Legislature ought to be proportioned to the Quotas of contribution, or to the number of free inhabitants, as the one or the other rule may seem best in different cases.*” What this means:

“*Quotas of contribution*” = the proportion of money Congress collects from each state. This had been a contentious issue throughout the Revolutionary War and afterward: exactly how much must each state contribute? Presumably, it would be in proportion to its ability to pay, or wealth, but in an era with few recorded statistics, that had been difficult to determine.

“*proportioned by number of free inhabitants*” = population, excluding slaves. (Note that the class will not be discussing the issue of slavery at this time; that issue needs to be treated in depth and will be.)

Note that either method of determining proportional representation would be a radical departure from the Articles of Confederation, where each state, however large or small, had one vote, as they do at this Convention.

Guided question possibilities:

***What would be the effect of proportional representation on states with few people, or that contribute less money to the federal treasury?***

**Response:** smaller voice in the national legislature than they currently have.

***On the larger or richer states?***

**Response:** greater voice in the national legislature than they currently have.

Then refer students to Handout D, “**State Demographics**,” which lists populations of the various states. Query each student: How does the population of your state compare with that of other states? Remind students that they will be expected to keep the interests of their states in mind.

[OPTIONAL: Tell the class that George Read, from Delaware, said this: “That the deputies from Delaware were restrained by their commission from assenting to any change of the rule of suffrage, and in case such a change should be fixed on, it might become their duty to retire from the Convention.” Translation: if you don’t keep the “one state, one vote” rule of the Articles of Confederation, we might leave the Convention. If this lesson is part of the complete Convention unit, students will have instructions from their states. Ask Delaware delegates to read aloud this highlighted portion of their instructions: “*Provided, that such Alterations or further Provisions, or any of them, do not extend to that part of the Fifth Article of the Confederation of the said States, ...which declares that ‘In determining Questions in the United States in Congress Assembled each State shall have one Vote.’*”]

**Resolution #4:** This refers to the lower branch of the legislatures. (Note that Resolution #3 favored a bicameral system.) How will members be elected? How old must they be? How long will they serve? Can they be reelected? You will note several “blanks”—these were to be filled in by the Convention.

Here is some background: Under the Articles of Confederation, members of Congress were elected annually, and no member could serve for more than three years in a six-year period. In state governments, representatives to the lower house of state legislatures were also elected annually, and in bicameral legislatures, members of the upper house were usually chosen by the lower house. This did not mean the Convention had to choose these paths, however. Also, you might want to consider that transportation would be more difficult for representatives to a national legislature than to a state legislature.

Note that the frequency of elections is not necessarily the same as term of service. For instance, members might serve for two years, but their terms could be staggered: half elected in one year, the other half in the next (thus, there would be Congressional elections every year).

**Resolution #5:** Ask for an explanation/clarification: “term sufficient to ensure their independency” – what does that mean? How might longer terms help make members more “independent” from popular pressure? In your discussion groups, you might want to consider whether this is a good thing, and if so, in all of Congress? Just in one house?

Then go over Handout F, “**Composition of Congress: Options**,” which lists the issues under consideration.

Note the differences between the “first Branch” in #4 (what the Constitution would call the House of Representatives) and the “second Branch” in #5 (what the Constitution would call the Senate). Review the conclusion of the previous day’s lesson and Handout I, “**Delegates’ Ideas for the Senate**,” which dealt with the framers’ views of the function on the Senate. Mention here that the numbers suggested during the debates for the length of terms were 1, 2, or 3 years for the House and 4, 5, 6, 7, 9, or “good behavior” for the Senate. (“Good behavior” meant for life, but with provisions for removal if necessary.

### **3. DISCUSSION AND DEBATE ON PROPORTIONAL OR EQUAL REPRESENTATION OF THE STATES, SELECTION OF MEMBERS OR CONGRESS, LENGTH OF TERMS, ELIGIBILITY FOR REELECTION: 15-20 minutes**

Instruct students: Gather in your D & D groups, where you will discuss all these matters. Consider the issues itemized on Handout F, “**Composition of Congress: Options**.” Since there are several issues, try not to get stuck for too long on one item. Remember, the D & D groups are for deliberations only; you do not have to come to any agreement. You won’t be voting until you meet with your state delegation. As you go, once you’ve made your own personal decision, mark it on your worksheet. These are YOUR choices, not

necessarily the ones the historical Convention made. Ask yourself: *What do you think would be best for your constituents and for the nation?*

CLASS MANAGEMENT TIP: Although there are several issues to cover, some groups might get stuck on one. Circulate through the groups and encourage them to move along when needed. Time reminders might help: “You have ten more minutes.” “You have five more minutes.”

#### **4. VOTING IN STATE DELEGATIONS. 5 minutes**

Reconvene as a Convention to consider each recommendation of the Virginia Plan, in order. Ask students to consult Handout G, “**Composition of Congress: Class Decisions,**” which was distributed on day one. Instruct students: for each vote, you will have 30 seconds to share your view with your state delegation and decide your delegation’s vote. We will then vote as a convention, one vote for each state delegation. You will record our convention’s decision on your class decision worksheet.

CLASS MANAGEMENT TIP: Convention votes should probably be by show of hands, with one student from each delegation voting. Roll calls for numerous votes would be very time consuming.

#### **5. SUMMARY OF CLASS DECISIONS, PRESENTATION OF THE GREAT COMPROMISE,” AND ASSIGNMENT OF SUMMARY HOMEWORK/EXTENDED ACTIVITIES: 10 minutes**

With the full class, process the class’s decisions. What concerns motivated our decisions? Is there some coherent pattern or philosophy?

Distribute Handout J: “**The Great Compromise**”

How to process these is up to teacher discretion. Perhaps teacher can go over some of the ideas and then pose questions below, with students using the handouts as resourced.

Use this occasion to discuss the practical utility of compromise. Pose the question presented for the prefatory homework assignment: What do you think would happen if both sides refused to give ground?

### **SUMMARY HOMEWORK/EXTENDED ACTIVITIES**

1. By consulting the United States Constitution, Article I, Sections 2 and 3, have students fill out Handout H, “**Composition of Congress: Historical Convention Outcomes.**”
2. Several delegates argued that the House of Representatives would reflect the popular will, but this had to be checked by the Senate. In fact, they purposely made senators less responsible to the popular will. But the Seventeenth Amendment, ratified in 1913,



allowed the people, rather than state legislatures, to choose senators. Do you think that amendment was a good idea? Do you think senators' terms should be shortened to make them more responsive? Or do you agree with the framers that the senators should serve for six years rather than two to provide greater stability? Keep in mind the special powers belonging only to the Senate: confirming appointments and ratifying treaties.

3. If some of your choices or the class's decisions differed from the historical ones, how might these have changed the course of history?

4. What do you think would happen if both sides refused to give ground on the issue of proportional v. equal representation of the states?

5. Write an essay on "Compromise at the Constitutional Convention." This might be done in conjunction with the ConSource lesson plan, "Slavery and the Constitutional Convention" or some other lesson covering the slavery issue.

## Congress Handout A: Unicameral or Bicameral Legislature

**Unicameral: one house, which performs all legislative functions and sometimes executive functions.**

**Bicameral: two houses, both of which must agree on legislation.** Commonly, the “lower house” represents the electorate (e.g., the House of Commons in the British Parliament), while the “upper house” is less dependent on the will of the people. The “upper house” sometimes, but not always, also performs executive functions, such as making appointments or advising the chief executive or monarch.

In [1776, Pennsylvania adopted a constitution](#) that featured a unicameral legislature. Below is a description of that constitution by historian Gary Nash:

Working for eight weeks, the constitution drafters rejected three of the most honored elements of English republican thought. First, they scrapped the idea of a two-house legislature, where the upper house traditionally reflected men of wealth and the lower house mirrored the common citizens. The case for unicameralism rested primarily on long historical experience showing that upper houses in the colonies had reflected the interests of the wealthy and gave institutional form to a contest of interests that did not, at least in the minds of most ordinary people, serve the common good. Other precedents fortified the unicameralist argument: that town meetings, the Continental Congress itself, and almost a century of one-house rule in Pennsylvania. Hardly a radical, Benjamin Franklin supported unicameralism, seeing an upper house as a vestige of the aristocratic English system against which the Americans were rebelling.

In a second departure from conventional wisdom on a balanced government, the convention abandoned the idea of an independent executive branch with extensive power, especially to veto legislative bills. Instead, the convention provided for an elected weak plural executive branch, composed of a president and a council. It was empowered to appoint important officers, including the state’s attorney general and judges, but given no legislative veto power. Its duty was to implement the laws passed by the legislature, not to amend or veto them.

Finally, the constitution drafters scuttled the old franchise, which had allowed the vote only to free white property-owning males, and created in its stead the most liberal franchise known in the western world. In the radical view, political rights must be vested in the people at large. Only apprentices and the deeply impoverished (excused from paying any tax) were excluded. Making voters out of ordinary men put the broadened franchise at the center of democratized politics.

The constitution also guaranteed that the doors of the legislative house would remain open to “all persons who behave decently,” so the people from whom government derived its authority could monitor their elected legislators. Printing

the legislative debates and votes on legislation in English and German allowed for greater transparency. [In Pennsylvania, one-third of the population was German.] In a final check against unresponsive and corrupt legislators, every piece of approved legislation had to be printed “for the consideration of the people” and then in the next session to be finally approved. One shocked Continental Congress delegate declared that this made “the mob . . . a second branch of legislature.”

The constitution was a victory for small farmers, especially German and mostly Presbyterian Scots-Irish frontiersmen with small holdings of land; for urban artisans, many of whom previously could not vote because they owned no property; and for radical reformers who dreamed of holding the rich at bay in the interest of a more equitable society. It was a heavy blow to wealthy merchants, large property owners, and assorted conservatives who wanted to retain the old political system, which, they feared was slipping from their grasp. By shifting the center of political gravity downward, the 1776 constitution capped a move toward a democratized polity that had gained momentum as revolutionary leaders saw the necessity to mobilize all but the very bottom of society. Here was the idea that the bone, sinew, and muscle of the producing classes were the future of the republic and that the wealthy non-producers, who lived by manipulating money and land, were to be valued the least.

While people “out of doors” regarded the constitution as the dawn of a new era, conservatives and some moderates, both inside and outside Pennsylvania, looked at it with horror. Benjamin Rush, who had stood with radicals a few months before, called it “our rascally constitution” that made the state government as dreaded as “the government of Turkey.” Though he had grown up under a unicameral legislature, Rush now complained that “a single legislature is big with tyranny.” “Good god!” gasped John Adams after seeing the full constitution. “The people of Pennsylvania in two years will be glad to petition the crown of Britain for reconciliation in order to be delivered from the tyranny of their Constitution.”

(From Gary B. Nash, “Philadelphia’s Radical Caucus that Propelled Pennsylvania to Independence and Democracy,” in Alfred F. Young, Gary B. Nash, and Ray Raphael, *Revolutionary Founders: Rebels, Radicals, and Reformers in the Making of the Nation*, 79-82.)

John Adams did indeed reject the idea of a unicameral legislature, pushed by Thomas Paine in *Common Sense* and implemented in Pennsylvania. In a short essay he called *Thoughts on Government, Applicable to the Present State of the American Colonies*, he outlined his objections:

As good government is an empire of laws, how shall your laws be made? In a large society, inhabiting an extensive country, it is impossible that the whole should assemble to make laws. The first necessary step, then, is to depute power from the many to a few of the most wise and good. . . . The principal difficulty lies, and the greatest care should be employed, in constituting this representative assembly. It

should be in miniature an exact portrait of the people at large. It should think, feel, reason, and act like them...

A representation of the people in one assembly being obtained, a question arises, whether all the powers of government, legislative, executive, and judicial, shall be left in this body? I think a people cannot be long free, nor ever happy, whose government is in one assembly. My reasons for this opinion are as follow:--

1. A single assembly is liable to all the vices, follies, and frailties of an individual; subject to fits of humor, starts of passion, flights of enthusiasm, partialities, or prejudice, and consequently productive of hasty results and absurd judgments. And all these errors ought to be corrected and defects supplied by some controlling power.
2. A single assembly is apt to be avaricious, and in time will not scruple to exempt itself from burdens, which it will lay, without compunction, on its constituents.
3. A single assembly is apt to grow ambitious, and after a time will not hesitate to vote itself perpetual. This was one fault of the Long Parliament; but more remarkably of Holland, whose assembly first voted themselves from annual to septennial, then for life, and after a course of years, that all vacancies happening by death or otherwise, should be filled by themselves, without any application to constituents at all.
4. A representative assembly, although extremely well qualified, and absolutely necessary, as a branch of the legislative, is unfit to exercise the executive power, for want of two essential properties, secrecy and despatch [dispatch, or dealing with an issue quickly].
5. A representative assembly is still less qualified for the judicial power, because it is too numerous, too slow, and too little skilled in the laws.
6. Because a single assembly, possessed of all the powers of government, would make arbitrary laws for their own interest, execute all laws arbitrarily for their own interest, and adjudge all controversies in their own favor...

To avoid these dangers, ... let the representative assembly then elect by ballot, from among themselves or their constituents, or both, a distinct assembly, which, for the sake of perspicuity, we will call a council. It may consist of any number you please, say twenty or thirty, and should have a free and independent exercise of its judgment, and consequently a negative voice in the legislature. [That is, it can nullify any act of the representative assembly.]

These two bodies, thus constituted, and made integral parts of the legislature, let them unite, and by joint ballot choose a governor, who ... should have a free and

independent exercise of his judgment, and be made also an integral part of the legislature.

Adams's idea, shared by many at the time, was that the members of the upper house, with their "free and independent exercise of its judgment," would check the "starts of passion, flights of enthusiasm, partialities, or prejudice" that might lead the lower house to "absurd judgments."

#### QUESTIONS:

In your own words, what is the strongest argument *in favor of* a unicameral legislature?

What do you think is *the greatest danger* of a unicameral legislature? Are there times in which the popular will can produce "hasty results and absurd judgments"?

Do you think Adams's concerns are sometimes exaggerated? If the Constitution guaranteed free elections at set intervals, how could a unicameral Congress "vote itself perpetual"?

What is the strongest argument for a bicameral legislature?

What do you think is the greatest danger of a bicameral legislature, where the upper house is purposely less responsive to the popular will?

## Congress Handout B: Proportional or Equal Representation of the States

The 1790 census, taken three years after the Constitutional Convention, counted 11,783 free white males in Delaware, while Virginia had 110,936 free white males. Under the [Articles of Confederation](#), both states were entitled to one vote in Congress. This meant that each citizen of Delaware had nine times as much influence in Congress as a citizen of Virginia possessed. Understandably, delegates from Delaware did not wish to lose this advantage.<sup>1</sup> Now surprisingly, however, delegates from Virginia wanted to change the one-state, one-vote system of voting. On [May 30](#), the first day of debating, Virginia's James Madison moved "that the equality of suffrage established by the Articles of Confederation ought not to prevail in the national Legislature, and that an equitable ratio of representation ought to be substituted." Each state's representation in Congress should be proportional to its population, he maintained.

As delegates tussled, interest and philosophy tangled. Large-state advocates of proportional representation argued that for the national government to be "supreme," as they had already decided [see ConSource lesson plan, "Reform of Revolution"], it must act directly on citizens, without the interference of states. Conveniently, bypassing the states meant there was no reason for them to be represented equally. James Wilson, whose state of Pennsylvania had the second largest population, commented, "The Genl. Govt. is not an assemblage of States, but of individuals for certain political purposes—it is not meant for the States, but for the individuals composing them; the individuals therefore not the States, ought to be represented in it."<sup>2</sup>

Opponents of proportional representation, coming from smaller states, turned this argument on its head. To prevent domination by a potentially oppressive national government, state governments *must* be represented in Congress, and what better way than to be represented equally? Maryland's Luther Martin "contended at great length and with great eagerness that the General Govt. was meant merely to preserve the State Governnts.: not to govern individuals." Thirteen states, joining together in common cause, remained "equal" parties to the Union, and they could not "give up an equality of votes without giving up their liberty." Proportional representation would impose "a system of slavery for 10 States," since Virginia, Pennsylvania, and Massachusetts, with half the votes, could easily "do as they please."<sup>3</sup>

The fight was furious. Delaware's Gunning Bedford, Jr., warned that if the large states succeeded in overturning the one-state, one-vote provision of the Articles of Confederation, "the small ones will find some foreign ally of more honor and good faith, who will take them by the hand and do them justice." He then added he "did not mean by this to intimidate or alarm," but of course he did. That was the very purpose of his remarks.<sup>4</sup>

On the other side, Pennsylvania's Gouverneur Morris envisioned apocalyptic consequences if "state attachments" prevailed: "This Country must be united. If persuasion does not unite it, the sword will... The scenes of horror attending civil commotion can not be described, and the conclusion of them will be worse than the term of their continuance. The stronger party will then make traytors of the weaker; and the Gallows & Halter will finish the work of the sword."<sup>5</sup>

This hyperbolic war of words was not for the timid. With each side pushing to the limits, Elbridge Gerry “lamented that instead of coming here like a band of brothers, belonging to the same family, we seemed to have brought with us the spirit of political negotiators.”<sup>6</sup>

By [June 28](#) Benjamin Franklin had heard enough. “We indeed seem to feel our own want of political wisdom,” he lamented, “since we have been running about in search of it.” A month of “close attendance & continual reasonings with each other” had produced but “small progress.” Unless the bickering ceased, “We shall be divided by our little partial local interests” and “our projects will be confounded.”

(Adapted from Ray Raphael, *Constitutional Myths*, 39-42.)

#### QUESTIONS:

1. Under a one-state, one-vote system, each *state* would be equally represented; under a proportional system, each *citizen* would be equally represented. Briefly, present a case for equality of states, and then present a case for equality of citizens. You will be able to expound on these arguments in your simulated Convention tomorrow.

2. What do you think would happen if both sides refused to give ground?

3. If an argument happens to serve a particular interest, do you think that makes the argument automatically wrong?

If you have any further thoughts on the relation between interests and principles, jot them down here. This is not an essay, although you might consider writing an essay as you see the interplay between interests and ideas in your continuing study of the Constitutional Convention.

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<sup>1</sup> Census figures from Thomas L. Purvis, *Revolutionary America, 1763 to 1800*, Almanacs of American Life Series (New York: Facts on File, 1995), 124.

<sup>2</sup> Madison, *Notes of Debates*, June 25.

<sup>3</sup> *Ibid*, June 27.

<sup>4</sup> *Ibid*, June 30.

<sup>5</sup> *Ibid*, July 5.

<sup>6</sup> *Ibid*, June 29.

## Congress Handout C: How Should Members of Congress be Chosen?

All delegates to the Federal Convention of 1787 believed in popular sovereignty. In the words of the Declaration of Independence, governments derive “their just powers from the consent of the governed.” Yet none of the framers favored direct democracy, in which people themselves would make governmental decisions. Instead, they preferred representative democracy: the people choose representatives, who then make decisions.

What did that mean in practice? How should representatives be chosen? Alternate methods were put forward, each with its own rationale.

Some argued that the people must choose their representatives *directly*—at least for the lower house of Congress. This was the only way to stay true to the spirit of popular sovereignty, they maintained.

Others said that the people should have only an *indirect* say in members of the federal legislature. “The people,” Connecticut’s Roger Sherman contended, “immediately should have as little to do as may be about the Government. They want information and are constantly liable to be misled.”<sup>1</sup> Elbridge Gerry, from Massachusetts, agreed. “The evils we experience flow from the excess of democracy,” he pronounced.<sup>2</sup> These delegates thought that members of the lower house should be selected by the state legislatures, as they had been under the Articles of Confederation.

What about the upper house of the legislature, which the Constitution called the Senate? Some argued that the particular job of that body was to check the popularly elected House. Edmund Randolph, who introduced the Virginia Plan, explained the reasoning: “The democratic licentiousness of the State Legislatures proved the necessity of a firm Senate. The object of this 2d. branch is to controul the democratic branch of the Natl. Legislature.”<sup>3</sup> James Madison pronounced that the task of the Senate was “to protect the people agst. [against] the transient impressions into which they themselves might be led.”<sup>4</sup>

For the Senate to function this way, it could not be directly dependent on the will of the people. There were two ways of doing this. Senators could be chosen by state legislatures or by members of the lower house. Both methods had their proponents.

Another way to make senators less dependent on the popular will was to give them longer terms. But how long? If terms were too long, senators could ignore the will of the people altogether—and that would undermine popular sovereignty, the core principle behind the government the framers were creating. It was a delicate balancing act.

### QUESTIONS:

1. What were the alternate methods proposed for selecting members of the lower house?
2. What were the alternate methods proposed for selecting members of the upper house?



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<sup>1</sup> Madison, *Notes of Debates*, May 31.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*, June 12.

<sup>4</sup> *Ibid.*, June 26.

## Congress Handout D: State Demographics

### Population: From the First Federal Census, 1790

State	Free whites	Other free*	Enslaved	Total	% Enslaved
New Hampshire	141,097	630	158	141,885	0.1%
Massachusetts	373,324	5,463	0	378,787	0.0%
Rhode Island	64,470	3,407	948	68,825	1.4%
Connecticut	232,374	2,808	2,764	237,946	1.2%
New York	314,142	4,654	21,324	340,120	6.3%
New Jersey	169,954	2,762	11,423	184,139	6.2%
Pennsylvania	424,099	6,537	3,737	434,373	0.9%
Delaware	46,310	3,899	8,887	59,096	15.0%
Maryland	208,649	8,043	103,036	319,728	32.2%
Virginia	442,117	12,866	292,627	747,610	39.1%
North Carolina	288,204	4,975	100,572	393,571	25.5%
South Carolina	140,178	1,801	107,094	249,073	43.9%
Georgia	52,886	398	29,264	82,548	35.5%

\* "All Other Free Persons, Except Indians Not Taxed." This included free African Americans and Native Americans not living on reserved lands.

### Major Commercial Activities

**New England** (Massachusetts, Rhode Island, Connecticut, New Hampshire): fisheries, whaling, timber, shipping and shipbuilding

**Middle Colonies** (Pennsylvania, New York, New Jersey, Delaware): wheat and flour, cattle, shipping

**Upper South** (Virginia, Maryland, and North Carolina): mostly tobacco, but also naval stores

**Lower South** (South Carolina, Georgia): mostly rice, but also indigo and naval stores

## **Congress Handout E: Virginia Plan #2 - #5**

2. Resolved therefore that the right of Suffrage in the National Legislature ought to be, **proportioned to the quotas of Contribution, or to the number of free inhabitants**, as the one or the other, may serve best in different cases.

3. Resolved that the National Legislature ought to consist of **two branches**.

4. Resolved that the Members of the **first Branch** of the National Legislature, ought to be **elected by the people** of the several States every \_\_\_\_ for the **term of three years**, to be of **the age of \_\_\_\_\_** at least. To receive liberal stipends, by which they may be compensated for the devotion of their time to public service-to be ineligible to any office established by a particular State, or under the authority of the United States, (except those peculiarly belonging to the functions of the first Branch) during the term of service, and for the space of one \_\_\_\_\_ after the expiration; to be **incapable of re-election for the space of \_\_\_\_ after the expiration of their term of service**, and to be **subject to recall**.

5. Resolved, that the members of the **second Branch** of the Legislature, ought to be **elected by the individual Legislatures**: to be of the **age of \_\_\_\_\_ years** at least; **to hold their Offices for a term sufficient to ensure their independency**; to receive liberal Stipends by which they may be compensated for the devotion of their time to the public service; and to be ineligible to any office established by a particular State, or under the authority of the United States (except those peculiarly belonging to the functions of the second Branch) during the term of service, and for the space of \_\_\_\_\_ after the expiration thereof. [NOTE: This is only for state offices; the Virginia Plan allows for repeated terms in the second branch.]

## Congress Handout F. Composition of Congress: Options

*Should Congress be **unicameral** or **bicameral**?*

*If you chose unicameral, fill out only Section A. If bicameral, both A and B.*

### **A. Lower house (or unicameral):**

*How is representation allocated among the states? Highlight or circle one:*

Each state gets equal representation

Representation proportional to state population

Representation proportional to state payments to the federal treasury

*How are members selected? Highlight or circle one:*

By the people

By state legislatures

*What (if any) is the age requirement for members?*

*How often are elections?*

*How long do members serve?*

*Are they eligible for reelection?*

*Can they be recalled during their term of service?*

### **B. Upper house:**

*How is representation allocated among the states? Highlight or circle one:*

Each state gets equal representation

Representation proportional to state population

Representation proportional to state payments to the federal treasury

*How are members selected? Highlight or circle one:*

By the people

By state legislatures

By the lower house

*What (if any) is the age requirement for members?*

*How often are elections?*

*How long do members serve?*

*Are they eligible for reelection?*

*Can they be recalled during their term of service?*

## **Congress Handout G. Composition of Congress: Class Decisions**

Regardless of your personal preferences, record the decisions of the class Convention.

***Should Congress be unicameral or bicameral?***

*If the class chose unicameral, fill out only Section A. If bicameral, both A and B.*

### ***A. Lower house (or unicameral):***

*How is representation allocated among the states?* Highlight or circle one:

- Each state gets equal representation
- Representation proportional to state population
- Representation proportional to state payments to federal treasury

*How are members selected?* Highlight or circle one:

- By the people
- By state legislatures
- By the lower house

*What (if any) is the age requirement for members?*

*How often are elections?*

*How long do members serve?*

*Are they eligible for reelection?*

*Can they be recalled during their term of service?*

### ***B. Upper house:***

*How is representation allocated among the states?* Highlight or circle one:

- Each state gets equal representation
- Representation proportional to state population
- Representation proportional to state payments to the federal treasury

*How are members selected?* Highlight or circle one:

- By the people
- By state legislatures
- By the lower house

*What (if any) is the age requirement for members?*

*How often are elections?*

*How long do members serve?*

*Are they eligible for reelection?*

*Can they be recalled during their term of service?*

## **Congress Handout H. Composition of Congress: Historical Outcomes**

Look at the final draft to the original (prior to amendments) United States Constitution. Use this to record how the 1787 Convention resolved each issue below. Then cite the Article, Section, and Clause in which that decision is registered. Use the standard notation for citing the Constitution:

Articles — roman numerals

Sections — numbers

Clauses — the paragraph within each section

For example, to answer “How old must a president be?” you would answer 35 and cite Article II, Section 1, Clause 5.

### ***Is Congress unicameral or bicameral?***

***Lower House:*** *What is its name?*

*How is representation allocated among the states?*

*How are members selected?*

*What (if any) is the age requirement for members?*

*How often are elections?*

*How long do members serve?*

*Are members forbidden from being reelected?* (If yes, cite it; if no, just say no.)

*Is there a provision for recalling members?* (If yes, cite it; if no, just say no.)

***Upper House:*** *What is its name?*

*How is representation allocated among the states?*

*How are members selected?*

*What (if any) is the age requirement for members?*

*How often are elections?*

*How long do members serve?*

*Are members forbidden from being reelected?* (If yes, cite it; if no, just say no.)

*Is there a provision for recalling members?* (If yes, cite it; if no, just say no.)



## Congress Handout I: Delegates' Ideas for the Senate

Note: When opting for a bicameral legislature, delegates to the Federal Convention spoke of a “lower house” and “upper house”, or “first branch” and “second branch.” They settled in the end on “House of Representatives” for the former and “Senate” for the latter. For precedents, they looked to the House of Commons and House of Lords in the British Parliament; the Assembly and Council in colonial governments; and the Assembly and Senate in state governments. The first or (lower branch) was considered “democratic” because it was supposed to represent the people. Here is how some of the framers characterized the role of the Senate.

### JUNE 26

**Mr. MADISON** [James Madison, Virginia]: Those chargd. [charged] with the public happiness, might betray their trust. An obvious precaution agst. [against] this danger wd. be to divide the trust between different bodies of men, who might watch & check each other...

A numerous body of Representatives [the lower house] were liable to err ... from fickleness and passion. A necessary fence agst. this danger would be to select a portion of enlightened citizens [the upper house], whose limited number and firmness might seasonably interpose agst. impetuous councils.

Symptoms of a leveling spirit [forced economic equality], as we have understood, have sufficiently appeared in certain quarters to give notice of the future danger. How is this danger to be guarded agst. on republican principles? ... Among other means by the establishment of a body in the Govt. [government] sufficiently respectable for its wisdom & virtue, to aid on such emergencies.... Such being the objects of the second branch in the proposed Govt. he thought a considerable duration [time in office] ought to be given to it. He did not conceive that the term of nine years could threaten any real danger.

**Mr. SHERMAN** [Roger Sherman, Connecticut]. Govt. is instituted for those who live under it. It ought therefore to be so constituted as not to be dangerous to their liberties. The more permanency it has the worse if it be a bad Govt. Frequent elections are necessary to preserve the good behavior of rulers.... He wished to have provision made for steadiness & wisdom in the system to be adopted; but he thought six or four years would be sufficient. He shd. [should] be content with either.

**Mr. GERRY** [Elbridge Gerry, Massachusetts]: He admitted the evils arising from a frequency of elections: and would agree to give the Senate a duration of four or five years. A longer term would defeat itself. It never would be adopted by the people.

**Mr. WILSON** [James Wilson, Pennsylvania]: Every nation may be regarded in two relations 1. to its own citizens. 2 to foreign nations.... The Senate will probably be the depository of the powers concerning the latter objects. It ought therefore to be made

respectable in the eyes of foreign Nations... 9 years with a rotation, will provide these desirable qualities. ["Rotation" meant that senators would not be able to repeat in office after they served their nine-year term; the position would "rotate" to somebody else.]

**General PINKNEY** [Charles Cotesworth Pinckney, South Carolina] proposed "that no Salary should be allowed." As this branch [the Senate] was meant to represent the wealth of the Country, it ought to be composed of persons of wealth; and if no allowance was to be made the wealthy alone would undertake the service. [Benjamin Franklin seconded Pinckney's motion.]

### JUNE 18

**Mr. HAMILTON** [Alexander Hamilton, New York]: There will be debtors & creditors &c. Give all power to the many, they will oppress the few. Give all power to the few, they will oppress the many. Both therefore ought to have power, that each may defend itself agst. [against] the other. To the want of this check we owe our paper money, instalment laws &c. To the proper adjustment of it the British owe the excellence of their Constitution. Their house of Lords is a most noble institution. Having nothing to hope for by a change, and a sufficient interest by means of their property, in being faithful to the national interest, they form a permanent barrier agst. every pernicious innovation, whether attempted on the part of the Crown or of the Commons. No temporary Senate will have firmness eno' [enough] to answer the purpose.

### JULY 2

**Mr. Govr MORRIS** [Gouverneur Morris, Pennsylvania]: What is this object [of the 2<sup>nd</sup> branch]? To check the precipitation, changeableness, and excesses of the first branch. Every man of observation had seen in the democratic branches of the State Legislatures ... excesses agst. personal liberty private property & personal safety.

What qualities are necessary to constitute a check in this case? Abilities and virtue are equally necessary in both branches. Something more then is now wanted. The checking branch must have a personal interest in checking the other branch, one interest must be opposed to another interest. Vices as they exist, must be turned agst. each other. It [the 2<sup>nd</sup> branch] must have great personal property, it must have the aristocratic spirit...

The aristocratic body [the 2<sup>nd</sup> branch] should be as independent & as firm as the democratic [the 1<sup>st</sup> branch]... To make it independent, it should be for life. It will then do wrong, it will be said. He believed so: He hoped so. The Rich will strive to establish their dominion & enslave the rest. They always did. They always will... We should remember that the people never act from reason alone. The Rich will take advantage of their passions & make these the instruments for oppressing them.

The proper security agst them is to form them into a separate interest. The two forces will then controul each other... There will be a mutual check and mutual security.

## Congress Handout J: The “Great Compromise”

Only three days after the opening of debates, on [June 2](#), Delaware’s John Dickinson conceded that some alteration of the equal-voting provision in the Articles of Confederation might be in order, despite his state’s instructions that prohibited its delegates from agreeing to any measure that contradicted Article V of the Articles of Confederation: “*In determining Questions in the United States in Congress Assembled each State shall have one Vote.*” The controversy over representation, he predicted, “must probably end in mutual concession.” In particular, Dickinson “hoped that each State would retain an equal voice at least in one branch of the National Legislature,” while “either the number of inhabitants or the quantum of property” could form the basis for proportional representation in the other branch.

And so, on the fourth day of debates, the broad outlines of the “Great Compromise” were already on the floor, yet delegates from large states and small states would continue to do battle for six more weeks before settling up. Intellectually, the solution was obvious, but politically it proved difficult. As Alexander Hamilton observed on [June 29](#), the debate over representation was “contest for power, not for liberty.”

As debates raged over the next several weeks, positions rigidified. *Never* became the operative word. James Wilson proclaimed “he never could listen to an equality of votes,” while Luther Martin declared he would “never confederate if it could not be done on just principles.” Increasingly, debate followed the classic lines of interest-driven politics—we have to defend *our* interests to prevent *others*, who defend theirs, from destroying us. Gunning Bedford claimed that because the large states were “dictated by interest, by ambition” and sought “to aggrandize themselves at the expense of the small,” it was unrealistic for the small states to submit to their “proposed degradation” and act “from pure disinterestedness.”<sup>1</sup>

On [July 2](#), after the Convention deadlocked on a motion for equal representation in the second branch, South Carolina’s Charles Cotesworth Pinckney “proposed that a Committee consisting of a member from each State should be appointed to devise & report some compromise.” Most delegates agreed, but diehards on each extreme were not ready to settle. James Wilson objected to a committee that replicated the one state, one vote mechanism that his side opposed. Luther Martin, his opponent, did not object to the matter being assigned to a committee but declared his position on the committee’s deliberations in advance; he insisted that “no modifications whatever could reconcile the smaller States to the least diminution of their equal Sovereignty.” It was a classic response: compromise is fine, but only on my terms.

In the circuitous maneuverings typical of the Convention, the committee embraced a suggestion John Dickinson had made a month earlier: equal representation in one house, proportional representation in the other. At the suggestion of Benjamin Franklin, it sweetened the deal for the large states—all money bills would originate in the house with proportional representation, because citizens could only be taxed by their direct representatives. The provision had the sanction of history. The more popular house of all colonial and state legislatures, as well as the House of Commons in the British Parliament, similarly held the exclusive power to introduce money bills.<sup>2</sup>

This compromise did not satisfy James Wilson, James Madison, or Gouverneur Morris.

Wilson complained that “the Committee had exceeded their powers,” even though it had merely suggested grounds for a compromise, as it had been instructed to do.<sup>3</sup>

Madison insisted that “the enlightened and impartial part of America” should not be held hostage to “the minority,” as he called delegates from the small states. “If the principal States comprehending a majority of the people of the U. S. should concur in a just & judicious plan, he had the firmest hopes, that all the other States would by degrees accede to it.” *Principle States* – so long as Virginians and Pennsylvanians spoke of themselves in that manner and expected those from lesser states to “accede,” they were unlikely to calm the fears of delegates from Delaware and New Jersey.<sup>4</sup>

Morris raised the ante. He had come to the Convention not only as “a Representative of America” but also “in some degree as a Representative of the whole human race; for the whole human race will be affected by the proceedings of this Convention.” Others, he said, had not been so principled. All the talk of protecting the interests of small states made him “suppose that we were assembled to truck and bargain for our particular States.” Voting by states in the second branch would only perpetuate this sad state of affairs, producing “constant disputes & appeals to the States which will undermine the Genl. Government.” This was precisely the evil the Convention had hoped to remedy, for “State attachments, and State importance have been the bane of this Country. We can not annihilate; but we may perhaps take out the teeth of the serpents.”<sup>5</sup>

As delegates debated the committee’s report, the devil was in the details. Setting aside for the moment the report’s most controversial provision, equal votes for all states in the second house of Congress, delegates tried to calculate the “equitable ratio of representation” in the first branch. Should representation be determined by population, by property, or by tax contributions to the federal treasury? And whatever method they adopted, until a census could be taken, how should they allocate representatives in the first Congress to convene under the new Constitution?

No state wanted to be shortchanged, so delegates resumed their bickering. Gouverneur Morris again voiced displeasure with the blatantly self-serving debates. The states, he said, “had many representatives on the floor,” while few deemed themselves “representatives of America.”<sup>6</sup>

George Washington, as the convention’s president, could not express his views openly, but he did grouse in private. To his former aide-de-camp Alexander Hamilton, who had abandoned the Convention in frustration, he complained that “narrow minded politicians . . . under the influence of local views” were impeding all progress. “The state of the Councils,” he reported, was spiraling downward, leaving “little ground on which the hope of a good establishment can be formed.” The parochial interests within the convention left him uncharacteristically despondent: “I *almost* despair of seeing a favourable issue to the proceedings of our Convention, and do therefore repent having had any agency in the business.”<sup>7</sup>

Even more trouble lay ahead.

On [July 11](#), the day after Washington complained to Hamilton, with the committee’s compromise still on the table, South Carolina’s Pierce Butler and Charles Cotesworth Pinckney moved “that blacks be included in the rule of representation, equally with the whites.” It was a bold maneuver. One month earlier, on June 11, delegates had decided

that representation should be “in proportion to the whole number of white & other free Citizens & inhabitants of every age sex & condition including those bound to servitude for a term of years and three fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes, in each State” – the now-famous “three-fifths compromise.” They had not settled on that fraction arbitrarily. Back in 1783, the Confederation Congress had decided to count each slave as three-fifths of a free person in fixing a state’s quota for the requisition of funds, so delegates had used the same fraction, “this being the rule in the Act of Congress agreed to by eleven States, for apportioning quotas of revenue on the States” four years earlier. Yet now, suddenly, three-fifths no longer satisfied delegates from South Carolina and Georgia. Butler explained their reasoning: “the labour of a slave in S. Carola. was as productive & valuable as that of a freeman in Massts., . . . and consequently an equal representation ought to be allowed for them in a Government which was instituted principally for the protection of property.”<sup>8</sup>

Nathaniel Gorham, a Massachusetts delegate who presided over the Convention when it met in the informal Committee of the Whole House, reminded the southerners that in 1783, when Congress was trying to figure out who should bear the burden of taxation, “the delegates representing the States having slaves” had argued “that the blacks were still more inferior to freemen.” Now, “when the ratio of representation is to be established, we are assured that they are equal to freemen.”

In response, North Carolina’s Hugh Williamson immediately “reminded Mr. Ghorum [Gorham] that if the Southn. States contended for the inferiority of blacks to whites when taxation was in view, the Eastern States on the same occasion contended for their equality.” *Both* sides had reversed their positions. Williamson was content with preserving the three-fifths compromise, as were all those who did not want yet another round of argumentation.<sup>9</sup>

Butler’s and Pinckney’s motion was voted down, but Butler would not give up. The next day, [July 12](#), he pushed once again for representation “according to the full number of inhabts. including all the blacks,” and the day after that he expressed in a forthright manner why this was so important: “The security the Southn. States want is that their negroes may not be taken from them, which some gentlemen within or without doors, have a very good mind to do.”

Gouverneur Morris noted that the southern states were not the only ones fearful of future incursions on their rights. He imagined a time when the Southern states, with room to expand, “will in a little time have a majority of the people of America” and perhaps trample on the rights of northeastern states, which depended on their fisheries and on commerce.<sup>10</sup>

As delegates with various interests jockeyed for position on these interrelated issues – slave states and free, small states versus large, Northeastern states versus those looking to expand westward, plantation-based agriculture versus fishing and commerce – some drew lines in the sand. Luther Martin said he would prefer the nation split into “two Confederacies” if states were not equally represented in the second branch. North Carolina’s William Richardson Davie issued a new ultimatum on behalf of the three-fifths compromise: if blacks were not counted in at least that proportion, his state “would never confederate” and “the business [of the Convention] was at an end.” Insults were hurled back and forth. “The States that please to call themselves large, are the weakest in the Union,” Martin pronounced. “Look at Masts. Look at Virga.” We are left to imagine

Gerry's heated, and perhaps undignified, response; Madison reported only that he "animadverted on Mr. L. Martins remarks on the weakness of Masts."<sup>11</sup>

When would this end, and how?

On Sunday delegates observed the Sabbath, and then on Monday, [July 16](#), without any further debate, they voted on the entire compromise, including both "equality of votes in the second branch" and counting each slave as three-fifths of a free person for purposes of representation in the first branch. The package passed by the slimmest of margins: five states in favor, four states opposed, with Massachusetts divided.<sup>12</sup>

Even after the final vote, delegates from large states refused to concede. Virginia's Edmund Randolph moved that the convention adjourn for the day "that the large States might consider the steps proper to be taken in the present solemn crisis of the business." New Jersey's William Paterson called his bluff: why just for the day? Perhaps it was time to adjourn for good, rescind "the rule of secrecy," and consult "our Constituents." That would be the end of any compromise, all delegates realized. The Convention granted Randolph's request to allow the large states to caucus, but the caucus found no alternative solution the small states would accept.

To no great fanfare, and with more ill-will than good, delegates had given us the now celebrated "Great Compromise."

(Extracted from Ray Raphael, *Constitutional Myths*, 40-47.

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<sup>1</sup> Madison, *Notes of Debates*, June 29.

<sup>2</sup> Membership on the committee predetermined the results. Leading advocates of proportional representation in both houses – James Madison, James Wilson, Gouverneur Morris, and Rufus King – were not included; instead, delegations from the three largest states appointed delegates who had already expressed a desire to compromise – George Mason, Benjamin Franklin, and Elbridge Gerry. Meanwhile, Maryland sent Luther Martin, Delaware sent Gunning Bedford, New Jersey sent William Paterson, and New York sent Robert Yates – all firm opponents of proportional representation. Connecticut sent Oliver Ellsworth, who had offered the motion for equal representation in the second house, and Georgia sent Abraham Baldwin, whose vote for Ellsworth's motion had divided his state's delegation and deadlocked the Convention. These delegates were not going to opt for proportional representation in the upper house, nor could they deny proportional representation in the lower house, an indispensable feature of the overall plan. Whereas the committee's compromise was politically dictated, it was handy philosophically as well. "Dual sovereignty" was a difficult concept to grasp: how could citizens owe allegiance to two governments at once, the state and the national? Put another way, was the United States to have a truly national government, with all parts subservient to the whole; a confederation, with the whole subservient to the parts; or a new form of confederated government, in which state governments retained some representation? The compromise implied a solution to this matrix of problems: one house of the legislature represented people directly and was therefore apportioned by population, while the other house represented states, which would each receive an equal vote. It would be a hybrid government, simultaneously national and federal.

<sup>3</sup> Madison, *Notes of Debates*, July 5.

<sup>4</sup> *Ibid.*, July 5.

<sup>5</sup> *Ibid.*, July 5.

<sup>6</sup> *Ibid.*, July 10.

<sup>7</sup> Washington to Hamilton, July 10, 1787, Washington, *Papers* (Confederation Series), 5:257. Hamilton left the Convention because he was consistently outvoted by his New York colleagues Robert Yates and John Lansing, Jr.

<sup>8</sup> *Journals of Continental Congress*, 24:223; Madison, *Notes of Debates*, July 11. In 1783 Congress cleverly used only euphemisms to denote slaves, and delegates to the Federal Convention followed this precedent as well. Funds for the federal treasury were to be "supplied by the several states in proportion to the whole number of white and other free citizens and inhabitants of every age, sex and condition, including those



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bound to servitude for a term of years, and three-fifths of all other persons not comprehended in the foregoing description, except Indians, not paying taxes, in each state.”

<sup>9</sup> Only Delaware joined South Carolina and Georgia in voting to consider slaves on a par with free people; other delegations remained content with three-fifths. Delaware’s vote was curious. Although 18% of its population was enslaved, it did not normally side with South Carolina and Georgia on issues involving slavery. Possibly, it voted to count slaves on a par with free citizens to undermine the general concept of proportional representation.

<sup>10</sup> Madison, *Notes of Debates*, July 13.

<sup>11</sup> *Ibid.*, July 14 (Martin) and July 12 (Davie).

<sup>12</sup> As with any vote on multiple issues, it is difficult to dissect the returns, but judging from previous and subsequent positions, it appears that a bloc of small states was happy to achieve equal representation in the second branch whereas Virginia and Pennsylvania, not ready to compromise, refused to concede and voted against the measure. South Carolina and perhaps Georgia also resisted compromise, with at least some delegates holding out for full slave representation. Delegates from Massachusetts divided over the slavery compromise, while three of the four North Carolina delegates thought compromise on all issues was in order. At first glance the five-to-four tally might have seemed inconclusive, subject to being overturned in the future. But two states were not present, and both likely would have approved: New Hampshire because it was a small state and New York because it appeared to give the states legal representation in Congress. Tiny Rhode Island, not present at the Convention, would also have favored equal representation for small states, and Georgia, if all its delegates had been present, might well have voted yes rather than no. The vote was not as close as it might appear. (Richard Beeman, *Plain, Honest Men: The Making of the American Constitution* [New York: Random House, 2010], 219-22.)

## **Congress Handout K: Vocabulary List**

1. Accede: agree; assume an office or position.
2. Aristocratic: a government or state ruled by an aristocracy, elite, or privileged upper class.
3. Avaricious: having/showing extreme greed for wealth or material gain.
4. Bicameral: having two legislative branches or chambers.
5. Confederacy: a league or alliance, especially of confederate states.
6. Circuitous: not straight, short, and direct; not said or done simply or clearly.
7. Diminution: a reduction in the size, extent, or importance of something.
8. Disinterestedness: the quality or state of being objective or impartial.
9. Follies (folly): lack of good sense; foolishness
10. Hyperbolic: exaggerated
11. Lamented: a passion express of grief or sorrow
12. Popular sovereignty: the principle that the authority of a state and its government is created and sustained by the consent of its people, through their elected representatives.
13. Pernicious: having a harmful effect, especially in a gradual or subtle way.
14. Ratification: to confirm by expressing consent, approval, or formal sanction.
15. Suffrage: the right to vote in political elections
16. Unicameral: having a single legislative chamber.



## Congress T-A: Homework Answers for Composition of Congress

### Unicameral or Bicameral Legislature

*In your own words, what is the strongest argument in favor of a unicameral legislature?*

Answers will vary.

*What do you think is the greatest danger of a unicameral legislature? Are there times in which the popular will can produce “hasty results and absurd judgments”?*

Answers will vary. Look for historical examples.

*Do you think Adams’s concerns are sometimes exaggerated? If the Constitution guaranteed free elections at set intervals, how could a unicameral Congress “vote itself perpetual”?*

Answers will vary, but technically, the guarantee of free elections provides some protection. Only to the extent that elections cease to be truly free will that break down.

*What is the strongest argument for a bicameral legislature?*

Answers will vary.

*What do you think is the greatest danger of a bicameral legislature, where the upper house is purposely less responsive to the popular will?*

Answers will vary.

### Proportional or Equal Representation of the States

*1. Briefly, present a case for equality of states, and then present a case for equality of citizens. You will be able to expound on these arguments in your simulated Convention tomorrow.*

Answers will vary.

*2. What do you think would happen if both sides refused to give ground?*

Answers will vary, but if both sides refused to budge, there would be no resolution and therefore no final draft of the proposed Constitution.

*3. If an argument happens to serve a particular interest, do you think that makes the argument automatically wrong?*

There are plenty of examples in which self-serving positions coincide with sound principles. A citizen who argues for free elections, for example, serves both his/her own interest and the principle of popular sovereignty.

If you have any further thoughts on the relation between interests and principles, jot them down here. This is not an essay, although you might consider writing an essay as you see the interplay between interests and ideas in your continuing study of the Constitutional Convention.

### How Should Members of Congress Be Chosen?

*1. What were the alternate methods proposed for selecting members of the lower house?*

Selection by the people or by state legislatures.

*2. What were the alternate methods proposed for selecting members of the upper house?*

Selection by the people, by state legislatures, or by the lower house.

## T-B. Infrastructure for the Constitutional Convention Simulation

These eight lessons can be used individually or as a unit. In either case, here are basic rules of operation:

Assign each student to a state delegation that participated in the 1787 Federal Convention in Philadelphia. (Alternately, you could allow students to choose their states or have a lottery, but this will add an extra step.) Please note that delegates from Rhode Island did not attend.

The numbers in each state delegation will vary by class size. For classes with 24 or more students, there should be two or more in each delegation. (Add delegates in rough proportion to size of states. For instance, in a class of 25, Virginia will have three, the other states two each.) If fewer than 24, you can combine states of similar size and regional interests so each group has more than one delegate. Possible state combinations, in order of preference: DE and NJ (small and free), GA and NC (small/medium and slave), NH and CT (small and free), MA and NY (large/medium and free), VA and MD (large/medium and slave). To facilitate classroom management, students should sit with their fellow state delegates.

Breakout groups, called “**discussion and debate**” (**D &D**) **groups**, will be composed of several state delegations from *diverse* regions: lower South, upper South, mid-Atlantic, New England. These should be small enough to allow each student to participate—the size of each, and therefore the number of state delegations in each, will vary by class size and teacher preference. Again, to facilitate movement, state delegations in each D & D group will sit proximate to each other. For small classes, teachers might choose to conduct all deliberations with the full class—for historical authenticity, you can call this the “**committee of the whole.**”

Each time students meet in their D & D groups, they should be reminded that these are for deliberations only. The groups do not have to come to any agreement. Students will not yet be casting their votes.

Inform students that all votes will be by state delegations—one vote for each state delegation, just as it was at the Federal Convention of 1787. When students do meet with their delegation to determine its vote, they are not to discuss the issue at length—they’ve already done that in their D & D groups. They simply vote and report the state’s preference to the committee of the whole. If delegates of any state are evenly divided on an issue, they report “divided” as their state’s vote.

If you are teaching the full unit, you might want a secretary (it can be the teacher) to keep track of class decisions. You should also stress the importance of retaining all handouts. In extended activities, students will be asked to compare their personal choices, class decisions, and historical decisions of the actual Convention and project how alternate outcomes might have altered the course of history.

If the units are used in a unit, here is the suggested order:

- 1. Reform or Revolution?** (one-day and two-day options)
- 2. Composition of Congress** (one-day and two-day options)
- 3. Creating an Executive** (one-day and two-day options)
- 4. Should Judges Judge Laws?** (one-day lesson)
- 5. Fine Tuning the Balance of Powers** (one-day and two-day options)
- 6. Slavery at the Constitutional Convention** (two-day lesson)
- 7. Amendments and Ratification** (one-day and two-day options)
- 8. To Sign or Not To Sign**
  - Option A: The Historical Constitution** (one-day lesson)
  - Option B: The Student-Generated Constitution** (one-day lesson)

Throughout these lessons, students need to understand key features of the Articles of Confederation:

\*The United States under the Articles was a “confederacy” of sovereign states.

\*There was only one branch, Congress, where each state had one vote. There were no separate executive and judicial branches.

\*Congress was not a “government” as we view it today. It engaged only with states, not citizens. It passed no laws bearing directly on citizens and had no enforcement powers.

\*Congress had no powers of taxation. It raised money by requisitioning the states, but it lacked the authority to force states to pay.

\*Amendments required unanimous approval of the states.

These are highlighted in the first lesson and will be brought into play in the appropriate lessons.

**Premise for engagement:**

History is the chronicle of choices made by actors/agents/protagonists in specific contexts. Students understand choices – they make them all the time. These lessons

involve students by placing them in the shoes of historical people and asking: “What might you do in such instances?”

For these exercises to be historical (more than affirmations of individual whims), we need to provide context: what was the issue, the problem to be solved? What were the existing realities/constraints that limited possibilities? With those in mind, what were the available options? For each option, how did people view the possibilities for a desired outcome? What were the potential dangers? When studying battles, we see how generals evaluate troop strengths, positioning, logistics, morale, and so on. In fact, all historical actors do this—not just leading political figures, but ordinary people and collective bodies. In Revolutionary times, people often made decisions in groups, both indoors (town meetings, caucuses, conventions, congresses) and “out-of-doors,” as they said at the times, informal gatherings that protested authority or enforced popular will. The Federal Convention of 1787, known today as the Constitutional Convention, provides a perfect example of historical actors making consequential decisions in a group context. When coupled with a study of ratification of the Constitution, it shows the interrelation between political decisions made “in chambers,” as they said at the time, with politics “out-of-doors.”

**Basic structure for choice-centered lessons, including but not limited to these Constitutional Convention simulations:**

(Some lessons include two or even three of the cycles outlined here; others have only a single round. For complex simulations with multiple rounds, more than one class period might be appropriate, at teacher discretion.)

1. *Formulate the problem*, the issue at hand. Define the players: who will be making the choices, deciding which path to take? Provide *context*, including any *constraints* that would limit their actions, with documents when possible. Without context, we will be operating in our world, not theirs.
2. Outline and discuss the *available options*, including possible outcomes of each – that, after all, is what the participants had to do. This is sometimes done as a class, sometimes in breakout groups of two or more students. The size and composition of breakout groups is left to teacher discretion.
  - 2A. After breakout groups, in some lessons, the class will reconvene to share, compare, and evaluate what they came up with. When, historically, the decision was up to a body (a congress or convention), the class will always reconvene as that body—but if no group decision was involved, once students have discussed options in groups, they can continue to the next step.

3. Individuals or bodies make and reveal their choices.
4. Presentation of the *historical outcome*: the choice actually made by the player(s) – use documents when possible.
5. Discuss with full class the *consequences* that did in fact ensue from that choice, including *further* issues raised by the outcome. Sometimes those issues, in turn, provide the “catch” for a subsequent lesson.

To summarize: the opening for each lesson—the catch—is the crossroad, the choice to be made. Then, in turn, come the *context and constraints, discussion of options, decision making, presentation of historical outcomes, and analysis of those outcomes*, including where they might lead next. In these lessons, students actually *engage* in the historical process. **By exercising individual and group decision-making skills within political contexts, they prepare for civic life. When the time comes for them to make history, they will be well rehearsed in making reasoned choices.**

## **T-C. Timeline for the Federal Convention of 1787**

September 11-14, 1786: Twelve delegates from 5 states, meeting at Annapolis, call for a larger convention the following year.

February 21, 1787: Congress endorses the Annapolis Convention's call for a convention, slated to meet in Philadelphia on May 14.

[May 14](#): Delegates from only Pennsylvania and Virginia are present in Philadelphia. This did not constitute a quorum according to the standards of the Continental Congress.

[May 25](#): With 29 delegates from 9 states present, the Convention begins. George Washington is chosen to preside.

[May 29](#): Rule of secrecy adopted. Edmund Randolph presents the Virginia Plan.

[May 30](#): Delegates start debating the Virginia Plan. The Delaware delegation threatens "to retire from the Convention" if all states do not have an equal vote in Congress. Convention resolves: "A *national* government ought to be established consisting of a *supreme* legislative, executive & judiciary."

[June 2](#): Convention stipulates that the executive "be chosen by the national legislature for the term of seven years." This is rescinded on July 19 but reaffirmed on July 26.

[June 4](#): Convention decides on a single executive, 7 states to 3.

[June 15](#): William Paterson introduces the New Jersey Plan, which proposes only to amend the Articles of Confederation and maintains Congress as a unicameral body, each state having one vote.

[June 18](#): Hamilton proposes that the chief executive and senators serve for life, with the executive having absolute veto power over all legislation. He receives no support.

[June 19](#): Virginia Plan, as amended, defeats New Jersey Plan, 7-3 with one divided.

[July 12](#): Convention finalizes the compromise on representation in the House: each slave counts as three-fifths of a person. Vote: 6-2-2.

[July 16](#): Convention finalizes the "Great Compromise": proportional representation in the House; equal representation of states in the Senate; all money bills originate in the House. Vote: 5-4-1.

[July 23](#): Convention resolves to send its proposed plan to Congress, with a recommendation that it be sent to "assemblies chosen by the people" in each state for ratification. Vote: 9-1.

[July 24](#): Convention appoints a five-member committee “to report a Constitution conformable to the Resolutions passed by the Convention.” (Committee of Detail.)

July 27-August 5: Convention recesses. Committee of Detail prepares the first full draft of the Constitution.

[August 6](#): Committee of Detail submits its report, which enumerates the powers of each branch. Debate on this draft commences.

[August 21, 22, 23, and 24](#): Convention debates whether Congress can prohibit the importation of slaves.

[August 24](#): Popular election of the president is defeated a final time. Vote: 9-2.

[August 25](#): Convention decides there can be no ban on slave importation until 1808. Vote: 7-4.

[August 30](#): Convention decides that ratification by nine states will suffice to place the Constitution into effect. Vote: 8-3.

[August 31](#): Convention appoints an eleven-member committee (one from each state delegation) to consider “such parts of the Constitution as have been postponed, and such parts of Reports as have not been acted on.” (Committee on Remaining Matters.)

[September 4](#): Committee of Remaining Matters issues its report, reversing key provisions that had already been decided: special electors, not Congress choose the president; the president, not the Senate, has treaty-making and appointive powers; a newly created vice-president presides over the Senate.

[September 8](#): Convention approves the Committee of Remaining Matters report with only minor revisions. Convention appoints a five-member committee “to revise the style of and arrange the articles which had been agreed to by the House.” (Committee of Style.)

[September 12](#): Committee of Style submits its almost-final draft of the Constitution. George Mason and Elbridge Gerry propose “a Committee to prepare a Bill of Rights.” The motion fails, 0-10.

[September 15](#): The Convention approves the Constitution, with all states present voting in favor.



[September 17](#): 39 of the 42 members present sign the Constitution. Congress sends it to Congress.

September 28: Congress sends the Constitution to the state legislatures with instructions to call conventions to consider ratification, as stipulated by the Federal Convention.